
TOWN PLANNER QUESTIONS, COMMENTS AND RECOMMENDATIONS

From: Conor McCormack, Director of Planning & Development

To: Millbury Board of Appeals

17 Rice Road

Application:	Ch. 40B Comprehensive Permit
Applicant:	SJV Investments, LLC
Location:	17 Rice Road Map 63; Lots 75, 75A, 75B, 75C & 144
Application Submitted:	October 31, 2023
Legal Ad Publication Dates:	November 9, 2023 & November 16, 2023
Public Hearing Scheduled:	November 29, 2023

Project Description:

The Applicant is seeking a Comprehensive Permit under Ch. 40B to construct a proposed 192-unit residential development comprised of three four-story buildings with 64 units in each building, totaling 306 bedrooms. Additional associated site amenities include circulation and parking area with 319 parking spaces, sidewalks, walking trail, a clubhouse, pool, and dog park. The proposed project is located in the Suburban-II zoning district.

48 of the 192 units will be affordable, calculated at 80% of the Area Median Income (AMI). All 192 proposed units would be counted on the town's Subsidized Housing Inventory (SHI), helping Millbury meet its 10% affordability requirement of the total housing units in town.

A Local Initiative Program (LIP) Agreement for the project was executed between the developer and the Board of Selectmen on December 27, 2022. LIP Agreements are a mechanism to encourage local engagement of affordable housing project before the Comprehensive Permit is submitted. The LIP Agreement for this project includes several mutually agreed upon provisions including the installation of stop signs, completion of an intersection improvement plan, sidewalks, and a \$100,000 donation to the town for improvements to Windle Field. The LIP Agreement is included in Section 1 of Application.

The proposed project received a Project Eligibility Letter from the Executive Office of Housing & Livable Communities (EOHLC) on August 17, 2023. This is a pre-qualification process for applying for a Comprehensive Permit administered by a Subsidizing Agency, by EOHLC in this case due to the town executing a LIP Agreement.

A proposed 52-unit residential development was submitted to the Planning Board on April 11, 2021. The Planning Board ultimately denied the Special Permit on February 13, 2022.

The originally proposed development received an Order of Conditions from the Conservation Commission on November 17, 2021. The Order of Conditions was appealed to MassDEP by abutters on December 6, 2021. MassDEP affirmed the Commission's Order on April 22, 2022.

The Applicant will need to submit a new Notice of Intent to the Conservation Commission for the revised project, as the Wetland Protection Act is a separate state law from Chapter 40B. Under Chapter 40B, all other local permitting is completed under the Comprehensive Permit.

Questions, Comments, and Recommendations:

Comments based on the site plan entitled “*Rice Pond Village Site Plan of Land in Millbury, MA*”, dated October 24, 2023, prepared by Azimuth Land Design, LLC.

1. It does not appear that the Board of Appeals can claim Safe Harbor as the town does not meet the Statutory Minima or have a certified Housing Production Plan. The Subsidized Housing Inventory listed the town’s affordable housing unit count at 3.72% of total housing units in Millbury.

Review of the Board of Appeals’ *Rules and Regulations Governing Comprehensive Permit Applications in Ch. 40B*:

2. Section 3.5 – Existing Site Conditions
 - a. The Application does not include “*a report to accompany the...site plan described below, which identifies the location and nature of existing buildings, street elevations, traffic patterns, on-site circulation, sight distances, and character of open areas, if any, in the neighborhood, as well existing impacts on municipal facilities, such as water, public safety, sewage treatment, wetlands, and wildlife habitat.*” The Applicant should provide a project narrative to accompany the Application.
3. Sections 3.8 & 3.11 – Drainage Calculations and Traffic Study
 - a. Included in the Application Package and will primarily be reviewed by the Board’s peer review engineer, Stantec.
4. Section 3.9 – Earth Removal Calculations
 - a. The Application did not include calculations on the amount of earth to be removed or fill to be brought in. The Applicant should provide this information to the Board.
5. Section 3.12 – Master Plan Consistency Report
 - a. This was not included with the Application. The Applicant should provide the required report or request a waiver from this requirement.

I would support granting a waiver from this requirement as the town does not have an up to date housing plan and the 2019 Master Plan does not specifically define “village centers”. Further, it is unlikely that the Board could successfully deny a permit based on the presumption that the Application is not “consistent with local needs” if the site is not located within a village center.

