

To: Dracut Zoning Board of Appeals

From: 133 Phineas Street LLC

Date: June 10, 2022

Re: 133 Phineas Street – Louis Farm Village Comprehensive Permit  
Response Comments to Memorandum, dated May 12, 2022, Alison Manugian,  
Community Development Director

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This memorandum has been prepared to respond to certain technical and other comments described in a Memorandum to the Zoning Board of Appeals from Alison Manugian – Community Development Director, dated May 12, 2022, and has been organized to respond to each comment in the order identified in the Memorandum. This response has been prepared based upon input from the Applicant’s engineering, legal and other Project Team Members.

Comments on Plans:

1. All plans and submissions must be signed and stamped by a Professional Engineer or Architect.

**Response:** All architectural and civil plans filed as a part of the Comprehensive Permit Application are signed and stamped by the Professional Engineer or Architect. Prior to the close of the public hearing and after the review process, a final set of signed and stamped architectural and civil plans will be filed with the Board.

2. Proposed location of the construction and marketing trailer should be shown.

**Response:** As a part of the construction process, the trailer will be moved periodically, based upon the phase of construction taking place. Accordingly, the trailer will not be located in the same location throughout the construction period. The trailer will be relocated, as needed, but will always be moved to areas that comply with applicable setbacks, and in accordance with a Wetlands Order of Conditions to be issued for the Project.

3. All proposed signage locations should be indicated, and details provided to show sizes and appearance. The size and number of contractor signs referenced in the waiver request list needs to be clarified.

**Response:** The signage will not exceed 12 square feet as outlined in section 3.11.41(5) of the town by-laws. Please see attached photo of the sign at the entrance to Mascuppic Village we will be utilizing a similar sign for the marketing signage as well as project sign for Louis Farm Village. All signage will be constructed of an Azek-type material & wood.

4. Granite curbing is recommended over asphalt berms to resist plow damage.

**Response:** The Applicant intends for Louis Farm Road to be maintained as a private way as a part of the condominium form of ownership and operation proposed for the Project. Should the Board approve the Project, we would be willing to accept a condition requiring that Louis Farm Road and related infrastructure shall remain a private way, similar to that which was imposed as a condition for the Mascuppic Village project as follows:

“# The Condominium Documents shall include the following provisions in a form acceptable to the Board and Town Counsel, and shall include the following private maintenance obligations:

- a. Access to Fire Hydrants;
- b. Maintenance of Landscaping;
- c. Private Street Maintenance;
- d. Private Sidewalk Maintenance;
- e. Maintenance of Sewage Pump Station and all sewer line facilities located on the Property;
- f. Maintenance of Project Detention Pond and Storm Water Management Facilities; and,
- g. The on-site driveways, roads, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private and the Town of Dracut shall not have, now or ever, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, and landscape maintenance.”

5. The plans should show where snow will be stored, which may not be in the public way.

**Response:** Snow storage will be depicted on the revised plans. However, we note that a wetlands Order of Conditions to be issued for the Project will include designated snow storage areas. Should the Board approve the Project, we would be willing to accept a condition requiring that snow storage areas be depicted on the Final Site Plans, subject to any adjustments necessary to satisfy the Project’s wetlands Order of Conditions.

6. A Landscape Plan and Schedule of Plantings should be submitted.

**Response:** The Applicant is working with Norse Environmental to identify a list of plantings for the rain garden given that Norse Environmental is aware of the Conservation Commission requirements for plantings within wetland resource areas and related buffer zones. The list of plantings as well as Landscape Plan is being added to the Operations & Maintenance Plan (O & M Plan). The development will meet town requirements (1 tree every 35’ of roadway, 3 shrubs per unit), and all disturbed areas will be raked and seeded.

7. Where the development road ties into Phineas Street the sidewalk transitions and crosswalk area need to be constructed to meet ADA regulations. Sidewalks need to connect with those existing on Phineas Street. Details should be provided and a layout shown.

**Response:** The Applicant has retained F. Giles Ham P.E., a traffic engineer with the firm of Vanasse & Associates, Inc. (VAI) to prepare a traffic memorandum. As a part of his review, VAI made recommendations for accessibility, and recommendations will be incorporated into an updated set of civil plans. A copy of the memo is attached.

