



The Commonwealth of Massachusetts

House of Representatives

State House, Boston 02133-1054

June 17, 2024

Dracut Zoning Board of Appeals
Dracut Massachusetts 01826

Dear Board Members,

In response to my request to the Massachusetts Executive Office of Housing and Livable Communities Secretary Edward Augustus, I met with him in my office at the State House on May 29, 2024, two Dracut residents, Renée Tanguay and Michelle Boormeester, members of the Citizens Against Reckless Development in Dracut (CARDD). At this meeting, the following concerns and conditions regarding the proposed Murphy's Farm 40B Project were discussed in detail:

1. The lack of due diligence to support the financial feasibility and demand for a project of this size, 300 4-bedroom units, in the Site Approval Application ("SAA").
2. The need for a market study and market data from an approved non-related party to support the long-term financial viability of a project of this magnitude. The missing support for the pro forma rents and determination for long-term and stable demand.
3. The striking disparity of metrics compared to state guidelines in the proposed project including:
 - The difference between the threshold that the EOHLC sets for Total Development Cost per unit of \$319,000 to \$379,000 versus the estimated Murphy's Farm TDC of \$706,000 per unit.
 - The overestimation of the project's ability to qualify for a permanent mortgage by \$29.8MM to \$45MM, which is far from the desired \$115MM stated in the SAA.
4. Questions about whether the developer will be able to secure construction financing for the entire project or as a phased project.
5. The developer's lack of any experience with owning or managing a multifamily property of any size and lack of any experience with required compliance monitoring and reporting related to the income restricted units.
6. The developer's abuse of the 40B regulations completely in violation of the intent of those regulations by working both the subdivision and comprehensive permits at the same time for personal gain.
7. Supporting documentation showing the developer's loss of site control through his own actions and the separation of Parcel X (11.05 acres) from the site, constituting a substantial change to the project.
8. The lack of truthfulness in the application applying for the approval of Project Eligibility for the Murphy Farm Project.

9. The necessity for better overall vetting of any project by MassHousing and other subsidizing agencies before issuance of Project Eligibility Letters to minimize the extraordinary use of Town staff and resources as well as Town volunteer boards and much community/neighborhood angst and anxiety.

Given these and other factors discussed, we asked that the Project Eligibility Letter granted to Mr. Kevin O'Brien for the project known as Murphy's Farm be rescinded. While Secretary Augustus could not make any determination that might end up before his offices in the 40B process, he said that I could walk out of the meeting with his commitment to investigate the issues we addressed with the Subsidizing Agency, and he accepted a binder from the group with all pertinent supporting documents. I look forward to the Secretary's response and hope the Subsidizing Agency will take action on this matter.

Sincerely,


Colleen M. Garry
State Representative

May 28, 2024

RE: Financial Infeasibility of Murphy's Farm

To Whom it May Concern,

The following synopsis is meant to memorialize reasons why The Homes at Murphy's Farm, LLC (the "Project") is considered financial **in**feasibility as proposed in the Site Approval Application submitted. The Project Eligibility/Site Approval Determination Letter ("PEL") was issued with material voids of due diligence to support the financial feasibility and demand for a Project this size. The level of scrutiny applied to the review of the Site Approval Application (the "SAA") that led to the issuance of the PEL is concerning after personally analyzing the information provided in the SAA. The current lending environment will categorically decide the fate of the Project when stringent underwriting commences; however, today, it is up to those reviewing the proposed Project to determine its sensibility and feasibility. By way of short introduction, I serve as an Originator for a syndicator of LIHTC and have worked in the affordable housing sector for 25 years. My experience affords me the benefit to look at the proposed Project from a technical perspective.

