



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

March 22, 2024

IN HAND

Bruce Gingrich, Chair
Zoning Board of Appeals
Town of Hamilton
577 Bay Road
Hamilton MA 01936

RE: Application for a Comprehensive Permit
Property: A Portion of 133 Essex Street / Town of Hamilton Assessors: 65-0001
Owner: Country Squire Realty, Inc.
Applicant: Chebacco Hill Capital Partners, LLC

Dear Mr. Gingrich and Members of the Board:

Reference is made to the above captioned matter. In that connection, we represent Chebacco Hill Capital Partners, LLC (the “Applicant”). This document comprises an application pursuant to G. L. c. 40B, §§ 20-23 (the “Act”), and the regulations promulgated thereunder, with regard to a Comprehensive Permit to authorize the construction of fifty-nine (59) mixed income residential for sale units in thirty-two (32) buildings and related infrastructure (the “Project”). The Project is proposed to be constructed on a portion of the property known and numbered as 133 Essex Street in Hamilton, shown on the Town of Hamilton Assessor’s Map 65-0001, which portion includes 56.81 acres, more or less shown as Lot 1 on the site plan attached hereto (the “Site”). The Site is located in the Single Residential (R-1B) zoning district.

While the Project and its benefits are described below, in an effort to consolidate the understanding of the relationship between the Project and the Town I provide a synopsis of those benefits here:

1. **Creation of Senior Affordable Housing.** There are 59 home ownership units, of which 15 will be restricted in perpetuity to be Subsidized Housing Inventory (“SHI”) eligible

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone/Fax 508.376.8400

New Bedford Office

227 Union Street, Suite 606
New Bedford, MA 02740

affordable units. The restricted affordable units will be required to house at least one occupant over 55 years of age. When approved, the Project will provide the Town with a safe harbor for one year given that the proposed units meet the 0.5% requirement. It is estimated by the current price calculations from EOHLIC that the affordable units will have a sales price of approximately \$280,000.

2. **Trail Connection:** The Project includes a trail connection to Chebacco Woods through the Site from Chebacco Road to be provided in perpetuity with a donated easement to the Town.
3. **Public Parking:** The Project includes a public trail head parking area at the entrance to the Site on Chebacco Road to aid in trail access. The Parking area will include an electric vehicle (“EV”) charging station open to the public.
4. **Conservation Restricted Open Space:** The Site is 56.81 acres, plus or minus. Of that amount only 16 acres will be used for the development of the Project. In total only 228,646 SF (5.25 acres) of the Project will be impervious. The Applicant proposes that the remaining approximately 40 acres, plus or minus, which are contiguous to Chebacco Woods will have a Conservation Restriction to be held by the Town.
5. **Support for Council On Aging:** The Applicant will donate \$70,000 to the Town of Hamilton Council on Aging to fund a handicapped vehicle. The funds would be paid as follows: payment #1: \$35,000 within ten days of the conveyance of the second market rate unit at the Village at Chebacco Hill and payment # 2: \$35,000 within ten days of the conveyance of the fourth market rate unit at the Village at Chebacco Hill.

1.0 The Applicant

The within application is filed by Chebacco Hill Capital Partners, LLC (the “Applicant”), a Limited Dividend Organization as that term has been defined in accordance with 760 CMR 56.02 and 56.04(1)(a), with a principal address of 176 Barton Road, Stow, MA 01775. A copy of the Applicant’s Certificate of Organization as filed with the Massachusetts Secretary of State’s Office is attached hereto as **Exhibit A**. A Certificate of Good Standing issued by the Massachusetts Secretary of State’s Office, dated March 19, 2024 is attached hereto as **Exhibit B**. The Applicant is represented by Larry Smith, its Manager.

The Development Team is as follows:

A. APPLICANT

Chebacco Hill Capital Partners, LLC
176 Barton Road
Stow, MA 01775

B. ATTORNEY

Lisa L. Mead, Esq.
Adam Costa, Esq.
Mead, Talerman, & Costa, LLC
30 Green Street
Newburyport, MA 01950
(978) 463-7700 (telephone)
(978) 463-7747 (facsimile)
lisa@mtclawyers.com
adam@mtclawyers.com
www.mtclawyers.com

C. CHIEF DESIGN ENGINEER

Gregory S. Roy, P.E. (MA 46070)
Dillis & Roy Civil Design Group, Inc.
1 Main Street, Suite 1
Lunenburg, MA 01462
E: groy@dillisandroy.com
P: (978) 779-6091

D. ARCHITECT

Ken Feyl
Lagrasse Yanowitz and Feyl
1 Elm Street, 3rd Floor
Andover, MA 01810
E: kfeyl@lyfarchitects.com
P: (978) 470-3675

Any questions should be directed to attorney Lisa L. Mead.