8. If the roadway is to be put forth for acceptance it should meet the Town of Dracut standards. Waiver of these may be possible if the road is to remain private under the HOA. If this is the intent, a note indicating that this to be a private way should be added to the plans. Additionally, a deed restriction will need to be included for each unit indicating that the private road is held and maintained by the HOA.

**Response:** As noted above, Louis Farm Road will remain a private way and a note confirming the same will be added to the civil plans. As a single lot, the project will not be subject to the Town's Subdivision Regulations, and with the condominium form of ownership, will not include an HOA, but will be governed by a Condominium Master Deed and Condominium Trust which will incorporate the requirements of the Comprehensive Permit into these condominium documents to be enforced by the Condominium Trustees. Should the Board approve the Project, we would be willing to accept a condition requiring that the Applicant be responsible for the sweeping, removal of snow, and sanding of the internal roadways and driveways permitting access to residents, emergency vehicles, and others during the phased construction and until the Condominium Association has been legally established. After which time, with respect to the driveways and roadways, the Condominium Association would be responsible for the same.

9. Further discussion is needed to determine if there is interest in the Town accepting open space. Alternatively, it could be held by the HOA with a deed or conservation restriction. The Town is interested in holding the Open Space providing it includes the land adjacent to Beaver Brook for the entire width.

**Response:** As described at the Board's last hearing, the Applicant prefers that the Board agree to have the designated 8.11-acre Open Space area be a part of the Condominium to be maintained by the Condominium Association as common open space and remain in its naturalized state. Should the Board approve the Project, we would be willing to accept a condition requiring that such open space remain undisturbed and naturalized without any designated public trails or public access.

10. A fence is suggested around the Stormwater detention area near Phineas Street. Such fence is typically a 4' high black chain-link structure. A double gate with lock should be required for future access and maintenance.

**Response:** Since the Project civil engineer suggested that the stormwater analysis indicated that there would be very little or any stormwater within the detention area, we feel there is no reason to construct a chain-link fence as a safety measure. Instead, the Applicant proposes the installation of a post and rail fence to better meet the aesthetics of the development and neighborhood as was done at Mascuppic Village.

11. Appropriate signage shall be installed, per Conservation Commission recommendations, to indicate the presence and location of wetlands, which may not be altered without appropriate Conservation Commission permission(s).

**Response:** Should the Board approve the Project, we would be willing to accept a condition requiring that the Applicant comply with any signage requirements included in the wetlands Order of Conditions issued for the Project.

Additional Areas needing Analysis:

12. A traffic study is recommended to understand neighborhood impacts.

**Response:** As noted above in Section 7, the Applicant has retained F. Giles Ham, P.E. to prepare a traffic memorandum, and to make recommendations concerning traffic safety for the Project. A copy of this report is attached.

13. Additional Stormwater details and design clarity is needed. I recommend that the applicant work directly with Tina Rivard, who can report back once the review and revisions are completed. This review should include a final Operations and Maintenance Plan and Reporting requirements on system upkeep and cleaning. All Stormwater features shall be maintained by the HOA and annual reports given to the Dracut Stormwater Department. The applicant will need a Construction General Permit from the EPA.

**Response** An Operations and Maintenance Manual, prepared by O'Hara Engineering Services, LLC, was included in Section 10 of the Comprehensive Permit application. Should the Board approve the Project, we would be willing to accept a condition requiring that the Applicant maintain such stormwater management facilities in accordance with a wetlands Order of Conditions, and as described in the proposed condition listed in our response to Section 5 above. We also acknowledge the need to obtain a NPDES Construction General Permit and are willing to accept a condition to this effect.

14. A Notice of Intent will need to be filed for the subdivision as a whole and ultimately for each structure in the buffers or riverfront areas. The existing wetlands need to be fully

surveyed and plans updated to include that boundary information, which Conservation will require for review. This submission should be made as soon as possible to allow for both Boards to review and approve the same set of final plans. Note that Boards typically meet only once a month in Summer making scheduling all the more important.

**Response:** The Applicant has retained Maureen Herald, Professional Wetland Scientist, of Norse Environmental to work with the Project Team to file a wetlands Notice of Intent (NOI) for all proposed Project work. A copy of the NOI will be provided to the Board once the filing is made with the Conservation Commission. It is anticipated that filing will be made by June 22, 2022. That filing will also include a request to confirm wetland resource boundaries. The flagging of all wetlands resource areas was completed on May 25, 2022.