Clearly stated in the MA Qualified Allocation Plan ("QAP")- "Unless a market exists for the proposed project, the project will fail." To date, the Comprehensive Permit review process has not required the Sponsor to obtain a market study. Instead, the Sponsor provided two, three-bedroom rent comparables in the Site Approval Application ("SAA") to support both market and affordable pro forma rents. The careless level of due diligence is alarming considering the number of proposed units, let alone the single unit type (300, four-bedroom units). The information provided to support the pro forma rents was derived from two rentals being advertised online and should not be considered as a reliable data. The Executive Office of Livable Communities ("EOHLC") places importance on gathering market data from an approved non-related party to support the long-term financial viability of proposed developments. The Subsidizing Agency's issuance of the PEL for this ill-conceived and unsupported Project is negligent. Without support for the pro forma rents and determination for long-term and stable demand in the market for the 300 four-bedroom units, we are all left to take the information included in the SAA at face value.

With respect to the Sources, Section 5 of the SAA identifies an anticipated Permanent Loan in the amount of \$115MM. The Sponsor submitted a short letter of intent from The Lowell Five ("LOI") as preliminary support which states that the final loan amount would not exceed 75% of the Project's value. Using the monthly rents reflected in the SAA, an overall vacancy rate of 7%, and annual operating expenses per unit of \$10,610 (inclusive of replacement reserve of \$300/unit/year), and capitalization rate of 8%, it is estimated that the value of

Project could be approximately \$93.2MM; suggesting a permanent loan amount of \$69.9MM after applying the 75% loan-to-value ratio. In the event that the permanent mortgage is sized to a debt service coverage ratio of 1.20:1.0, it is estimated that the Project could qualify for a permanent mortgage of approximately \$85.1MM assuming the same underwriting parameters previously mentioned, an interest rate of 7.25% and 30-year amortization. Both approaches suggest that the Sponsor has overestimated the Project's ability to qualify for a permanent mortgage by \$29.8MM to \$45MM, which is far less than the desired \$115MM. The methods applied to determine an estimated permanent mortgage amount are standard and may even be considered aggressive considering the unit type, tenancy, and the Sponsor's zero experience with owning or operating a multifamily property. I looked to our firm's MA portfolio as a check for reasonableness for my assumptions regarding the average operating expenses per unit. Data indicates that the average operating expense per unit was \$12,500 (inclusive of \$300 per unit for replacement reserve) for 2023 for our portfolio of 11 LIHTC properties with family tenancy. This data point supports that the Project would qualify for a lower permanent mortgage amount than previously mentioned. The operating expense per unit could be higher as the Project experiences significant turnover stemming from housing cost overburdened. Without a reliable market study that applies industry standard and respected methodologies, I am using my 25 years of industry experience to read the tea leaves.

EOHLC, with the assistance of the Subsidizing Agency, offers a guideline for recommended cost limits in the 2023-2024 QAP. For Production Projects located Outside the Metro Boston Area in Suburban/Rural Area with Large Units, EOHLC sets a threshold of \$319,000 in Total Development Cost per unit. This threshold increases to \$379,000 if the Project is located Within the Metro Boston Area. The QAP is considered a useful reference given that these thresholds were derived with the assistance of the same Subsidizing Agency that approved the PEL; however, there are wide disconnects between the QAP's Guidance and the Uses populated in Section 5 of the SAA. In the SAA, the estimated hard construction costs alone total approximately \$593k per unit, inclusive of hard cost contingency totaling 59% of the budget hard costs. For reference, in the private sector, the industry standard for hard cost contingency would be at a minimum of 5% for a newly constructed multifamily property. Total Development Cost are over \$706k per unit, which is a far departure from the Subsidizing Agency's recommended \$319k per unit. As is the case with the proposed Project, the Developer and the general contractor are affiliated, which would typically require that a qualified but unrelated third-party contractor, architect or qualified construction cost consultant prepare the construction cost pro forma. These provisions were established to help ensure the long-term financial viability of affordable housing by setting cost parameters and lowering the needed Sources to fund potentially excessive Uses.

