



MEMORANDUM

TO: Hamilton Zoning Board of Appeals
FROM: Hamilton Planning Board
DATE: September 19, 2025
RE: 133 Essex Street Comprehensive Permit application

Members of the Planning Board have reviewed the Comprehensive Permit application for 133 Essex Street in Hamilton for 59 condominium housing units, with 15 units restricted to affordable housing units, submitted by Chebacco Hill Partners, LLC. The Planning Board offers the following comments for the Zoning Board of Appeals' consideration:

- 1.) The Applicant has obtained an extension of its Purchase and Sale Agreement with Country Squire Realty, Inc. to January 15, 2025. Essex County Greenbelt also has indicated that it is contracted to purchase the property from Country Squire Realty, Inc., meaning that, if that sale is completed, the applicant will no longer have site control. The Planning Board questions if the applicant has full site control as is required under the Comprehensive Permit Requirements. Moreover, the Planning Board deeply regrets that the Zoning Board is being forced to conduct this laborious and time-consuming process when there is a reasonable likelihood that the development will not move forward and will be conveyed to a different property owner who will conserve the land. It is deeply regrettable that the applicant has decided to pursue this application at this time – without clarity regarding the future ownership of the site – and subject the community to a divisive process instead of simply waiting until the end of the fundraising process in January 2026 when these issues will be clarified.
- 2.) It is also important for the Zoning Board to recognize that the Planning Board considered a development application that was very similar, and identical in many respects, to the one currently pending in front of the ZBA. The review of that application, filed as a Special Permit under Section 8.1 (Senior Housing) of the Zoning Bylaw, included an extensive, and transparent review process spanning approximately 16 months between 2021 and 2022. Dozens of Hamilton residents participated in that process and the community response was overwhelmingly negative to the development with residents citing a myriad of concerns but particularly focused on the negative environmental impacts of the development and the loss of outdoor open space and recreational space.
- 3.) The application required extensive and well documented environmental impacts, including:

- a. extensive blasting and rock crushing;
- b. the potential for impacts to sources of drinking water
- c. extensive ledge removal
- d. traffic and other safety concerns on Chebacco Road, which is a Scenic Road, as well as Essex Street and other nearby streets;
- e. noise levels;
- f. prolonged project duration; and
- g. subsurface runoff

Despite the Planning Board's efforts to facilitate a compromise regarding environmental and other impacts of the development, the developer was not willing to modify the design and to provide additional documentation, so the Board issued a denial of the Special Permit application in October 2022 finding that the application did not meet many of the criteria required under Section 8.1.

Although the current application is filed as a Comprehensive Permit and not as a Special Permit under Section 8.1, the same issues plague the current proposal. The design of the development has not substantially changed since the Planning Board denial and the use has actually intensified to include additional housing units. The nature of the development, particularly related to how the project is integrated into the landscape and how units are situated on the site, is virtually identical to the previous plan. Accordingly, the Planning Board would urge the ZBA to carefully consider these concerns, including the comments of many concerned neighbors, in determining whether to grant key waivers to this application. The Board notes that the applicant is requesting numerous waivers and those relating to the Town's Conservation Bylaw and Stormwater Management Bylaw are particularly concerning as the site is located in a sensitive ecological area with significant on-site wetlands and ledge (see #6 for additional discussion on waivers).

- 4.) Compounding the problems with this application are that many of the plans and supporting narratives are marked "preliminary," and some items, including a Stormwater Operations and Maintenance Plan, a Long-Term Pollution Prevention Plan, and even a Traffic Study have been omitted entirely. Although the Planning Board recognizes that Comprehensive Permit requirements do not require plans and supporting studies to be in final form at this stage of the application process, the Board would suggest the application is incomplete in its current form and does not include enough information for the ZBA to have an informed discussion and/or to initiate the peer review process.
- 5.) Traffic impacts represented a significant concern voiced during the Planning Board's review process. The site's location, very distant from commercial centers, services, and other community amenities, means that residents will have no choice but to drive to access basic services. The impact of 59 new residential dwellings will have measurable impacts on traffic and traffic safety in the vicinity. It is deeply disappointing that no Traffic Study has been submitted, particularly as these concerns are longstanding relating to the application.

- 6.) As the ZBA may be aware, the Commonwealth's regulations addressing Comprehensive Permits promulgated by the Executive Office of Housing and Livable Communities (EOHLC), 760 CMR 56.00 et seq., require a balancing test with respect to granting Waivers. It provides at 760 CMR 56.05(7) the following:

(7) Waivers from Local Requirements and Regulations. The Applicant may request Waivers, as listed in its application or as may subsequently arise during the hearing, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project. Zoning waivers are required solely from the "as-of right" requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district. If a Project does not request a subdivision approval, waivers from subdivision requirements are not required (although a Board may look to subdivision standards, such as requirements for road construction, as a basis for required project conditions, in which case the Applicant can seek Waivers from such requirements).

Consistent with Local Needs – means either that:

- (a) one or more of the grounds set forth in 760 CMR 56.03(1) have been met; or
- (b) Local Requirements and Regulations imposed on a Project are reasonable in view of the regional need for Low and Moderate Income Housing, considered with the number of Low Income Persons in the affected municipality and with Local Concerns, and if such Local Requirements and Regulations are applied as equally as possible to both subsidized and unsubsidized housing.

760 CMR 56.02.

Local Concerns "means the need to protect the health or safety of the occupants of a proposed Project or of the residents of the municipality, to protect the natural environment, to promote better site and building design in relation to the surroundings and municipal and regional planning, or to preserve Open Space.