2.0 Limited Dividend Organization

The Applicant is a Limited Dividend Organization, as that term has been defined in accordance with 760 CMR 56.02 and 56.04(1)(a), with a principal address of 176 Barton Road, Stow, MA 01775 eligible to file a comprehensive permit application pursuant to G. L. 40B, § 21.

3.0 Project Subsidy

The Applicant has received a Project Eligibility Letter from the MassHousing pursuant to the New England Fund (“NEF”) Program of the Federal Home Loan Bank of Boston dated January 16, 2024. A copy of the Project Eligibility Letter is attached hereto as **Exhibit C**. The Project Eligibility Letter issued by MassHousing satisfies the jurisdictional subsidy requirements established under the Act and the regulations promulgated thereunder.

The Project Eligibility Letter issued by MassHousing contains the findings required by 760 CMR 56.04(4), including the finding that the Applicant controls the Site pursuant to 760 CMR 56.04(4)(g). Pursuant to 760 CMR 56.04(6), the determinations made by the Subsidizing Agency (in this instance MassHousing) are conclusive, and any challenge to such determination may be made “solely upon the grounds that there has been a substantial change affecting the project eligibility requirements set forth at 760 CMR 56.04(1).”

The Applicant has notified the Subsidizing Agency of the submittal of this Application. A copy of the notice to the MassHousing is attached hereto as **Exhibit D**.

4.0 Site Control

The Applicant controls the Site within the meaning of the Act. The Site is controlled by the Applicant. A copy of the Purchase and Sale Agreement, with subsequent extensions, is attached hereto as **Exhibit E**.

5.0 The Site

The Site consists of approximately 56.81 acres +/- located off of 133 Essex Street with frontage on Chebacco Road. The Site is shown as Lot 1 on a set of plans entitled “Village at Chebacco Hill Chapter 40B Site Plan”, Showing Existing Conditions and Proposed Site Improvements, dated March 4, 2024, prepared by Dillis & Roy Civil Design Group, Inc., 1 Main Street, Lunenburg, MA 01462 and consisting of 16 sheets (the “Site Development Plans”) attached hereto as **Exhibit F**. Such plans fulfill the requirements of 760 CMR 56.05(2)(a), preliminary site development plans, as well as the Rules and Regulations of the Town of Hamilton Zoning Board of Appeals. In addition, you will see in the site plan set, there is a photometric plan as required by your regulations. Immediately following thereafter are the cutsheets associated with that plan.

Additionally, the Applicant has submitted pictures and aerial photographs of the surrounding area attached as **Exhibit G**. Such material, along with the existing conditions narrative contained herein, fulfills the requirement for an existing conditions summary contained in 760 CMR 56.05(2)(b). Proposed design features and floor plans and exterior elevations for the proposed structures are shown on a set of plans dated September 26, 2023 including 15 sheets and prepared by LYF Architects, Andover, Massachusetts (the “Architectural Plans”) attached hereto as **Exhibit H**. (collectively, the Site Development Plans and the Architectural Plans are referred to as the “Project Plans”). The Architectural Plans submitted herewith fulfill the requirement for submitting preliminary, scaled architectural plans contained in 760 CMR 56.05(2)(c). The Project plans are filed with this application and are made a part hereof by reference. Under the Act, plans filed with a Comprehensive Permit application may be preliminary plans, and the Applicant reserves the right to revise the Project Plans prior to final approval of the Project.

6.0 Project Description

The Village at Chebacco Hill will be located off of Chebacco Road and is proposed to be a condominium ownership community including 59 mixed income residential dwelling units in 32 buildings. There will be 44 age-restricted units at market rate and 15 units which will be income and deed restricted to households at or below 80% of area median income. The market rate units will not permit occupants under the age of 18 while the affordable units will be restricted to requiring at least one occupant to be 55 years of age or older¹. The general area includes residential dwellings and is zoned single family residential. Given the design of the Project in harmony with the natural features of the Project, a limited number of units will be visible from Chebacco Road and no homes will be visible from Essex Street. This is in keeping with the general residential character of the R-1B district. Further, while the Site includes over 56 acres, the development disturbance is limited to 16 acres and when completed, only 5.25 acres will include impervious areas. Approximately 40 acres will be preserved as open space.

¹ Please note the stated occupancy requirements comply with the EOHLC Policy on Restrictions on Children in Age Restricted Housing issued February 2018.