In the current banking environment, it is implausible that Sponsor will be able to secure construction financing for the construction of the entire Project. The Sponsor has been heard saying that his intent is to construct and lease a few buildings at a time, which hints at the limited depth of the Sponsor's financial wherewithal and lack of experience with developing a property of the size. According to 760 CMR 56.03(2)(c), a Comprehensive Permit can only allow a project to be constructed in phases provided that:

1. Each phase contains at least 150 units,
2. Each phase contain the same proportion of SHI Eligible Housing units as the overall project, and
3. The projected time period between the start of successive phases does not exceed 15 months, then the entire project shall remain eligible for the SHI so long as the phasing schedule set forth in the permit approval continues to be met.

The Project can only be constructed in a maximum of two phases. Construction of the second phase (150 units) must start no later than 15 months from the start of the first phase (150 units). It is reasonable to assume that there will be overlap with each phase if the construction period of the first phase is greater than 15 months. I trust that the construction lender will conduct a thorough review of all necessary construction documents, including the monthly construction timeline. Unfortunately, the process of the Comprehensive Permit restricts the ZBA from addressing the misalignment of the Sponsors intentions, construction phasing limitations set forth in 760 CMR 56.03(2)(c), and lending challenges it imposes. If the Sponsor intends to construct the Project in phases, each phase will likely be separately financed. The first phase (150 units) will need to achieve construction completion and meet stabilization tests (typically defined as 90 days with 90% minimum occupancy and debt service coverage ratio of 1.20:1.0) to convert the initial construction loan to a permanent mortgage. All within 15 months! Furthermore, the Project will need to be legally separate to allow for the collateralization of the property identified as "Phase I" when its respective construction loan is converted permanent mortgage.

The above narrative is largely technical and reflects typical "back of the envelope" calculations that an experienced Developer of affordable housing would conduct. As an affordable housing project moves from its conceptual phase into preliminary underwriting, developers are constantly tasked to support their assumptions. They look to their lending partners, investors, property management agents, general contractors, architects, etc., to put forth a well-conceived affordable housing community that will best serve qualified households for years to come. As an affordable housing professional, I ask that EOHLC and the Subsidizing Agency revisit the SAA and determine if the Project is indeed financially feasible. Serious consideration should be given to:

- Lack of a thorough market study.

- The QAP requires that each applicant submit a market study that has been conducted using industry standards adopted by The National Council of Housing Market Analysts (NCHMA). Although the Project is not seeking public funds, it is prudent to press for the submission of a NCHMA market study and operating expense analysis given the atypical unit mix and zero experience offered by the Sponsor.
- The Sponsor's zero experience with owning and managing a multifamily property.
 - The Sponsor disclosed having no experience with owning or managing a multifamily property of this nature. The Sponsor also stated that he has not given any thought as to who will manage the Property when complete. Putting the keys of an affordable housing community into the hands of an inexperienced Developer is dangerous: Results of which will be suffered by those it is meant to serve and the municipality as a whole.
- Estimated Total Development Cost of \$706k per unit compared to EOHLC's cost limitation of \$319k .
- Overestimation of the Project's ability to qualify for a permanent mortgage by \$29.8MM to \$45MM (see above for assumptions).
- The Sponsor's ability to secure construction financing for the construction of the Project in its entirety or as a phased project (maximum of two phases with each including no less than 150 units each).

I trust that EOHLC and the Subsidizing Agency will find that the points made above are consistent with standard underwriting practices that are applied to all proposed affordable housing applications. The large disparity between the estimated Sources calculated above and the Sources the Sponsor believes the Project could qualify for is reason alone to declare the Project as not financially feasible and rescind the PEL. The financial health of the Project should be considered with as much weight as other aspects of this Project. It is clear that the pro forma was derived with minimal support. Not scrutinizing this component of the Project will inevitably lead to a partially finished property for years to come the no housing units for the Town to add to its Subsidized Housing Inventory. I strongly encourage the Subsidizing Agency to rescind the PEL.

I welcome further discussion that could lead to a sound and well thought through Project to benefit the very households it's meant to serve.

