



Town of Littleton

37 Shattuck Street
Littleton, MA 01460

May 24, 2011

Mr. Anthony Fracasso
Senior Vice President
MassDevelopment
160 Federal Street, 7th floor
Boston, MA 02110

SUBJ: Town of Littleton Comments - Fifteen Great Road II, LLC - Project Eligibility Application

Dear Mr. Fracasso:

Thank you for the opportunity to provide these comments from the municipality on the application of "Fifteen Great Road II, LLC"¹ which Omni Properties, LLC of Concord, MA filed with MassDevelopment for a determination of Project Eligibility for a proposed 40B project at 15 Great Road, Littleton, for two hundred (200) rental units. You have granted the Town of Littleton an extension from May 12 to May 25, 2011 for submission of these comments. Also, you have scheduled MassDevelopment's site visit for Tuesday, May 31, 2011 at 4 PM, a date which follows your receipt of these comments, to better inform your agency of the Town's identified concerns; and you have clarified for us that Comprehensive Permit Regulations allow local boards and officials to attend that site visit. The Town appreciates your consideration.

The Board of Selectmen reviewed this proposal at a total of four public meetings-- on April 25, May 9, May 16, and May 23, 2011. The applicant was invited to participate in all four, but chose only to attend the first two. Additionally, the Town Administrator convened a briefing for all Town department heads with the applicant on April 15, 2011.

On May 23, 2011, the Littleton Board of Selectmen unanimously voted to request that MassDevelopment disapprove the granting of a determination of eligibility for this project as proposed. In so doing, the Board of Selectmen finds that this particular project has too many units, is too out of scale with the community as a whole and the surrounding area in particular, has too detrimental an impact on the abutting single-family neighborhoods, poses too great a burden on traffic and public safety, and imposes too great an impact on town services-- especially the Town's limited water supply.

As proposed, this project would introduce to Littleton a multi-story residential structure which, at 55 feet above grade,² would be the tallest building in town. Its height would surpass even the 46-foot high IBM MassLab facility at 550 King Street, Littleton, which is IBM's largest software development campus in North America. It would be the tallest residential structure in town.

¹ "Fifteen Great Road II, LLC" is not registered with the Secretary of the Commonwealth's Corporations Division, and as such, this applicant does not appear to exist legally.

² The height may be taller. Several neighbors reported that the applicant had told a neighborhood meeting that the height of the tallest building would be 70 feet, including an underground parking facility.

As proposed, this project would increase Littleton's total population by 5.75%, from 8,924 to 9,437. As proposed, this project would increase Littleton's total housing stock by 6.63%, from 3,018 to 3,218. As proposed, this project would add five times the number of subsidized housing units that Littleton needs to reach its 10% goal: 200 units are proposed, only 40 are needed to reach that goal.

Littleton's Affordable Housing Efforts.

The Town of Littleton has actively addressed the need to provide affordable housing opportunities in this community, and needs only to add forty (40) more units to its Subsidized Housing Inventory in order to reach its 10% goal. As shown in Table 1 (attached), Littleton calculates that 262 units-- 8.68% of its total housing stock of 3,018 [per 2000 U.S. Census]-- currently count towards its 10% goal of 302 units. Littleton was within sight of reaching 10% with the approval on July 12, 2006 of 108 ownership units for the Village on the Common project; but the former owner failed to complete that project, so the units lapsed and were removed from Littleton's S.H.I. On February 17, 2011, however—following the Department of Housing and Community Development's January 25, 2011 determination of eligibility-- the Littleton Zoning Board of Appeals approved transfer of that comprehensive permit to a new owner.

Impacts on Public Water Supplies

This project as proposed will have significant negative impacts on public water supplies serving the Towns of Littleton and Concord.

Littleton Water Department.