6. Section 3.13 – Site Plan
 - a. Land Plans, sheets L1-L3, appear to be from an unendorsed ANR plan from the Planning Board’s public hearing process. It does not reflect the current lot lines from the ANR plan that was endorsed by the Planning Board on June 22, 2020 and subsequently recorded. The plan also shows Parcels A-H being conveyed to adjacent abutters, a signature box for Planning Board endorsement, and the incorrect zoning

district and owners listed. The Land Plan sheets should but updated to accurately reflect the current parcels, lot sizes, and owners.

The datum references only appear on the Land Plan sheets L1-L3. Please ensure the datum references are included on any revised plans.

- b. Section 3.13.1.2 – The zoning district boundaries should be shown on the plan. Note that the project is within the Suburban-II zoning district but is bordered by the Industrial-I and Residential-I zoning districts.
- c. Section 3.13.1.3 – A deed reference for the parcel ownership should be provided on the site plan.
- d. Section 3.13.2.1 – Please review the abutters listed on the plans. Several of the abutting parcels have transferred ownership since the Planning Board public hearing and should be updated or have “N/F” added to them, specifically the Land Plans.
- e. Section 3.13.2.6 – It appears that a fence is shown around two sides of the proposed pool. However, there is no detail provided or corresponding symbology in the legend. Please provide additional information on the proposed fence. The fence should enclose the entire pool area, per appropriate Building Code regulations. Additional Board of Health regulations and requirements may apply for the pool.
- f. Section 3.13.2.7 – A table showing the zoning requirements for the site should be provided on the site plan.
- g. Section 3.13.2.8 – A table showing the proposed dwelling unit density, floor area ratio, building coverage, and total coverage of the site should be provided. The table should include the calculation for total number of parking spaces on site (standard, accessible, compact, and garage spaces).
- h. Section 3.13.2.9 – The submitted Development Schedule shows there will be some construction phasing between the three buildings. However, the Pollution Prevention Plan on sheet D-4 indicates there will be no phasing. Can the Applicant clarify? If there will be phasing, please provide information on which building would be constructed first and what measures will be taken to sequence the construction to allow for residents to move in while construction continues on the site?
- i. Section 3.13.3 – The Applicant should include a Recordable Plan Sheet for the Board to sign, to include appropriate surveyor and engineer stamps & a statement with the signature box that “*The plan is subject to a Comprehensive Permit granted by the Board with conditions and limitations, dated _____*”.
- j. Section 3.13.3.8 – Can the Applicant clarify the purpose of the questions mark symbol shown on the plan:



- k. Section 3.13.4.2 – Please provide information on the date and company that completed the wetland flagging on the plan.
- l. Section 3.13.5.4 – The site plan should show the setback dimensions for the buildings, in particular for the clubhouse front yard setback from Rice Road and the Building #2 side yard setback from the abutting property.
- m. Section 3.13.5.5 – Sheet D2 shows a detail for a guardrail but a guardrail does not appear on the site layout sheets. Please identify the location of the guardrail on the site plan.
- n. Section 3.13.5.11 – The Ch. 40B Rules & Regs require a turning analysis be provided for the interior circulation of an SU-30 sized vehicle so that fire apparatus will have adequate maneuvering space. Please confirm the proper vehicle size with the Fire Department and provide the turning analysis.
- o. Section 3.13.5.12 – The accessible parking spaces should have associated signage shown on the plan.
- p. Section 3.13.5.21 – Proposed water line does not show the connection into the water main on Rice Road. This should be shown on the site plan.
- q. Section 3.13.5.23 – Proposed electric/cable/telephone conduit are only shown from a transformer at the entrance of the project to Buildings 1-3. The locations of all electric conduit to additional areas on the site (i.e. lighting, garage, pool area) should be shown on the plan.
- r. Section 3.13.5.24 – The site plan does not appear to show the location of dumpsters or other means of managing trash/recycling from the site. Please show the location of any refuse containers and provide clarification on the proposed trash/recycling program for the site.

- s. Section 3.13.6.1 – The design and layout of the driveway/circulation at a horizontal scale of 1"=40' and a vertical scale of 1"=4' is not included in the site plan. The proposed design and layout should be included in the site plan. A detail for the bituminous driveway should also be included.
- t. Sections 3.13.6.2 & 3.13.6.3 – The existing grades along the centerline and both sidelines of the street or way with centerline dimensioned should be provided with the site plan. The proposed finished centerline grades with elevations at 50-foot stations should also be shown on the plan.

