

Policy and Guidelines for Review of Comprehensive Permits
Supplement to the Comprehensive Permit Rules for MGL Chapter 40B Projects
Town of Hopkinton, Massachusetts
Adopted June 27, 2001

1. Purpose

The purpose of this Policy/Guidelines is to provide guidance to applicants, the Hopkinton Zoning Board of Appeals, and other town departments and officials when comprehensive permit applications are submitted to the ZBA under the provisions of MGL Ch. 40B. These policy/guidelines are intended to be a supplement to the Comprehensive Permit Rules of the Zoning Board of Appeals adopted by the ZBA on March 14, 2001.

2. Submission Materials

The Comprehensive Permit Rules list plans and other reports required to be submitted to the ZBA with the application. The materials listed below shall be submitted to the Board with the comprehensive permit application. The Board understands that for many projects, the plans may not be at a definitive stage of development. However, the Board needs to receive information relevant to the impacts of the proposed development on the Town and the surrounding area, and in order to evaluate those impacts, this additional information is required of the applicant. Providing this information promptly and in the beginning of the process will result in a quicker process and help the Board to become better informed.

- A. Environmental Analysis, prepared by a qualified Environmental Scientist, with qualifications including training, education, etc., provided to the Board. The person performing the Environmental Analysis shall: 1) have at least a masters degree in ecological science from an accredited college or university, or 2) be another competent professional with at least two years experience in environmental analysis.

The Environmental Analysis shall assess the impact of the development on the environment within and adjacent to the development. The analysis shall include, but shall not be limited to, the evaluation of pre-development conditions and post-development impacts on:

- (1) Surface and groundwater quality.
- (2) Groundwater recharge of upper aquifers and perched groundwater layers.
- (3) Wildlife habitats and corridors.
- (4) Wetlands and bodies of water, including streams and rivers, both localized and general.
- (5) Existing and potential domestic water supplies.
- (6) Species of special concern in Massachusetts.
- (7) Road salt and fertilizer loading.

The Analysis shall include proposed mitigation of the post-development impacts identified. Mitigation measures requiring ongoing or periodic maintenance shall be identified and a maintenance plan shall be included with the Environmental Analysis.

Policy and Guidelines for Review of Comprehensive Permits

Town of Hopkinton, Massachusetts

Adopted June 27, 2001

Page 2 of 7

- B. Traffic Impact Report, prepared by a Registered Professional Engineer qualified in the field of Traffic Engineering, on the impact the development will have on the congestion, safety and overall convenience the subdivision will have on the roadway system providing access to the development. Impacts on both vehicular and pedestrian travel shall be addressed.
- C. In addition to the information required by the comprehensive permit rules, the following information shall be shown on the submitted plan:
- (1) Zoning district boundaries;
 - (2) Water Resources Protection Overlay District boundaries;
 - (3) Existing wetland resource areas, as defined in the Hopkinton Wetlands Protection Bylaw, including vernal pools, whether certified or not;
 - (4) Existing and proposed topography at 5 ft. intervals;
 - (5) Existing structures on adjacent properties within 50 feet of the property line;
 - (6) Existing significant environmental features such as ledge outcrops, scenic views and large trees;
 - (7) Proposed stormwater management system, in a general manner;
 - (8) Proposed property lines and rights of way of any proposed streets;
 - (9) Proposed location of utilities;
 - (10) Proposed lighting.
- D. List of Requested Exceptions to Local Requirements and Regulations
The list of requested exceptions to local requirements and regulations required by the comprehensive permit rules shall include an analysis of each requirement and why its waiver increases the affordability of the project. In addition, if waivers of zoning requirements and wetlands regulations are requested, the list shall include an analysis of why each exception is required – why not adhering to each requirement makes the project more affordable. Include a discussion of what the impact on the affordability of the project would be if the requirements and regulations were adhered to.
- E. Compliance with Zoning Bylaws
An analysis shall be submitted which compares the proposed project with the most applicable zoning district regulations. For example, for condominium projects, a comparison to the Garden Apartments in Residential Districts bylaw requirements may be appropriate.
- F. Developer's Credentials
A summary of the developer's credentials and experience in permitting and constructing to successful completion similar projects shall be submitted, including references.
- G. Long-Term Monitoring
A long term monitoring plan shall be submitted which identifies the governmental agency or other entity which will be responsible for project monitoring for the duration of the affordable units. A cost estimate to implement the long term monitoring plan shall be submitted.