The Littleton Water Department (LWD) states that it would not be able, currently, to service the proposed development with an ample supply of potable water, citing added strains to the current water production facilities during peak demand, and the need to first bring on-line additional water supply sources in order to meet this demand. Littleton Water Department has had mandatory summer conservation restrictions for the past three years, in part to assist with daily peak demand issues, as well as meet the DEP's 65 gallons per residential customer per day criteria. Although average daily withdrawals and total annual withdrawals are within DEP authorized volumes, peak demand period in the summer far exceed current withdrawal permit limits. A comparison of 2009 (wet summer) and 2010 (dry summer) data reveal the following:

	<u>Actual Withdrawals</u> (mg)			<u>Authorized Withdrawals</u> (mg)		
	Daily	Max	Total	Daily	Total	
	<u>Average</u>	<u>Day</u>	<u>Annual</u>	<u>Average</u>	<u>Annual</u>	
2009	1.11	1.790	405	1.464	534	
2010	1.23	2.124	449	same		

Based on 2010 data, maximum withdrawals were 45% higher than authorized withdrawals and at the peak of LWDs capabilities. It has been estimated that the proposed 40B project will use from 30,000 to 50,000 gallons per day, throughout the year. Although this additional usage will not adversely affect our daily average, it will add significant strain to our capabilities during peak demand periods

In order to meet the anticipated demands of the proposed development, the applicant should be required to fund a significant share of the Town's costs in developing a new drinking water source.

LWD is in the initial phase of scientific evaluation of the Cobb's Well Site. LWD anticipates a total project cost of from 1.5 to 2.0 million dollars and will require support from the developer, if permits are granted, to fund 50% of the bonding cost for this project.

Concord Water Department

The Concord Water Department, for which the nearby Nagog Pond—located in Littleton and Acton-- is an important source of public drinking water, has particular concerns about how wastewater will be treated on the project site, and how that will impact nearby surface water supply. The Town of Littleton's Health Agent from the Nashoba Associated Boards of Health indicates that a groundwater discharge permit, and sewage disposal construction works permit will be required.

Project Does Not Meet Required Findings for Design

Relationship to Adjacent Building Typology; Density of Residential Dwellings

This project as proposed does not meet required findings under 760 CMR 56.04(4)(c) related to impact on adjacent building typology and appropriateness of density for residential dwellings.

The four-story structure with a height of 55 feet is particularly out of character with the community and the surrounding neighborhood. Controlling state regulations require mitigation of the height and scale of proposed buildings to an adjoining single-family neighborhood, which this project fails to do. Moreover, it does not meet the requirement that massing of the project be modulated and/or stepped to create appropriate transition. As stated above, this four-story structure would exceed the height of Littleton's tallest building in town— IBM's MassLab, a 495,000 square foot office complex at 550 Great Road, Littleton, which houses 2,220 employees and is IBM's largest software development campus in North America. The graphic shown as Figure 1 (attached) illustrates their respective size. A “balloon test” should be required to show proposed height of the buildings at their proposed locations.

The height and scale of the buildings should be reduced so they are not visible from the abutting single-family neighborhood on Grist Mill Road. The total number of units should be reduced from 200, recognizing that Littleton requires only 40 units in order to reach its 10% goal. All three-bedroom units should be eliminated to minimize the impact of this project on the public school system. The 380-unit Avalon Acton project in the neighboring towns of Acton and Westford contains zero (0) three-bedroom units, and so, too, should this project.

Relationship to Adjacent Streets.

This project as proposed does not meet required findings under 760 CMR 56.04(4)(c) related to impact on adjacent streets. The Board of Selectmen is concerned about the relationship of the proposed project to adjacent streets, particularly to the single-family neighborhoods on Grist Mill Road and Surrey Road, whose streets are not designed as collector streets and for which the project would pose a significant threat to traffic and public safety. The Board holds that project access should be prohibited from those roads. A second means of vehicular access is not required except for emergency vehicles, which the applicant should be required to provide from Nagog Pond in Acton.³

³ The applicant knowingly acquired property with deeded vehicular access from the project site to Nagog Park in Acton for no greater than twelve (12) residential units. To ensure public safety, this should not apply to emergency vehicles.

The applicant has simultaneously filed a preliminary subdivision plan to construct a 3,063-foot roadway from Great Road to Grist Mill Road, to be designed as a minor roadway (24-foot width), and that plan should be withdrawn with prejudice. Instead, the applicant should be required to construct an interior road with on-site turnaround meeting collector, not minor, road standards, with emergency vehicle access from Nagog Park in Acton. Sufficient fire lane access should be constructed to accommodate the ladder trucks.

The applicant should be required to fund an independent peer-reviewed comprehensive traffic study of the intersection on Great Road/ Route 2A / Route 119, and further to fund implementation of mitigation measures arising from that study. The study should not be conducted during the summer, when traffic is lower than during the school year. The Chief of Police estimates that 1,500 trips per day would result from the project as proposed.