Warm regards,

Renée B. Tanguay

Renée Tanguay

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January 27, 2016:

Application for a Special Permit in accordance with provisions of section 4.14.00 (Open Space Residential Development – 33 lots) of the Zoning By-Laws. Hearings were held: 8/24/16, 9/14/16, 10/26/16, 11/9/16, 12/14/16 and 1/11/2017.

January 11, 2017:

Town of Dracut Planning Board denies the Special Permit for the following:

- *The applicant did not provide sufficient evidence that the conventional plan could actually be constructed based on wetland issues and did not provide a compelling reason why the open space development should be constructed in lieu of a standard subdivision.
- *The board finds the proposed open space plan not superior to the conventional plan. The clustering of house lots imposed more impact on existing wetlands and vernal pools than a traditional subdivision.
- *The Open Space Development is not in harmony with the surrounding neighborhoods which are comprised of all one acre residential lots or larger agricultural lots – R1 zoning district.
- *The proposed open space parcels are not a benefit to the town and will have detrimental impact on the neighborhood. Open space lots proposed were woodland and wetland, with no plan to maintain, create trails or control invasive species in the open space areas.
- *The Board did not find that the open space plan would minimize environmental disruption nor provide more efficient provision of services.

August 23, 2017:

Town of Dracut Planning Board approves, Definitive Subdivision Plan, Murphy's Farm – 22 lots
Definitive Subdivision Plan, Murphy's Farm submitted on 5/24/16 after subsequent hearings was approved on 8/23/17.

November 8, 2017: Lowell Five Cent Savings Bank:

Assignment of Leases and Rent:	\$2,408,500	
Commercial Construction Real Estate Mortgage:	\$2,000,000	*a purchase money mortgage

November 8 2017:	O'Brien records deed	\$1,250,000	*purchase from Arline Murphy
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December 23, 2019:

Koopman Lumber vs. O'Brien Homes – Civil action lawsuit for non-payment of building supplies
2017 development - Tucker Terrace, Methuen \$125,186.03

April 17, 2020:

Town of Dracut records the Taking of the parcels owned by O'Brien Homes

These parcels comprise Murphy's Farm. The taking is for non-payment of 2019 taxes.

September 28, 2021: Dracut BOS Meeting: Town Manager Report – September 28, 2021

Noted applicant for the development off Poppy Lane would be applying for 40B State Approval and that it would have a huge impact to the Town of Dracut and School Department.

September 30, 2021:

Burl Land Clearing vs. O'Brien Homes – lawsuit for non-payment of tree cutting / clearing services

Poppy Lane, Murphy Farm site - \$9,569.34. O'Brien cleared the trees and stripped all the loam for the site then leaves it dormant.

November 23, 2021: Dracut taxes paid – taking released.

Coincides with intent to apply for 40B State Approval – pays outstanding taxes due.

December 22, 2022: Jackson Lumber Mortgage: \$500,000

March 2023: Citizen's Against Reckless Development in Dracut forms

A group of concerned abutters and neighbors assembled in a garage, put our brains together and spoke out about the sheer size and impacts that Murphy's Farm project would have at a proposed – 300, 4 bedroom rental units over 47 buildings. The group recognizes that development in our town is inevitable as it grows and that there is affordable housing need. We are for reasonable development – this however is reckless! With the sheer size of this development, the impacts will be far reaching and felt on our schools, on our town services (fire / safety) and on infrastructure needs. The impacts of this development will be felt by all residents of Dracut.

July 12, 2023:

O'Brien before the Dracut Planning Board – Removal of Parcel X from Covenant for 2017 Subdivision.

Kevin O'Brien goes before the Dracut Planning Board for the Removal of Parcel X - as not buildable, there is no frontage and removing for possibility of selling to Brox Industries (have video clip for verification). 11.05 acres.

July 24, 2023:

CARDD retains Attorney, Dennis Murphy from Hill Law.