15. Request has been made to waive wetland filings and requirements. While waiving of local bylaw requirements is anticipated there is no mechanism for the ZBA to waive compliance with State Regulations (such as DEP Wetlands and Building Code).

**Response:** The Applicant acknowledges the requirement to comply with the State Wetlands Protection Act, and related State Wetlands Regulations at 310 CMR 10.00.

16. Analysis should be presented of the cut and fill for the site and the type and quantity of materials to be exported and imported. A waiver of the regulations has been requested and may be viable once numbers are reviewed.

**Response:** Once the final conceptual design/grading plan has been established based upon the Board's review, the Applicant's engineering team will provide the Board with a preliminary cut and fill analysis for its review.

17. A complete explanation of the long-term intent for affordability monitoring is required. Who is to be the lottery agent and who will monitor future transfers?

**Response:** Credentials for the proposed Lottery Agent and the proposed Lottery Plan, including a Local Preference Plan and an Affirmative Fair Housing Marketing Plan (AFHMP) will be submitted to the Department of Housing and Community Development (DHCD) for its approval as a condition to Final Approval. Deborah Forgione, an experienced Lottery Agent who has been used by the Applicant for several 40B projects in the past including Mascuppic Village, is the proposed Lottery Agent. The conduct of the Lottery itself and the eligibility qualifications (based upon the applicable Chapter 40B income and asset limitations) of each of the proposed initial and resale Buyers of the five Affordable homes will be monitored by DHCD. Funding for such monitoring will be provided by the Applicant for the initial sale of the five Affordable homes. Monitoring costs for the resale of any Affordable homes will be provided by the respective Sellers in accordance with the recorded Deed Rider requirements.

18. Flow test data will be required for the water system.

**Response:** This test is scheduled for Friday, June 10, 2022, at 9am. Auger Alarms will be conducting the test and results will be forwarded to the Town once we receive them.

19. A Construction Phasing Schedule needs to be submitted to show intent and timelines.

**Response:** Construction phasing and the funding of the construction loan will be dependent upon market conditions. Homes will be built as they are reserved for sale. Should the Board approve the Project, we would be willing to accept a condition requiring that a preliminary construction phasing plan be filed with the Building Department prior to the commencement of site disturbance.

20. What is the intended disposal process for residents' trash and recycling?

**Response:** The Applicant is anticipating that the Town of Dracut will provide the services for residents' trash and recycling pickup, consistent with the Applicant's experience with Mascuppic Village. Residents will be required to store their trash and recycle containers in their garages. Every home will have a 2-car garage.

21. There are requests to waive various development and permit fees. To understand the impacts of these fees on the project and the revenue impacts to the Town a full analysis listing the permit, department and value should be submitted. Note that water fees from Dracut Water cannot be waived as this is a private utility entity. Bonding required cannot be waived.

**Response:** The waiver list will be updated to reflect comments above, except that the Dracut Water Supply District is treated as a "Local Board" which is defined under the Chapter 40B regulations, 760 CMR 56.02, as "any local board or official including, but not limited to, any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council or board of selectmen. All boards, regardless of their geographical jurisdiction or their source of authority (that is, including boards created by special acts of the legislature or by other legislative action) shall be deemed Local Boards if they perform functions usually performed by locally created boards." See 760 CMR 56.02 (Definitions). Nevertheless, the Applicant will pursue relief directly from the District with respect to water connection fee waivers for the Affordable units only, and discuss permitting requirements with the District. The Applicant will request a waiver of the sewer tie-in fees only for the Affordable units. The Applicant will report back to the Board on the same.

Anticipated areas of Condition:

22. All necessary permits and permissions shall be obtained from the Dracut Water Department.

**Response:** See response to Section 21 above.

23. Sewer System will require full design and sign-off by the Dracut Sewer Department.

**Response:** Should the Board approve the Project, we would be willing to accept a condition requiring that the sewer system be designed and approved in accordance with Dracut Sewer Department requirements.

24. As-Built Plans, appropriately stamped, will need to be submitted upon completion.

**Response:** Should the Board approve the Project, we would be willing to accept a condition requiring that final, stamped, as-built plans be submitted to the Building Department upon project completion.

Thank you for your review and consideration of these matters.