For pedestrian safety, sidewalks should be extended along Great Road from Grist Mill Road, and sidewalks should link the 15 Great Road site with the adjoining Nagog Park in Acton.

Impact on Rare Species & Habitats

The Preliminary Subdivision Plan filed by the applicant on May 12, 2011 with the Littleton Planning Board states that “a portion of the project site is located within Priority Habitat and Estimated Habitat,” and that the applicant is retaining the services of Oxbow Associates, Inc. to assess site for potential impacts on rare species and habitats. The applicant should be required to undertake and complete the filing with Natural Heritage & Endangered Species Program (NHESP) with the Massachusetts Division of Fisheries and Wildlife prior to MassDevelopment’s issuance of a determination of project eligibility.

Impact on Wetlands

The Preliminary Subdivision Plan filed by the applicant on May 12, 2011 with the Littleton Planning Board proposes to construct 3,063-foot roadway, designed as a minor roadway (24-foot width), which would require a wetland crossing to bring the roadway from Great Road to Grist Mill Road. The applicant states that it proposes to replicate disturbed wetland area at a 2:1 ratio. Portions of the site contain bordering vegetated wetlands on a site comprised of shrub-swamp species. The applicant should be required to undertake and complete the following review processes prior to your issuance of project eligibility: Massachusetts Division of Fisheries and Wildlife; Abbreviated Notice of Resource Area Delineation (ANRAD) with the Massachusetts Department of Environmental Protection, and Notice of Intent (NOI) with the Littleton Conservation Commission.

Impact on groundwater quality, level

In 2007, the Town of Littleton adopted a model “Low Impact Design/Best Management Practices Manual” to provide guidance to developers to encourage incorporation of new technologies and performance-based measures related to stormwater management that allow better use of land, but do not compromise groundwater quality. The applicant should be required to adhere to these low impact development techniques to ensure that runoff receives treatment for water quality prior to being discharged to groundwater.

MEPA review

Review under the Massachusetts Environmental Policy Act (MEPA) may be required provided the 40B project exceeds one or more of the review thresholds at 301 CMR 11.03(3). In particular it is possible the project will trigger the threshold for:

- Creating of five or more acres of impervious areas (301 CMR 11.03(1)(b)2.);
- Disturbing of more than two acres of designated priority habitat resulting in a take of a state-listed endangered or threatened species (301 CMR 11.03(2)(b)2.);
- Making an alteration requiring a variance in accordance with the Wetlands Protection Act (301 CMR 11.03(3)(a)2.);
- Altering 5,000 or more s.f. of bordering or isolated vegetated wetlands (301 CMR 11.03(3)(b)2.);
- Making a new withdrawal of 100,000 or more gallons per day from a water source that requires new construction for the withdrawal (301 CMR 11.03(4)(b)1.);
- Constructing a wastewater treatment facility with a capacity of 100,000 or more gallons per day (301 CMR 11.03(5)(b)1.); or
- Constructing 300 or more new parking spaces at a single location.

The applicant has filed a preliminary subdivision plan for four lots totaling 46 acres with this 40B proposal to be located on Lots 3 and 4, totaling 21.18 acres. The applicant has not divulged the proposed use of the remainder of the property, Lots 1 and 2, totaling 24.82 acres. Pursuant to 301 CMR 11.01(2)(c), the MEPA regulations prohibit project segmentation that would evade, defer or curtail MEPA review. As a participating agency, you are required to consider future expansion by the applicant. Therefore, the applicant should be required to reveal his intentions for Lots 1 and 2. Furthermore, if any of the above thresholds are triggered by the 40B project alone or in conjunction with any proposed development on Lots 1 and 2, the applicant should be required to obtain MEPA approval prior to MassDevelopment's issuance of a determination of project eligibility.

* * *

In sum, the Littleton Board of Selectmen urges that MassDevelopment disapprove the granting of a determination of eligibility for this project as proposed, and identifies the following as the Town's greatest concerns:

- Vehicular access from Grist Mill Road should be prohibited, so that the abutting single-family neighborhoods are not subjected to traffic impacts for which their roads were neither designed nor built. Moreover, the applicant should withdraw with prejudice its preliminary subdivision plan for construction of a 3,063-foot minor roadway from Great Road to Grist Mill Road.
- The applicant should be required to construct an interior road with turnaround meeting collector-- not minor-- road standards, with emergency vehicle access from Nagog Park in Acton.
- The height and scale of the buildings should be reduced so they are not visible from the abutting single-family neighborhood on Grist Mill Road.
- All three-bedroom units should be eliminated to minimize the impact of this project on the public school system. The 380-unit Avalon Acton project in the neighboring towns

of Acton and Westford contains zero (0) three-bedroom units, and so, too, should this project.

