

Pepperell Natural Resources Association

c/o 13 Bayberry Road
Pepperell, MA 01463

17 August 2007

Michael J. Busby
40B Project Coordinator
MassHousing
One Beacon Street
Boston, MA 02108

SUBJ: Revised Application for Bayberry Enterprise Realty Trust
Chapter 40B Project PE-362 "Bayberry Estates"

Dear Mr. Busby:

Attached for your consideration is a detailed review of the revised application of Bayberry Enterprise Trust for site eligibility approval for Project PE-362, "Bayberry Estates". This review has been prepared by members of the Pepperell Natural Resources Association. Some of the concerns and findings of this review are:

- (1) The revised, or amended, application is substantially incomplete. A 55% increase in housing units is proposed on a site increased in size by 211%. Only a new site plan, Smart Growth analysis and single page pro forma have been provided. All other documentation listed as required in MassHousing's application checklist has not been updated. There is no way MassHousing, or anyone else, can have any idea of the full scope of changes that are being proposed, whether they are significant and whether anything of significance is omitted. (Pages 3-4)
- (2) New land and points of access are proposed, but there is no documentation confirming site control for the main and secondary access roads off Ashley Street. (Page 18).
- (3) Project size has increased from 19.85 to 62 +/- acres yet the site acquisition costs in the amended pro forma are identical to those in the original pro forma. The site acquisition costs include a purchase of 2 unrelated land parcels in another part of town, and do not exclude a 73% profit from post-acquisition sales of portions (4 house lots) of the 40B property. (Pages 4-5)
- (4) The pro forma is largely unsubstantiated and lacking any supporting documentation for even a cursory evaluation. (Pages 4-6)

(5) The proponent claims to satisfy six (6) of the Commonwealth's Sustainable Development Principles (SmartGrowth) are reviewed in detail. DHCD guidelines state that projects proposed by sponsors seeking financing from MassHousing **must be consistent** with the Principles of Sustainable Development. The attached shows this proposal is technically consistent with only one of those principles and **does not satisfy criteria for compliance** with the Commonwealth's Sustainable Development Principles. (Pages 10-17)

(6) Wetlands delineations for this property have expired, and new observations suggest a greater extent of wetlands than previously thought. (Page 7)

(7) It is now known that there are significant populations of multiple endangered species on the proposed development site, as well as the surrounding area in general, in addition to numerous vernal pools that have now been certified. The current change in the proposed site plan was obviously driven by these findings. The proponent seems focused on under-estimating the challenge that this presents for any development of this site. This entire section of Pepperell, including the entire Bayberry Estates site, is now designated by the Massachusetts Natural Heritage and Endangered Species Program (NHESP) as both NHESP Priority Habitats of Rare Species and NHESP Estimated Habitats of Rare Wildlife. We do not know if the proponent understands that the locations of any endangered species nest sites, reported by others to NHESP and certified by NHESP, will not be disclosed. This means that getting NHESP approval, now required, will be very difficult, expensive, with no assurances of success, and will require multiple site plan revisions in the quest. (Page 7-8).

(8) A new market analysis has not been prepared for the revised application. The previous analysis was done prior to mid-2005, and there have been major changes in the overall housing sector since that time, in addition to changes in local housing stock and outlook. New housing units in new 40B home ownership programs in Townsend, Pepperell, Groton and other area towns are coming on line, now and in the likely time frame for Bayberry Estates, and these housing units will directly compete in the market for Bayberry Estates. Projections of development time for Bayberry Estates of 2 years appear very unrealistic. A current, realistic market analysis, incorporating an extended time for construction and sales, needs to be completed. The prospect of a project failure mid-way along is now looking like a serious concern. (Page 18)

Michael J. Busby, MassHousing
17 August 2007

Page 3 of 3

(9) The location of this project does not meet the needs of the community. (Page 14-16)

These are just some of the highlights of our review. The attached text points out numerous additional shortcomings and deficiencies of this proposal but the fact that this proposal is simply **not consistent** with the Sustainable Development Principles that are **required** is sufficient to request that approval of this site eligibility application be **denied**. If I can answer any questions or provide additional information about the attached, I can be reached by telephone (978-433-6769) or email (rgpotts@charter.net).

Sincerely,

Richard G. Potts
For the Pepperell Natural Resources Association

CC: Board of Selectmen, Town of Pepperell
Tina Brooks, Undersecretary for Housing and Economic Development,
Commonwealth of Massachusetts
Thomas R. Gleason, Executive Director, MassHousing
Robert S. Hargraves, State Representative
Richard Herlihy, Development Officer, MassHousing
Christine McConville, The Boston Globe
Dan O'Connell, Secretary of Housing and Economic Development,
Commonwealth of Massachusetts
Steven C. Panagiotakos, State Senator
Robert M. Ruzzo, Deputy Director, MassHousing
Gregory W. Sullivan, Inspector General, Commonwealth of Massachusetts
Jon Witten, Daley and Witten, LLC.