The site plan should also provide the dimensions of the driveway aisle throughout the site. Only one 24' dimension is provided and it is unclear if the same dimension is consistent throughout the driveway aisle layout.

- u. Section 3.13.6.5 – Handicap-accessible ramps should be shown along the sidewalk on the site plan in locations adjacent to accessible parking spaces, in accordance with ADA/AAB requirements.

The sidewalk on the western side of the parking area should continue southward to the Rice Road right-of-way, similar to the sidewalk on the eastern side of the entrance to the site.

How is the pool accessed? Pedestrian access to the pool/pool area should be shown.

A crosswalk and ramps should be provided in the area shown below:



- v. Section 3.13.7.1 – Please provide a detail for the retaining wall. Note that engineered plans will need to be submitted to the Building Department for retaining walls 4' or greater in height.
- w. Section 3.13.7.2 – Please provide a detail for the proposed sidewalk.

- x. Section 3.13.7.3 – Please provide a detail with dimensions for each type of parking space, including standard, accessible, and compact spaces. Dimensions should also be shown on the Site Layout sheet.
- y. Section 3.13.8 – The Landscape and Lighting plan sheet reference 15 Rice Road and a different address for the owner, SJV Investments, LLC. Please revise to reference 17 Rice Road, the correct address, and to provide a label in the title block identifying the plan sheets.
- z. Section 3.13.8.1 – The site layout sheets show sloped granite curb throughout the site but the detail show both sloped and vertical granite curbing with a note that vertical granite curb will be used when up against sidewalk. Please clarify the location of sloped vs. vertical granite curb on the site plan.
- aa. Section 3.13.8.2 – Please identify the proposed treatment for the disturbed areas on the site plan (i.e. loam and seed) and provide a corresponding detail.
- bb. Section 3.13.8.5 – Please add the limit of work to the site plan and note that the limit of work should be staked out in the field.
- cc. Section 3.13.8.6 – Please confirm whether the four mature trees (>16” diameter) along Rice Road will be preserved, three of which appear to be partially or fully within the Rice Road right-of-way. Recommending that the tree be protected, if possible, a plan note and/or detail showing for tree protection during construction.
- dd. Section 3.13.8.7 – Please confirm whether the project sign will lit, either internally or externally. If the project sign is to be lit, electrical conduit to the sign should be shown on the site plan.

Please provide a detail for the proposed stop sign at the exit of the site.

The location of the streetlights on the Lighting plan sheet do not match the location of the streetlights on the rest of the site plan. Many of the light fixtures shown on the Lighting Plan sheet appear to be located in parking spaces or within the driveway aisle or curb. Please reconcile the conflicting locations.

Can the Applicant comment on whether any lighting is proposed within or around the pool area? If any lighting is proposed, it should be shown on the site plan.

- ee. Section 3.13.9.6 – Suggesting that the proposed Site Entrance Mat be widened to allow two vehicles to pass each other while entering/exiting during construction.
- ff. Section 3.13.10 – Architectural floor and elevation plans should be stamped by a registered architect.

- gg. Section 3.13.10.1 & 3.13.10.2 - Architectural floor and elevation plans must be drawn at a scale of 1/4"=1' for floor plans and not less than 1/8"=1' for elevation plans. Should the Applicant request a waiver from this requirement, I would support the granting of this waiver.

Section 3.13.10.2 – The Applicant should provide elevations and floor plans for the proposed clubhouse and garages.

- hh. Section 3.13.10.3 – Please provide an tabular summary on the elevation plans to include the proposed construction material, finished basement and floor elevations, floor area, outside dimensions , number of units and number of bedrooms by unit.

7. Section 3.14 – Waiver Request List

- a. A waiver request letter was provided as part of the application but it should be revised to include the various waivers outlined in the comment letter and as identified by other town staff and peer reviewers. Per section 3.14, the waiver request letter should also include a brief narrative for the basis of the requested exemptions.

8. Section 3.15 – Affordable Dwelling Units

- a. Per section 3.15.2 and the LIP Agreement, the applicant should provide the proposed method of selecting qualified tenants and should provide for a local selection preference of tenants, in accordance with Ch. 40B guidelines. I suggest making this a condition of approval.