Policy and Guidelines for Review of Comprehensive Permits

Town of Hopkinton, Massachusetts

Adopted June 27, 2001

Page 3 of 7

3. Review Standards

A. Purpose. The purpose of the review standards is:

- (1) To encourage a more efficient and uniform review process by clearly specifying local requirements in advance of applications for comprehensive permits.
- (2) To ensure that applications demonstrate the maximum benefit in providing housing for families of low and moderate income.
- (3) To equitably distribute affordable housing developments throughout the Town, so as to avoid concentrations of subsidized affordable housing in any one area.
- (4) To ensure the long-term viability of affordable housing developments through well-designed projects that function properly and that are provided with adequate utility infrastructure.
- (5) To minimize impacts to abutting properties, neighborhoods, and municipal services and infrastructure.
- (6) To ensure a site design which provides affordable housing yet conserves environmental features, woodlands, wetlands and areas of scenic beauty and which preserves sites and structures of historical importance.
- (7) To provide affordable housing without imposing unnecessary increased financial burden on the citizens of the Town because of demands for additional municipal services or public improvements or due to revenue foregone because of the loss or displacement of the by right use.
- (8) To provide affordable housing without threatening the ability of the Town to provide bona fide infrastructure and public services to existing and future development on other sites or to municipal uses.

B. Standards

- (1) Impact on sensitive areas: Affordable housing developments shall avoid impacts to the extent possible on environmentally sensitive areas such as floodplains, wetlands, groundwater recharge areas, aquifers, areas contributing to municipal water supplies or recreational water bodies, or to significant woodlands, hillsides or other sensitive natural features.
- (2) Impact on the site: Affordable housing developments shall be designed to accommodate the natural features of the site. The placement of roads, housing units, driveways, drainage structures and other elements requiring site disturbance shall be sited to fit with the land. The design shall not alter a site in such a manner as to physically transform it dramatically, permanently altering and destroying natural features, drainage patterns, wildlife habitats, historic landscapes and biodiversity of the area. It is the intent that if the development is designed to fit with the landscape, minimizing site disturbance and alteration, it will reduce the cost of construction and development, making it a more economic and affordable development for all citizens, and will result in fewer problems in the future in dealing with the impacts of massive alteration to the landscape.
- (3) Impact on infrastructure: Developments shall avoid areas which have public infrastructure or services incapable of serving the increased density of such developments

Policy and Guidelines for Review of Comprehensive Permits

Town of Hopkinton, Massachusetts

Adopted June 27, 2001

Page 4 of 7

without imposing significant increased public expense that would otherwise be unnecessary for uses built at densities permitted by right. Applicants may downsize their projects or improve the infrastructure to meet these criteria.

- (4) Impact on municipal water supply and sewer capacity: The amount of municipal water supply is finite and subject to a moratorium on water main extensions to new development. Therefore, no affordable housing development shall propose connection to the municipal water system for domestic service. The municipal sewer system is currently at capacity. Therefore, no affordable housing development shall propose a connection to the system. The domestic water supply and sewage disposal shall be accommodated on the development site.
- (5) Site suitability: Affordable housing developments shall strive to avoid sites which are zoned Industrial.
- (6) Exceptions to local regulations and requirements: It is not the intent to grant exceptions to local regulations which do not affect the affordability of the project. The Board will not grant an exception if the sole purpose of the request is due to the unwillingness of the applicant to meet the requirement or the desire to avoid compliance with certain regulations. The applicant must demonstrate that the local regulation negatively affects the affordability of the units within project.

