

July 25, 2016

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BY ELECTRONIC MAIL (appeals@sudbury.ma.us)  
AND FIRST CLASS MAIL

Zoning Board of Appeals  
Flynn Building  
278 Old Sudbury Road  
Sudbury, MA 01776

Re: Sudbury Station Comprehensive Permit Application

Dear Members of the Zoning Board of Appeals:

On behalf of the Board of Selectmen, I wanted to offer some final comments in advance of the ZBA's continued (and presumably final) public hearing session on July 25, 2016.

1. Project Design

I will not repeat my previous comments regarding the inferior design of this project and its deleterious impacts on the Town's historic district and public lands. I do note, however, that the applicant, though given many opportunities to do so, has failed and refused to present a less problematic design that would address the bulk, massing and other design concerns repeatedly raised throughout the public hearing process. I would urge the ZBA to consider these issues during its deliberations.

2. Traffic

In light of the June 30, 2016 comment letter from the Police and Fire Chiefs, it seems clear that unanswered questions regarding the traffic safety of this proposal merit further review.

a) Hudson Road Entrance

As previously noted, the proposed site driveway is offset from Peakham Road enough to prevent a coordinated, four-way signal but too little to safely accommodate traffic exiting both roads onto Hudson Road, particularly during peak traffic hours. As noted by the Chiefs, "Hudson Road at Peakham Road has been problematic with appropriate traffic flow and has seen some substantial accidents over the years." Adding a new intersection with substantial traffic at a dangerous offset can only exacerbate this dangerous condition. This is particularly so, given the site-lines and vertical curvature coming out of the proposed development onto Hudson Road.

The Chiefs have suggested that a four-way synchronized traffic signal would improve public safety and help to mitigate the impacts of this project. Though it has been suggested by the applicant that an alternative access road is possible along the driveway that currently provides access to Ti-Sales and Parkinson Field, counsel for Ti-Sales has taken the position that this would run counter to private property rights of his client. Though no substantiation for this position has been produced, it is at least clear that additional information would be required before the ZBA could approve this alternative. In the meantime, the deadline for closing the public hearing has nearly arrived, and the applicant has refused repeated requests for extension of this deadline.

b) Concord Road Entrance

There is general recognition that allowing left turns out of the project site from Peter's Way onto Concord Road will create an untenable risk to public safety. For this reason, the applicant had proposed a center median that would prevent left turns out of the development. However, the Fire Chief appropriately expressed his objection to this configuration, noting that it would inhibit ambulances and other public safety vehicles from exiting the site as most appropriate under the particular circumstances of a call. The applicant's response is now to restrict left turns only at peak hours and only through signage.

I would encourage the ZBA to inquire of the applicant's traffic consultant regarding the efficacy of such signage. I suspect the answer will be that such signs are ignored regularly throughout the Commonwealth, even when they are posted on public ways (and are thus enforceable by local police). Here, the signs would be on private property and likely would not even be enforceable by the Sudbury Police Department, though I would of course defer to the Police Chief in this regard.

What is clear is that the steps necessary to safely accommodate the public safety needs of this development are in conflict with the steps necessary to safely accommodate the traffic generated by the development. Posting voluntary signs suggesting temporal limitations on left turns will likely do little or nothing to address these problems.

3. Stormwater/Wastewater

I have reviewed the July 22, 2016 comment letter regarding the project's stormwater and wastewater systems prepared by Horsley Witten Group ("HWG"). The conclusions of HWG are disturbing, though not surprising. HWG concluded that: (1) the applicant has used faulty methodology for evaluating existing conditions in its stormwater calculations; and (2) there are "unanswered questions about the extent of wastewater disposal and consequential groundwater mounding" that could impact design of the these systems as well as surface parking facilities within the project. I would encourage the ZBA, at a minimum, to require the applicant to provide a detailed response to the HWG letter.

I also note that the applicant has not yet explained how discharge from the wastewater treatment system will interact with storm water purported to be recharged on the project site. Moreover, as I noted at a prior hearing session, the infiltration beds for this system are quite close to the proposed retaining wall. It would appear quite likely that the applicant will need to have outlets along the retaining wall to allow water released from the system to bleed through the wall. Otherwise, it seems likely that hydrostatic pressure from the large infiltration system will build up behind the wall and compromise its integrity. Such drainage would then fall to the surface below and become surface water, raising concerns of flooding the Town-owned property below the wall.

#### 4. Earth Removal and Deforestation

I also want to reiterate concerns regarding the applicant's failure to provide any specificity with respect to the amount of earth removal that will be required for this project and the resultant amount of heavy truck traffic to be generated. I would encourage the ZBA to require the applicant to provide a detailed grading plan and traffic management plan with respect to grading, earth removal and other construction activities.

What does seem likely is that the applicant intends to clear-cut the entire project area, deforesting the entire site and removing much of the vegetative buffer that might otherwise help to mitigate the visual impacts of this project. The ZBA should direct the applicant to prepare a detailed plan showing the extent of deforestation required for this project, as well as a detailed landscaping plan. The applicant should also be required to justify the extent of tree removal and to provide alternative development proposals that would minimize such deforestation.

#### 5. MEPA

As noted by HWG, this project may (contrary to the applicant's repeated claims) require review under the Massachusetts Environmental Policy Act ("MEPA"). I note that the applicant's counsel relies upon the Appeals Court's decision in Town of Middleborough v. Housing Appeals Committee, for the proposition that projects receiving funding under the so-called New England Fund ("NEF") loan program receive no government "financial assistance." However, the Middleborough case stands for just the opposite proposition. In that case, the Appeals Court ruled that tax benefits received from private banks making loans under the NEF program constitute government "financial assistance" thereby allowing applicants receiving such loans to satisfy the Chapter 40B requirement that proposed housing be "subsidized by the federal or state government."

At a minimum, the applicant should consult with the MEPA office to obtain a determination regarding what if any filings are necessary for the project. It is simply not appropriate that the applicant has pushed the process this far at the local level without first proceeding through the

MEPA process, which likely will necessitate substantial design changes that should be reviewed by the ZBA.

6. Waiver Requests

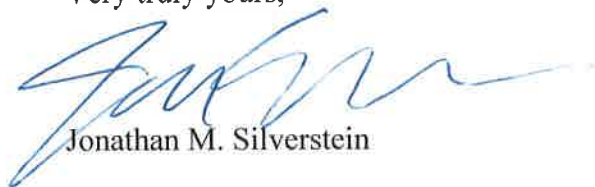
I have reviewed the applicant's 12-page letter requesting dozens of waivers from various zoning, wetland protection, health and other local regulations and bylaws. The vast majority of these waiver requests are explained with the same boilerplate statement that:

Conformance to the By-Law is inconsistent with local needs and would preclude construction of the project as proposed.

The applicant has made no effort whatsoever to provide particularized explanations of the need for each specific waiver, why the project design requires such waiver, and why the project design could not reasonably be revised to eliminate the need for such waiver. I submit that the applicant may reasonably be asked to provide a more meaningful explanation of its need for waivers of dozens of local regulations.

Thank you for your consideration of these matters.

Very truly yours,



Jonathan M. Silverstein

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cc: Board of Selectmen  
Town Manager

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