Review of the *Town of Millbury's Zoning Bylaws (ZBL)*:

9. ZBL Section 12.44(a)

- a. The accurate and most recent map and lots numbers should be provided on the site plan.
- b. The Land Plan sheets should be updated to reflect current lot lines, owners, abutters and not reference the Planning Board or being an ANR plan.
- c. Please identify snow storage areas on the site plan.
- d. The ZBL requires contours at 1' intervals. The provided contours are at 2' intervals. The Applicant would need to request a waiver from this requirement.
- e. Note that while refuse containers are not shown on the plan and requested in a comment above, this section requires them to be screened.
- f. The applicant should provide a structural design and dimensions for the proposed project sign.
- g. Zoning setbacks should be shown on the site plan.

10. ZBL Section 12.44(c) – An isometric line drawing at the same scale of the site plan was not include in the application package. Given the scale and size of this project, I recommend the Applicant provide an isometric line drawing. Otherwise a waiver would be required.

11. ZBL Section 12.44(f) – Development Impact Statement

A Development Impact Report was submitted as part of the Board’s Rules & Regulations submittal requirements. This is a substantially different document than the Development Impact Statement required ZBL Site Plan Review and Special Permits.

The Applicant submitted a traffic study but did not provide a project narrative or comments on the environmental, fiscal or historic impacts outside of the Development Impact Report. The Board should request additional information on these items if they feel additional information is necessary in their review.

12. ZBL Section 23 – Suburban Districts

- a. The proposed 192-unit multi-family dwelling is located in the Suburban-II (S-II) zoning district. The S-II district allows for Multi-Family Special Permits, if the a project:
 - i. Is serviced by public water and sewer
 - 1. The proposed project is serviced by public water and sewer
 - ii. Is accessed by a “major street”, defined as a street substantially developed for single-family homes. Rice Road would be categorized a minor street.
 - iii. The Applicant would need to request a waiver from this requirement.
- b. The lot size requirement for this project in the S-II zoning district would be:
 - i. 15,000sf (when serviced by public water and sewer)
+
10,000sf per additional unit and 5,000sf per additional bedroom:
1,910,000sf (191 units x 10,000sf) + 565,000sf (113 additional bedrooms x 50,000sf)
=
2,490,000sf, or 57.16 acres required. 15.6 acres are provided.

The Applicant would need to request a waiver from this requirement.
- c. The Applicant did not provide the total lot coverage for the site. The maximum lot coverage in the S-II zoning district is 30%. The applicant should provide the total lot coverage and request a waiver if it exceeds 30%.
- d. The maximum building height in the S-II zoning is 30ft. The proposed height of all three residential buildings is 65’, 6”. The applicant has requested a waiver from this requirement.

13. ZBL Section 28.7.3 – Use, Dimensional, and Parking Requirements

This section of the ZBL limits multi-family dwellings to a density of four dwelling units per acre. The proposed project has a density of 12.3 units per acre.

(192 units/15.6 acres = 12.3 units/acre)

The Applicant would need to request a waiver from this requirement.

14. ZBL Section 32.6 – One Structure Per Lot

This section states that “*more than one (1) multifamily structure may be placed on a lot if... each such multifamily structure will be served by access equivalent to that required for single or two-family structures on separate lots under the [Subdivision Rules & Regs].*

In my opinion, this bylaw section does not refer to the existing public way on which the project is located (Rice Road) but rather the access drives within the site. The proposed development provides access to each multi-family structure via an internal driveway system.

However, because the project proposes more than 150 units, the Subdivision Rules & Regulations dictate a 60ft right-of-way and a 32ft paved width for access to the multi-family structures on the project site. The site plan appears to driveway aisles that are 24’ in width.

The Applicant would need to request a waiver from this requirement.

15. ZBL Section 33.2 – The total required parking spaces for a 192-unit multi-family under Section 33 of the Zoning Bylaws would be:

2 spaces per 1-bedroom unit (102 units x 2 spaces) = 204 spaces

3 spaces per 2-bedroom unit (66 units x 3 spaces) = 198 spaces

4 spaces per 3-bedroom unit (24 units x 4 spaces) = 96 spaces

Total of 498 spaces are required.

The Applicant is proposing 319 spaces, or 1.66 spaces per unit. While significantly less than what the ZBL requires, the number of spaces per unit is generally in line or above national standards for parking demands of multi-family developments. See citations regarding parking demand in the submitted traffic study.

The Applicant has requested a waiver from this requirement.