C. Project Size

The maximum number of dwelling units (affordable and market rate) in any comprehensive permit development is recommended not to exceed the maximum number of units which could be accommodated under full compliance with the Garden Apartments in Residential Districts bylaw for multi-family developments, and in the Residence A district for single family developments.

D. Building Height

The maximum building height shall not exceed three habitable stories.

E. Access

There shall be at least two means of egress to the property if 11 or more dwelling units are proposed. The principal means of egress shall have pavement width and grades adequate in the opinion of the Board for the safe passage of public safety vehicles. If roads are to become public ways, they shall also be adequate in the opinion of the Board to accommodate Town snow plow vehicles within the paved areas.

F. Affordability

Comprehensive permit developments shall include at least 25% affordable units, as defined by Chapter 40B. Deed riders on the development shall specify that the units shall remain subject to the affordability guidelines in perpetuity. Deed riders shall include provisions giving the Town the right of first refusal should an income qualified buyer not be found for a unit. The deed riders shall also include a provision stating that should the Town be unable or unwilling to exercise its right of first refusal, the difference between the price which an income qualified buyer would have paid and the market price actually paid, shall be deposited with the Town into

Policy and Guidelines for Review of Comprehensive Permits

Town of Hopkinton, Massachusetts

Adopted June 27, 2001

Page 5 of 7

an account to be used for affordable housing programs. Affordable units shall be the same as the market rate units in terms of floor area, interior and exterior finishing and bedroom mix. Units shall be owner-occupied.

G. Hopkinton Preference

The development plan shall provide that all legally permissible efforts shall be made to provide 70% of the affordable units to eligible residents of the Town of Hopkinton, or their children or parents, and Town employees.

H. Parking

Parking for the development shall be provided at the rate of two parking spaces per housing unit. Additional parking spaces shall be provided for a community center, if one is proposed, at the ratio of one parking space for each two legal occupants of the center.

I. Site Amenities

The design of the site shall respect the natural and historic characteristics of the site and shall preserve and enhance the natural landscape wherever possible. The developer is encouraged to retain a minimum of 50% of the site as permanent open space. A maximum of 50% of the permanent open space may be developed as park or recreation land. The developer is encouraged to protect undisturbed open space with a conservation restriction, and to the maximum extent possible, the site plan shall connect on-site trail systems to abutting trail systems.

J. Stormwater Management

The plan shall be prepared to conform with the requirements of the Department of Environmental Protection Stormwater Management Guidelines and Policy, whether or not the proposed work is subject to the Wetlands Protection Act.

4. Approval

A. If a comprehensive permit is approved, the Board may establish a date by which all construction of roads and infrastructure shall be completed.

B. After approval, the applicant shall:

- (1) Submit a definitive site plan to the Board for review within 6 months of approval. The site plan shall show all site details including those for the stormwater management system, road construction, planting plan and schedule, and road and building location.
- (2) Submit final drainage computations within 6 months of approval for review by an engineer selected by the Town.
- (3) Submit final deed rider language for review by the Board.
- (4) Submit final homeowners association documents by the Board.
- (5) Submit final confirmation that funding has been received, and include a list of changes to the plan or conditions imposed by the funding entity.

Policy and Guidelines for Review of Comprehensive Permits

Town of Hopkinton, Massachusetts

Adopted June 27, 2001

Page 6 of 7

All reviews shall be conducted by the Board or consultants selected by the Board, the cost of which shall be the responsibility of the applicant. The plans required in (1) and (2) above shall be approved by the Board if they are consistent with the comprehensive permit that has been issued. If the plans are inconsistent or if the Board and its engineering consultant find serious design flaws or non-compliance with comprehensive permit approval conditions, the Board shall require full compliance. No construction shall commence until the Board approves all required design plans.

- C. After approval of all required plans and documents, a full set of each shall be submitted to the Director of Municipal Inspections and the Planning Board office.
- D. No construction shall commence until all required documents and plans are recorded in the Registry of Deeds.