- The total number of units should be reduced from 200, recognizing that Littleton requires only 40 units in order to reach its 10% goal.
- The applicant should be required to fund a significant share of the Town's costs in developing new drinking water sources to meet the demands of this project.
- The applicant should be required to fund the undertaking of an independent peer-reviewed comprehensive traffic impact study and also to fully fund the costs of implementing the mitigation measures identified by that process.
- The applicant should be required to undertake and complete the following review processes prior to your issuance of project eligibility: Natural Heritage & Endangered Species Program (NHESP) with the Massachusetts Division of Fisheries and Wildlife; Abbreviated Notice of Resource Area Delineation (ANRAD) with the Massachusetts Department of Environmental Protection; Notice of Intent (NOI) with the Littleton Conservation Commission; and, if, applicable, the Massachusetts Environmental Policy Act (MEPA).

A complete record of public and town agency comments submitted to the Board of Selectmen regarding this application is attached.

The Town of Littleton looks forward to the opportunity to tour the project site with MassDevelopment on Tuesday, May 31, 2011 at 4 PM.

Thank you for your consideration of these comments.

Sincerely,



Keith A. Bergman
Town Administrator

Enclosures

Cc: Littleton Board of Selectmen
State Senator Jamie Eldridge
State Representative Jim Arciero
Town Counsel Thomas Harrington
David Hale, Omni Properties, LLC
Attorney Daniel Hill

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Town Agency Comments

- Littleton Electric Light and Water Departments
- Concord Water Department
- Nashoba Associated Boards of Health
- Littleton Police Department
- Littleton Fire Department
- Littleton Public Schools
- Littleton Planning Board
- Littleton Finance Department
- Littleton Highway Department
- Littleton Housing Authority

Public Comments

- Attorney Daniel Hill, representing abutters
- Littleton residents (50+ letters)

From the Applicant

Preliminary Subdivision Plan filed with Littleton Planning Board, May 12, 2011

TABLES

Table 1

Littleton Subsidized Housing Inventory

<u>ID#</u>	<u>Project</u>	<u>Address</u>	<u>Type</u>	<u>SHI</u>	<u>Expires</u>
1619	Pine Tree Park	19 Shattuck St	Rental	48	perp
1620	Patriot Circle	19 Shattuck St	Rental	8	perp
1621	N/A	King Street	Rental	2	perp
1622	Patriot Circle	19 Shattuck St	Rental	10	perp
1623	Littleton Green	423 King St	Rental	-	2008
1624	Mill Pond Apartments	50 Mill Rd	Rental	50	2024
1625	Minuteman Housing	550 Newtown	Rental	8	2022
1626	Pond Side	147 King St	Rental	90	perp
4340	DMR Group Homes	Confidential	Rental	21	N/A
4573	DMR Group Homes	Confidential	Rental	8	N/A
6824	Charles Ridge	Off Beaver Brook	Owner	11	perp
8891	Village on the Common	Off Great Road	Owner	-	perp
	Mannion Place	Mannion Place	Owner	3	perp
	Shelburne Village	50 White	Owner	3	perp
Total Subsidized Units				262	
÷	Town Total Housing Stock [2000 U.S. Census]			÷	3,018
=	Littleton S.H.I. Percentage			=	8.68%

Table 2

Littleton Population

Town total [2010 U.S. Census]	8,924		
+ Fifteen Great Road			
BRs	Units	x Avg	= Persons
1	62	1.5	93
2	78	2.5	195
3	60	3.75	225
	200		513 +5.75%
= Revised total population			9,437

Table 3

Littleton Housing Stock

Town total [2000 U.S. Census]	3,018
+ Fifteen Great Road	200 +6.63%
= Revised total	3,218

FIGURES

Figure 1
Building Heights, IBM MassLab cf. Fifteen Great Road



15 Great Road – 55 feet above grade *IBM MassLab – 46 feet above grade*

Figure 2
Relationship to Adjacent Building Typology



Single-family neighborhood on Grist Mill Road