July 27, 2023:

Catherine Colman – Trustee of 231 Wheeler St. – Mortgage: \$2,300,000

Catherine Colman Mortgage for lots 1 – 22, Parcel A and Parcel X

Lowell Five 2x Mortgages – Discharged

Jackson Lumber Mortgage - Discharged

August 7, 2023:

Dracut receives Comprehensive Permit approval request – incomplete application.

Missing from application per letter from Alison Manugian, Dracut Community Development Director, to Attorney Donald Bornstein, Johnson & Bornstein, LLC – O'Brien Homes:

* Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. All projects of 5 or more units must have site development plans prepared by a registered architect or engineer.

*A report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood.

*Preliminary, scaled and architectural drawings. For each building the drawings shall be prepared by a registered architect, and shall include typical elevations missing for 5 Unit Prootype A2 and sections, and shall identify construction type and exterior finishes.

*A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas and by open areas.

*A preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants

*A list of requested waivers – the provided letter references our previous Zoning Bylaw and needs to incorporate references to the new Bylaw in effect since November 2022. Additionally, the waiver requests need to include dimensions to specific locations within the project. Blanket waivers such as have been requested are insufficient.

August 24, 2023:

Opening of Public Hearing on the Murphy's Farm Comprehensive Permit Application.

*CARDD shares Hill Law legal advice with the Alison Manugian, Dracut Community Development Director, to deny the application based on the incomplete application.

*Although the Town of Dracut has an incomplete application – the Town moves forward and opens the public hearing and starts the 180 day hearing process.

*A developer dog and pony show.

*At the request of the ZBA, O'Brien is asked to meet with the abutters and neighbors.

*CARDD members and residents speak out with various impacts: the federal pipeline, tax implications, school impacts, traffic, proximity to the quarry, etc. The main issue addressed to the board was the acceptance of an incomplete application, making it impossible for the ZBA to vet this project.

*Next hearing scheduled to 9/21/23.

September 6, 2023: O'Brien before the Conservation Committee

*O'Brien requests and receives approval for Certificate of Compliance for Parcel X.

No work was done – A partial certification was issued on Parcel X only.

September 16, 2023: O'Brien meets with abutters and neighbors at the request of the ZBA

*O'Brien meets with abutters and neighbors – approximately 35 in attendance to hear him out.

*O'Brien admits that he would have no plans for the next hearing on 9/21.

*O'Brien admits he is in it for the money – the 22 home subdivision would not be profitable enough.

*O'Brien admits he does not have the \$150 - \$200 million dollars needed to fund the project.

*O'Brien admits he had no market feasibility study.

*O'Brien admits he does not have the experience in the ownership, development or management of a project of this scope and size.

*The group did not think he had any intention of breaking ground - but to flip once permitted and is putting in the least amount of effort and cost into getting together his plans.

*O'Brien talked about the MBTA being mandated by the state- and that the town's hands were tied. He brought up about 600 – 2 bedroom rental units in lieu of 300 4 bedroom rental units as a scale down, although he was reminded this would come to a town meeting vote and residents would have a say.

*O'Brien talked about an access road that would spill out on to Wheeler St. in Methuen instead of the neighborhoods – and we would need to fight for that road. This road was only on the table for MBTA plans but said he would include in the 40B plans.

*O'Brien asked the group to tell him what to build – the group provided no specifics: scale back the size, widen the roads, fewer buildings, no rentals, etc. We wanted to see his detailed plans – not the sketch drawing he submitted to the town.

*O'Brien said he could have site plans available to present at one of our CARDD meetings. The group replied that they were expecting to see detailed plans on what he was intending to build – not just conceptual drawings. O'Brien did send a link to drawings – but were conceptual. He was not invited to present these plans to the group.

September 21, 2023: Dracut ZBA Hearing Cancelled

September 27, 2023: Methuen ZBA Comprehensive Permit Application – Murphy's Farm.

Methuen invokes safe harbors.