5. Construction

- A. The Zoning Board of Appeals, Planning Board, Director of Municipal Inspections, and the Dept. of Public Works shall be notified of the construction start date at least 2 weeks prior to the commencement of construction. The Town will then retain the services of a consulting engineer to inspect the construction work. Required inspections shall be those outlined in the Subdivision Rules and Regulations, plus any other details shown on the plan. The developer shall deposit with the Town sufficient funds to cover the cost of the inspections prior to the commencement of work. The inspection services will be administered through the Planning Board office.
- B. Prior to the issuance of building permits within the development, the developer shall post a surety company bond or make a cash deposit to the Town in an amount equal to the remaining cost of construction including public improvements, streets, and infrastructure, but not including the cost to construct housing units. In order to establish the amount of the performance guarantee, the developer shall submit a professional estimate of the cost to the Town to complete all work approved by the plan remaining at the time the estimate is submitted. The estimate shall be based on the current edition of a regularly updated professional estimators guide, using the costs for publicly bid contracts in greater Boston. The estimate shall reflect probable increases in costs over a three year period and contingency funds consisting of a minimum of 15% of the total amount determined above. The Board may refer such estimate to its engineer for review and recommendation, at the developer's expense. The Board shall have the authority to reduce the performance guarantee amount being held from time to time. The Board shall have the authority to increase the performance guarantee amount being held from time to time in order to reflect additional work that should have been included in the original amount, additional work required to correct or address problems which arose after the original amount was established, or to reflect increases in construction costs over time. It is the responsibility of the developer to submit requests for reduction with a list of remaining work, in writing. In

Policy and Guidelines for Review of Comprehensive Permits

Town of Hopkinton, Massachusetts

Adopted June 27, 2001

Page 7 of 7

the event that the developer does not complete the project in the time period established or if there are serious public safety hazards which the developer will not address, the Town may obtain the performance guarantee funds and complete the remaining work.

C. During construction, if any modifications or changes to the plan are requested or required due to unforeseen site conditions or for any other reason, the developer shall follow the following procedure:

(1) Minor changes – If, in the opinion of the inspecting engineer and the Town Planner, the change is minor and does not involve the redesign of any of the plan details, the developer shall submit a letter describing the change to the engineer, Town Planner and Zoning Board of Appeals. The change may be made in the field.

(2) Major changes and design changes – If, in the opinion of the inspecting engineer and the Town Planner, the change is major and/or involves a change in design of any of the plan details, the developer shall submit a letter describing the change and a plan showing the proposed change to the Planning Board office and the Zoning Board of Appeals. The developer shall be responsible for the cost of review of the proposed change by a consultant selected by the Town. If the ZBA determines that a public hearing should be held on the proposed change, it shall hold the hearing. Such hearing shall be advertised and notice sent to abutters in the same manner as required by the original comprehensive permit application. If the ZBA determines that a public hearing is not necessary, it may approve the change at a posted meeting. In determining whether to hold a hearing, the Board shall consider whether the proposed change is within the scope of the original plan and public hearing discussions and if the proposed change will potentially impact abutters to the development.

D. The Director of Municipal Inspections or the Board may issue a stop work order in the event that there are serious violations of the comprehensive permit approval conditions, non-compliance with the approved plan, or serious environmental damage due to erosion, sedimentation, or other site conditions. The stop work order shall remain in effect until violations or damages are corrected.

6. Completion

A. Upon completion of the project, the developer shall submit 4 copies of an as-built plan of the roads and infrastructure to the ZBA. If the roads are to become public ways, the developer shall submit 4 copies of a street acceptance plan and a legal description of the roadways. All drainage easements shall be recorded in the Registry of Deeds, with copies submitted to the ZBA and the Dept. of Public Works.

B. If the Board determines that the construction or installation has been completed in accordance with the plan and to its satisfaction, it shall release the interest of the Town in the bond or the deposit of money to the person who furnished the same.