This Project will consist of the construction of thirty-two free-standing buildings. The building styles will be a mixture of single, duplex and triplex unit layouts. All units will be energy efficient and will include two bedrooms, 2 ½ bathrooms, of which the primary bedroom attached to an ensuite will be on the first floor. Each unit will also include two-car garages.

The units will be serviced by municipal water, and private sewer. On site amenities will include an extensive walking trail connecting to a nearby network of conservation areas as well as community gathering areas, all as shown on the plans. More than ample parking is provided on site. Each unit will have four parking spaces, two in the garage and two in the driveway and there will be a provision in the master deed for 24 visitor parking spaces. The Project includes each unit to have electric vehicle wiring in the garage and a community EV charger at the entrance next to the trail head parking area.

Below is a summary of the mix of units to be constructed:

| Style | Buildings | Units | Affordable | Market |
|------------|-----------|-------|------------|--------|
| Single | 12 | 12 | 3 | 9 |
| Duplex | 13 | 26 | 6 | 20 |
| Tri-Plex | 7 | | | |
| Tri-end | | 14 | 4 | 10 |
| Tri-middle | | 7 | 2 | 5 |
| Totals | 32 | 59 | 15 | 44 |

7.0 Existing Site and Surrounding Site Area Conditions (See 760 CMR 56.05(2)(b))

A. Significant Natural Resources of Wildlife Habitat

The Massachusetts Natural Heritage Atlas, 15th Edition, was reviewed to obtain information regarding any significant natural resource or wildlife habitat areas. The Natural Heritage and Endangered Species Program (NHESP) produces the Natural Heritage Atlas which represents the known geographic extent of habitat for rare plants and animals

protected under the Massachusetts Endangered Species Act (“MESA”) and Wetlands Protection Act (“WPA”). A review of the maps for both Priority Habitats of Rare Species and Estimated Habitats of Rare Wildlife and Certified Vernal Pool indicates a certified vernal pool but no Priority or Estimated Habitat on the Site. Priority Habitat is based on the known geographical extent of habitat for all state-listed rare species, both plants and animals, and is codified under the MESA. Estimated Habitats are a sub-set of the Priority Habitats and are based on the geographical extent of habitat of state-listed rare wetlands wildlife and is codified under the WPA, which does not protect plants. State-listed wetland wildlife species are protected under the MESA as well as the WPA. The site is not in an Area of Critical Environmental Concern (“ACEC”). ACECs are places in Massachusetts that receive special recognition because of the quality, uniqueness, and significance of their natural and cultural resources. These areas are identified and nominated at the community level and are reviewed and designated by the state’s Secretary of Energy and Environmental Affairs. According to the Federal Emergency Management Agency (FEMA), community panel 25009C0427F, with an effective date of July 3, 2012, the Site does not contain any Special Flood Hazard Areas. The Site is not a part of a regional water resource area, includes no fault line nor does it include an underground aquifer. Finally, the Site is not located in a Zone I or Zone II, Interim Wellhead Protection Area, or Aquifer Protection Area.

B. Existing Conditions

The Site consists of approximately 56.81 acres +/- located off 133 Essex Street with frontage on Chebacco Road. The Site is comprised of uplands which include steep slopes with visible ledge outcroppings in many areas. Ledge removal will be required for road construction and building sites.

A portion of the Site is located within the Ground Water Protection Overlay District (“GWPOD”) and has a series of wetland features all as shown on the site plan. Due to the existence of these features, the Applicant has limited the developed area of the Site to the upland portions that lie well outside of the GWOPD and outside of the 100-foot buffer to all jurisdictional wetlands (except for a horizontal drilling area that is underneath a small section of wetlands and installation of a water main within the paved surface of Chebacco Road). The Applicant has received an Order of Conditions (OOC) under the Local Wetlands Bylaw and a Superseding Order of Conditions (SOOC) under the WPA for

another proposal. The Project employs the same delineation lines as the prior proposal. The Site includes one certified vernal pool and three non-certified vernal pools which are not located in the development area and are part of the known delineated wetlands. The existing conditions of the Site are also described in a letter prepared by Dillis & Roy Civil Design Group, Inc., attached hereto as **Exhibit M**.

It should be noted and highlighted, this Site is part of a privately owned parcel of land. The Site is not a part of the adjacent public land nor is it open to public use. However, the Project does identify a proposed walking trail that includes over 4,000 linear feet of trails that will provide a connection to an offsite trail system which is situated on abutting parcels of land and the Project will include a walkable path from Chebacco Road to Chebacco Woods. As can be seen on the Site Development Plans, there will be a trail head parking area at the entrance which includes EV parking and will be open to the public to use in order to access the trail system. It is proposed that this dedication will be reflected in an appropriate easement document and reflected in the condominium master deed as well.