Review of the *Millbury Municipal Code Post-Construction Stormwater Management* requirements:

16. While the stormwater management requirements will primarily reviewed by the Board’s peer review engineer and town engineering staff, highlighting the several items that do not appear to be provided as part of the Application submission:

- a. Drainage calculations based on the 1998 Cornett 24-hour rainfall calculations
- b. Design Standards in the Mass. Stormwater Handbook & additional requirements in the town's stormwater bylaw are not addressed in the application package
- c. An Operation and Maintenance Plan
- d. An Illicit Discharge Statement

Additional Comments:

17. The LIP Agreement signed between the Applicant and the Board of Selectmen included several commitments by the Applicant. I suggest conditions of approval be included to incorporate the following commitments from the LIP:
- a. The Applicant shall not request waivers from the town's standard fees for the issuance of building permits, water connections and septic approvals and installations.
 - b. The Applicant shall submit an intersection improvement plan, prepared in consultation with a traffic engineer, of the intersection of Rice Road and Providence Street to address the geometry of the intersection, to address the items outlined in the LIP Agreement.
 - c. The Applicant shall coordinate with the DPW to ensure the post-construction condition of Rice Road is substantially similar to its pre-construction condition.
 - d. The Applicant shall provide a donation to the town in the amount of \$100,000.00, paid in installments corresponding to the issuance of a certificate of occupancy for each of the buildings associated with the project. The town shall use a portion of the funds for the improvement of Windle Field but the expenditures of the donations shall be made by the town at its sole discretion.

The LIP also stipulates that the project shall incorporate off-site improvements, including the installation of a sidewalk along the north side of Rice Road from the entrance to the project site to South Main Street and the installations of stop signs at Rice Road's intersection with Thomas Hill Road, Providence Street, Hillcrest Circle, and Aldrich Avenue. The Applicant should revise the site plans to include the above agreed upon off-site improvements.

18. Can the applicant comment on how deliveries and mail will be handled at the project site? A mailbox station or location for delivery trucks is not identified on the site plan.
19. I suggest the proposed plan include covered bike racks or interior bike storage to accommodate at least 5% of the total number of units.
20. I suggest the Applicant provide EV parking spaces or EV-ready parking spaces for at least 10% of the proposed parking spaces.
21. Given the residential character of the surrounding neighborhood, I would suggest a condition limited construction hours to 7:00am to 5:00pm, Monday through Friday and 8:00am to 4:00pm on Saturday, with no construction permitted on Sundays and federal holidays.

22. I would suggest additional plantings, both evergreen shrubs and deciduous trees be planted along the project's property lines with both 11 & 19 Rice Road to aid in screening the project from the existing residences and attenuating noise and headlights of vehicles.
23. The traffic study will primarily be reviewed by the Board's peer review engineer but highlighting the following items:
 - a. The traffic study describes the site as having 294 while the site plan shows 319 parking spaces.
 - b. The study was completed in 2022 and traffic counts collected in March 2021 and use COVID-19 adjusted calculations. Since that time, there have been changes to the intersection of Rice Road and South Main Street and Rice Road has been repaved by the Millbury DPW. The Board may want to request updated information.
 - c. It describes the sight distance for vehicles leaving the site (from the stop bar, approx. 15 ft. from the street line) as being 3.5" above roadway grade. However, the site plan shows that area to be about the same elevation of the street.
 - d. The site distances in the traffic study a provided from the proposed access drive. However, the site distances shown on the site plan are provided from the lot corners.
 - e. The traffic study does not comment the existing railroad crossing on Rice Road approx. 600 ft. east of the project access drive. The Board may want to request additional information from the Applicant's traffic engineer regarding the adequacy of the existing railroad crossing.
24. The overall size and scale of the proposed project is clearly a significant shift from the largely single-family neighborhood between South Main Street and Providence Street.

The intent of the Suburban II zoning district, in which the proposed project lies, is to provide for "moderate density" where public water and sewer are provided. The project is proposing a much higher density, massing, building height, units per acre, and resulting traffic than what is presently on the site and what would normally be allowed in the S-II district.

While the Ch. 40B process provides for the Applicant to bypass some local zoning restrictions that inhibit the construction of low to moderate-income housing, the Board should look for opportunities to negotiate with the Applicant to reduce the scale and size of the project, while not making the project uneconomic. Examples could include a reduction in the total number of units; lowering the total building height/number of stories; setting the top floor of the building back or introducing a mansard roof style top floor to reduce the massing/appearance of the building; shifting the location of the building away from abutters; or providing more building at lower heights.

cc: James Venincasa, SJV Investments, LLC
James Tetreault, Azimuth Land Design
Dave Glenn, Stantec
Millbury town staff