*Hill Law, CARDD attorney, submits letter to ZBA – the project offers not one benefit to the City of Methuen. None of the affordable units will be located in Methuen or end up on its SHI. None of the City's residents will be eligible for preferential treatment in the lottery for affordable units. Nothing about the project is designed to help the City of Methuen. Attorney letter sites Forest Ridge 40B on the Stoneham and Winchester town line. The Stoneham Board of Selectmen opposed the project because it contained zero affordable dwelling units to Stoneham (9/14/2016 letter Stoneham BOS to MassHousing). Masshousing agreed and denied project eligibility for Forest Ridge.

*Methuen ZBA invokes safe harbor at this meeting on the grounds that Statutory Minima, defined in 760 CMR has been met. The meeting continues and the developer reviews his plans.

*Methuen ZBA members indicated their concerns about proving a road onto Wheeler St. in Methuen solely to allow access for multiple units built in Dracut.

*On 10/11/23, Methuen ZBA provided written notice to the applicant that the application had been denied consistent with local needs.

*On 10/23/23, the applicant challenged the Methuen ZBA denial to the EOHLC.

*On 11/21/23, EOHLC finds Methuen had not met its burden of providing satisfactory grounds for asserting Statutory Minima. Methuen appeals this EOHLC decision.

*The public hearing process is put on hold until the appeal process is concluded.

October 2, 2023: Certificate of Compliance recorded – Removal of Parcel X WPA Form 8B

October 19, 2023: Dracut ZBA Hearing – NO design plans submitted, 60 day extension

*O'Brien had no plans for the board and submits a 60 day extension.

*O'Brien states that he met with neighbors after the last meeting – a big issue was traffic through the existing two neighborhoods and went to Methuen ZBA hearing with plans that changed the road design to include the Methuen road access but since 3-Dracut residents were there and spoke against the plan he's moving forward with the plans he submitted.

*A Traffic study was submitted with 2 letters from water and sewer. Dracut Community Development Director stated there will need to be far more conversation with other Department Heads regarding the water and sewer.

*O'Brien states he will provide plan updates at next meeting.

*Neighbors got up and recounted their experience at his site meeting and questioned the ZBA on his intentions and at what point would the board be justified to deny Mr. O'Brien's application as he continues to fail to submit all information and plans.

November 16, 2023: Dracut ZBA Hearing - Continued to 12/21/23

November 28, 2023: Methuen votes to appeal EOHLC decision and the hearing process is put on hold

December 21, 2023: Town of Dracut Municipal Lien Certificate recorded – 11.05 acres, Parcel X

December 21, 2023: Dracut ZBA Hearing – No design plans submitted, continued to 2/15/23

*Mr. O'Brien submitted no design plans and hires new engineering firm stating that due to loss of staff members that turn time for detailed plans would have been significantly extended.

*New firm, Civil Design Consultants of Andover, are starting from scratch – best case scenario plans by late February.

*Mr. O'Brien haggles over peer reviewer costs and had not posted 53G peer review funds of \$15K. The developer requests Dracut to use the same peer reviewer as Methuen at a cost of \$5K. Dracut ZBA votes to stay with VHB.

*Residents voice concerns and ask Town Counsel at what point would she advise the ZBA to deny the permit based on an incomplete application and no detailed plans and questions what options the town has to ensure the developer is not wasting our town's resources and time – or the developer's willingness to follow through on his commitments.

January 23, 2024: O'Brien homes mortgaged Parcel X to an entity affiliated with Brox, Sunset Rock LLC

*Mr. O'Brien mortgaged Parcel X for \$1,000,000 to Brox affiliated Sunset Rock, LLC

January 29, 2024: Catherine Colman – Partial Release of Mortgage (Release of Parcel X)

*Catherine Colman releases Parcel X from the \$2.3M mortgage recorded on July 27, 2023.