C. Existing Public Utilities

Existing public utilities in the area of the Project include municipal water and electric service provided by the Town of Hamilton and National Grid, respectively.

D. Historic or Archeological Features of Significance

The Site does not appear to have any significant historic or archeological features.

8.0 Proposed Landscaping/Buffers

The project will have minimal visual impact off of Chebacco Road and will have no visual impact from Essex Street. As shown by the cross section plans, attached hereto as **Exhibit N**, the Village at Chebacco Hill will not be visible from Essex Street, preserving the visual country character of Hamilton while constructing a cluster community. The entrance to the Project will be approximately 250 feet from the nearest dwelling unit. A landscape buffer will also be installed along Chebacco Road and a small monument sign to identify the community. The landscape plans will be provided at a later date as we move through the permitting process.

9.0 Project Impacts

A. Municipal Services

1. Water Supply

The Project will be serviced by public water from the Town of Hamilton public water system at Chebacco Road from Essex Street. With 118 bedrooms, it is estimated that the water usage will be 9,990 gpd² for the Project when it is fully built out. The Project will be constructed with the appropriate water saving plumbing fixtures such as low flow toilets.

2. Wastewater

The Project will be serviced by an onsite private disposal system. The system will be designed for 9,990 gpd as further specified below. A full set of plans compliant with Title V will be submitted in the near future.

| Unit type description | number of units | # of bedrooms/unit | Allowable flow/day/unit | Total flow/day |
|-----------------------|-----------------|--------------------|-------------------------|----------------|
| Senior housing | 44 | 2 | 150 | 6,600 |
| No age restricted 40B | 15 | 2 | 220 | 3,300 |
| Total | 59 | | | 9,900 |

3. Stormwater

The stormwater management system for the Project is designed in conformance with the Massachusetts Department of Environmental Protection's Stormwater Management Standards. The engineers have employed low impact design techniques as part of the stormwater management system for the project as more fully set forth in the Plans. Specifically, the project has been designed to incorporate some Low Impact Development methods including: (1) a reduced pavement width, (2) the use of Rain Gardens for stormwater management, and (3) clustering of the project on a small portion of the land to preserve Open Space. A preliminary stormwater report is attached at **Exhibit I**.

² Water and sewer impacts are based upon the Title V standards for age restricted housing.

4. Public Safety

Impacts to public safety would be associated with adequate access to and from the Site. Public safety vehicle access to and from the site will be from Chebacco Road, a public way. Neither the Fire Department nor Police Department have expressed concerns to date about the proposed Project. The Project will have no adverse impact upon public safety. A review of traffic impacts will be provided separately from this application during the course of the hearing process.

5. Other Utilities

Utilities, electric, cable and telephone will be coordinated prior to construction with the local providers. No adverse impacts relative to public services or utilities to abutting properties or to the Town in general are anticipated.

B. Construction Impacts

Anticipated impacts of the Project associated with the construction process include blasting, erosion and sedimentation, noise, and dust control. Although these impacts will be temporary in nature, mitigation controls will be in place. Such controls include the following:

- i. A Stormwater Pollution Prevention Plan (SWPPP) as required by the EPA NPDES general Permit for Stormwater Discharges from Construction Sites will be prepared prior to construction.
- ii. Construction sequencing, best management practices for erosion control, equipment and vehicle management, material storage and use, waste disposal and spill prevention and response.
- iii. A daily inspection of the site conditions, as needed, to control dust during construction and to provide watering, as needed.
- iv. During blasting times all state and federal laws will be followed. In response to the Town's comments, the Applicant will shield rock grinding and truck loading with ground forms or other means to assist in deflecting the sounds associated therewith away from local abutters.

C. Historical and Archeological Impacts

The Applicant is unaware of any historical or archeological impacts that will result from the Project.

D. Environmental Impacts

The Applicant does not expect the Project to result in any adverse environmental impacts to the Site.

E. Traffic Impacts

The Applicant does not anticipate any significant traffic impacts from the Project to the surrounding roadway system. As mentioned above, a traffic study will be submitted and such traffic study will include recommended truck routes during construction for the Town's consideration.

10.0 Request for Zoning, General Ordinance and Regulation Waivers

Pursuant to the Act and the regulations promulgated thereunder, the Applicant requests that the waivers set forth on **Exhibit J** from the Zoning Bylaw, General Bylaws and local Regulations of the Town³.