Id. (citing 760 CMR 56.07(3)(c)-(g)).

To repeat, the grant or denial of Waivers require a balancing of the regional need for low- and moderate-income housing, the number of low-income persons in Hamilton, and the Town's Local Concerns. Those Local Concerns are substantial as evidenced by the Town's adoption of recently revised General Bylaws – including a revised Conservation Bylaw and a revised Stormwater Management Bylaw. Those Local Concerns are exacerbated because the plans attached to the Application are "preliminary," despite the project design being very similar, and nearly identical in many respects, to the project considered by the Planning Board in 2022. As stated by the Planning Board:

Approval of the project would require approval of the design choices the applicant made, and those choices negate a finding of compatibility with the character of neighborhood. Had unprotected natural features, such as steep slopes and mature forests, been at least partially maintained and units integrated into the site, the destruction of all mature forests and the need for unsightly rip-rap could have been significantly reduced and enabled the units to blend into the site and concomitantly into the neighborhood. The project, as designed, imposes itself on the site, undermining both the unprotected natural features and landscapes that make the neighborhood unique in Hamilton. The project is not comparable to the Village of Magnolia Shores and using its typology as the applicant proposes to do violates the design sensitivities required by Section 8.1.12 [of the Hamilton Zoning Bylaw].

In sum, the existing proposed entrance with the sheer ledge cliff and nearby rip rap is completely antithetical to the character of the neighborhood and completely inconsistent with adjacent land uses that fit unobtrusively within the landscape. The project is enormously over-engineered and will change the character and topography of the land. Blasting the hill, leveling it, and clear cutting all the trees exhibited a lack of sympathy for the neighborhood. As designed, the project, owing in part to its scale, imposes itself on the neighborhood. Rather than minimizing disturbance in accordance with Section 8.2.13.2, the project does just the opposite - - it maximizes disturbance. It would alter the terrain in ways no one could imagine and does not use low impact development techniques except as afterthoughts. The whole neighborhood would be changed, not for the better, but for the worse.

- 7.) Admittedly, Hamilton has not reached its goal of reaching and maintaining a minimum of 10 percent of its housing stock as dedicated affordable housing units. Recent discussions with Gordon Conwell Theological Seminary, however, may result in the conversion of existing dormitory apartments to housing units available to the general public and the inclusion of all 209 units on the Subsidized Housing Inventory (SHI) enabling Hamilton to meet the 10% threshold for affordable housing *without any disruption of existing topography due to blasting and protracted construction*. The project proposed by the Applicant, would add 15 units to the Town's SHI, but at a significant environmental and social cost that does little to address the real needs of income strapped, elderly persons in Hamilton. The Applicant's target market is age 55+ persons with income at 80% of Area Median Income (AMI). It is unclear, however, whether families with small children are targets for the affordable units or seniors.
- 8.) There is no information about the sale prices at which market rate and affordable units will be offered, and how the condominium fees will be apportioned for the market rate and affordable units so that the affordable units will remain affordable to those residing in them with incomes at 80% of AMI or less, particularly in the event of unforeseen and extraordinary costs that may be incurred by the condominium association. *See G.L Ch. 40B Guidelines, II.A.1. e.*

- 9.) There is no indication who will be designated to ensure compliance with all applicable rules and regulations governing marketing, residency, and potential sale of the affordable units in accordance with the M.G. Ch. 40B Guidelines, including the preparation of an Affirmative Fair Housing Marketing and Resident Selection Plan.
- 10.) The following demographic information related to Hamilton residents is germane to the application:

As of 2020 Decennial U.S. Census, Hamilton had 1,337 individuals over age 65; 1,212 individuals between 55 and 64; and 515 residents age 75 and over. While Hamilton does have some senior housing developments, it does not offer any senior housing within walking distance to amenities or with support services available. Accordingly, many residents age 75 and older are forced to relocate outside the communities to access such facilities. The age brackets for which there is the most need would benefit from services and amenities suited to their needs, but given the topography of the site and the necessity of driving to grocery stores, medical offices, and entertainment venues, the needs of lower income seniors will not be met through the construction of this project. This observation is buttressed by data from the 2023 American Community Survey that 40% of Hamilton residents age 75 and older have some form of disability. Moreover, according to the same data, approximately 15% of Hamilton households headed by someone age 65 and over subsides on a household income subsidy on an annual household income of less than \$30,000.

- 11.) The developer has indicated that the affordable housing units will be calculated at 80% of the Area Median Income (AMI) for the Boston Area, of which Hamilton is a part. In 2025, the Area Median Income of the area is \$115,800, with 80% of AMI equating to \$92,650. While the Planning Board recognizes that this calculation meets SHI requirements, the Board questions how affordable these units will be in practice particularly since, according to US Census 2023 American Community Survey data, most Hamilton householders age 65 and over subsides on an income of less than \$75,000 per year and a great deal must contend with disabilities.¹

¹ The following is from the Planning Board's decision:

The applicant's attorney was candid that the Village of Chebacco Hill is not for seniors in the familiar sense of the term; rather it is for "a younger segment of the senior population," those that are "generally vibrant, active individuals." In sum, they are "healthy individuals who no longer want to bear the burden of single-family home ownership." The applicant, however, also touted the concept of aging in place, but did not discuss the ramifications of what aging sometimes entails after 55 years of age: hip replacements and heart conditions, just to name a few. It also did not address what individuals who experience those or any other conditions associated with aging will do to overcome the challenges of the steep slopes that riddle the property, even between the front and backyards of some units, without relocating. (footnote omitted).