February 14, 2024: O'Brien before the Dracut Planning Board asks for extension on 2017 subdivision approval

*Mr. O'Brien goes before the Dracut Planning Board to extend 2017 subdivision. The board approves.

*Extended to February 14, 2025.

February 15, 2024: Dracut ZBA Hearing – Cancelled and continued to 3/21/24

March 18, 2024: O'Brien summary decision request denied – Methuen granted a full hearing.

March 20, 2024: Hill Law submits letter to Dracut ZBA – requests stay until after Methuen HAC appeal

*Hill Law, CARDD attorney, submits letter to the ZBA – with the 3/18/2024 HAC decision, Methuen is granted a full hearing and their process is put on hold.

*As this 40B project encompasses both Dracut and Methuen – it is the same project, as it requires both towns to permit.

*The 40B regulation is mandatory – does not differentiate between towns. The public hearing for the project must be stayed until after the HAC appeal.

*Dracut should suspend its public hearing until the conclusion of the HAC, required by state law and 40B regulations.

*This same Hill Law letter also addresses the recent 2017 subdivision approval and extension granted by the Dracut Planning Board to 2/14/25. Under 40B regulations, subdivision approval is considered a "related application", which bars any 40B project from being considered on the same land for 12 months.

*The applicant may not proceed with a 40B project on the same land for 12 months until February 14, 2025. Dracut ZBA should suspend its public hearing until then as required by state law in the 40B regulations.

March 21, 2024: Dracut ZBA Hearing – No design plans

*Dracut ZBA states has not read the letter – will be posted.

*A CARDD member asks if she can read, as it is public record.

*Denied the reading of the letter.

*Mr. O'Brien did not have detailed design plans.

*Traffic study was peer reviewed by Dracut's reviewer, VHB – multiple issues were noted, more data needed.

*Joe Peznola, state consultant, in his 25 years, has not seen a project of all 4 bedroom units – with no mix. Advised a market analysis be done to show if there is even a market for all 4 bedroom units. There is no data to compare for traffic study as this development does not fit into an existing category.

May 1, 2024: O'Brien before Dracut Con Com – requests an extension on existing Order of Conditions to 2017 Subdivision

*Mr. O'Brien goes before the Dracut Conservation Committee requesting an extension on an existing Order of Conditions on the 2017 Subdivision – a crossing to Parcel X. It currently expires on 1/14/26.

*Parcel X was removed by the Conservation Committee back in 10/23.

*The Dracut Conservation Committees questions Mr. O'Brien – why is he looking to extend the existing order, a pathway to Parcel X that had been removed.

*A board member questions and O'Brien confirms that there is an agreement with Brox – but he doesn't have to tell the board what type of an agreement. What value does the crossing have if there is an agreement with Brox?

*The board does not grant the extension – as there no clear plan.

May 2, 2024: Dracut ZBA Hearing – Hill Law addresses Parcel X with ZBA

*Hill Law appears at Dracut ZBA hearing to address his attorney letter that was submitted on 3/20/24.

*The ZBA informs that Town Counsel has advised for the board to move forward with the hearing – yet she is not there to discuss legal arguments. And the board invokes attorney client privilege as to the reasons why.

*Board voted to waive attorney client privilege and agree to post the letter.

*Mr. O'Brien provided an overview of the site plans. These plans show buildings on Parcel X.

*A ZBA board member questions having seen the Conservation Committee meeting the night prior. With Parcel X removed, it would be considered a major change and from that con com meeting it is under an agreement with Brox.

*Mr. O'Brien's attorney argued that changes to plans happen all the time. It is part of the normal course of action.

*Hill Law, addresses the board member and states he watched the same com con meeting he is referring to. It is considered a substantial change with 11 acres off the table – 22% of the site is known as Parcel X.

*Hill Law addresses site control and how it is lost – as a result the Board should refer this matter back to MassHousing for further consideration of project eligibility and site control, and stay the public hearing until that jurisdictional issues has been resolved.

*Waiting on Hill Law letter to submit to the Board.