11.0 Need for Affordable Housing

The Act provides in relevant part that all communities are bound to a standard of achieving a minimum of ten percent (10%) of their housing stock dedicated to low and moderate income housing. See G. L. c. 40B, § 20, and 760 CMR 56.03(3)(a). Based upon most recent applicable data available, the stock of housing utilized in Hamilton for low to moderate income purposes is approximately 4.07%, which is plainly below the 10% requirement. See EOHLC Subsidized Housing Inventory (SHI) as of June 29, 2023, attached hereto as **Exhibit K**. However, the Town also has an approved Housing Production Plan and is entitled to certain regulatory benefits with respect thereto. Such benefits include the achievement of certain safe harbors when progress is made to the required 10% affordable housing. On March 21, 2023 the Board approved a Comprehensive Permit for Asbury Commons for which EOHLC certified the Town has met a temporary safe-harbor for housing production, subject to the eligibility requirements of the regulations. With that project the Town's SHI increased to 5.67%. However, as of March 21, 2024 no building permit was issued for the Asbury Commons project. As a result, per the

³ References herein are to the Town of Hamilton Zoning Bylaw and the Subdivision Rules and Regulations as well as the General Bylaws of the Town, including the local wetlands bylaw.

applicable regulations, the units included as part of the certification became ineligible for inclusion on the Town's SHI and cannot therefore be included as progress toward the Town's goals. (See 760 CMR 56.03 and Certification Letter of EOHLIC dated November 21, 2023 Attached as **Exhibit L**) Therefore, without the benefit of the safe harbor, there exists a legal presumption that there is a regional housing need which outweighs local concerns. In such case, the Board must hear the Applicant's comprehensive permit application, and the Applicant enjoys all of the benefits and privileges of the Act.

12.0 Filing with Other Boards

The Applicant will file, if required, an Amendment to the Superseding Order with the Town's Conservation Commission consistent with its jurisdiction pursuant to G. L. c. 131, § 40 (the "Wetlands Protection Act") and the regulations promulgated thereunder.

13.0 Additional Information

The Applicant reserves the right to provide, and anticipates providing, additional information to the Board of Appeals during the course of the hearing process.

14.0 Request for Findings of Fact

The Applicant requests that the Board of Appeals make the following findings in connection with the action of the Board on this application:

- That Chebacco Hill Capital Partners, LLC is a limited dividend corporation within the meaning of General Laws, Chapter 40B.
- The Applicant has control of the site by virtue of a Purchase and Sale Agreement executed on January 15, 2021, with subsequent extensions, as confirmed in the Project Eligibility Letter sufficient to comply with 760 CMR56.04(4)(g).
- The applicant has received approval and a Project Eligibility Letter through MassHousing pursuant to the New England Fund Program and therefore has received approval in accordance with 760 CMR 56.04(4).

- The number of low or moderate income housing units in the Town of Hamilton constitutes less than ten percent (10%) as reported in the latest decennial census of the Town and reported by the Executive Officer of Housing and Livable Communities as of June 29, 2023. And further that the Town is not in a safe harbor related to the Planned Production as the Asbury Commons project did not obtain a building permit within 12 months of receiving its Comprehensive Permit which is dated March 21, 2023.
- The proposal addresses the needs for affordable housing in the Town and is consistent with local needs within the meaning of General Laws, Chapter 40B, Section 20.

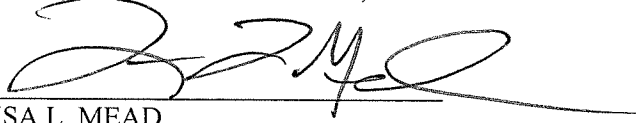
15.0 Summary

The within Application proposes an attractive, well-designed affordable housing development that will address a long-standing and serious shortage of housing within the Town of Hamilton. According to the City's Housing Production Plan, the Site on which the Project is located is available to construct housing within the Town.

The Site design and existing conditions afford ample area to accommodate the proposed development. Moreover, the Project has been designed to minimize and mitigate potential impacts to municipal systems and services.

The Applicant respectfully submits that the Project will meet a severe regional and local need for affordable housing while also addressing the health, safety, and environmental concerns of Hamilton residents.

Respectfully submitted,
Chebacco Hill Capital Partners, LLC
By its attorneys,
MEAD, TALERMAN & COSTA, LLC



LISA L. MEAD
30 Green Street
Newburyport, MA 01950
(978) 463-7700