

September 14, 2020

Newbury Zoning Board of Appeals
12 Kent Way
Byfield, MA 01922
Via email to zba@townofnewbury.org



Re: The Villages at Cricket Lane, 55R Pearson Drive

Dear Zoning Board of Appeals Members,

Thank you for accepting these updated comments on Cricket Lane LLC's proposed Byfield Estates development at 55 Rear Pearson Drive, Newbury, MA. The Ipswich River Watershed Association convenes a regional partnership of municipalities and non-profit organizations, called the Parker-Ipswich-Essex Rivers Restoration Partnership ("PIE-Rivers"), formed to support communities in protecting our region's natural resources. The Partnership often reviews and comments on land use projects in the region. We respectfully submit these comments on Byfield Estates, located in the Parker Watershed.

Many of these comments were submitted to MassHousing last year, in a Letter dated September 17, 2019 (attached). Given the Applicant has largely ignored these concerns as reflected in Applicant counsel's response letter dated August 14, 2020, we are paraphrasing our concerns below. We urge the ZBA to request the Applicant to address the substance of our comments, rather than issue blanket responses that the project complies with state regulations, in keeping with MassHousing's requirement that the "[t]he Applicant should continue to engage with municipal officials in a good-faith discussion regarding design review matters and other Site related concerns..."¹

Threat to Parker River and Water Supply. The Applicant has not specifically addressed concerns about threats to the town's water supply. At no point in their response do they address the reality of lack of water supply, nor ways they have modified the project to conserve water, such as capturing and recycling rainwater and gray water, or the installation of low-flow plumbing fixtures. We remind the ZBA and the Public that the Byfield Water District is not the authority in charge of ensuring new development projects utilize as little water as possible, nor is the BWD equipped to require best practices related to Low-Impact Development and other forms of Green Infrastructure.

Furthermore, it is our understanding that updated permits to be issued next year by MassDEP will not provide any additional water withdrawals for the Byfield Water District, and may even restrict overall water allocations due to the fact current withdrawals from the Parker River watershed are already causing severe harm to the Parker River.

Wetlands and Protected Areas

We repeat the points raised in our Letter to MassHousing dated 9-17-19: Contrary to the developer's assessment, this project *does not protect* sensitive land and has negative impacts on the site's wetlands. The proposed wetland mitigation filling and the development of significant impervious areas will undoubtedly *negatively impact* the sensitive wetland and upland habitat on and abutting the site. The only open space proposed to be protected by the project is land that is already unable to be developed due to its wetlands or steep slope and ledge.

We note, especially, the comments provided in Attachment 1 of MassHousing's December 12, 2019 Letter:

Environmental Resources. The subject property abuts undeveloped woodlands and the Martin H. Burns Wildlife Management area along the northern and eastern boundaries. Development at the Site will require careful

¹ https://www.townofnewbury.org/sites/g/files/vyhlf951/f/uploads/byfield_estates_project_eligibility_site_approval_ltr_12.12.19.pdf

attention to current Best Management Practices to avoid any adverse impacts to the protected wetland resources areas.²

We see no effort by the Applicant to incorporate BMPs. As such it is not appropriate to develop this site without significant modifications.

Low Impact Development. We repeat the points raised in our Letter to MassHousing dated September 17, 2019: We do not see any alternative technologies or low impact development practices in the proposed plans. The Applicant counsel's August 14th letter fails to address those concerns, aside from stating "use of LID alternatives was not considered" (Page 5) and later that "the Applicant is willing to discuss what LID opportunities are available with the Town's peer review consultant as part of the peer review process" (Page 15). Byfield is a water-poor community, lacking sizable aquifers and suitable alternative water withdrawal sources, and sensitive to drought conditions as was seen twice in the last five years, in 2016 and again this year. Any new housing development in Byfield should be required to include water-neutral elements and best management practices, neither of which is in the Byfield Estates plans. We furthermore support the Parker River Clean Water Association in its recommendation that the ZBA consider ways to require water banking and condition water conservation measures for all multi-housing development proposals.

Highlighting the Need for Net-Zero Water Neutral Planning

Projects like this one, where an Applicant exhibits a clear intent to ignore public concerns, and to hide behind the letter of the law rather than collaborate with Town officials to modify the project in keeping with the Town's current and future needs, demonstrate the need for the ZBA to impose conditions on the project that adequately protect the town's land and water resources while it awaits Town Planning efforts to update its rules and regulations. There are many steps the ZBA can take to protect the town's water supply over the long term. As preliminary guidance, the Ipswich River Watershed Association recently completed a water-neutral growth assessment and created a list of recommendations for Towns to achieve water-neutral growth, which you can view at <https://www.ipswichriver.org/net-zero/>

We are now working to bring these concepts to communities throughout the PIE-Rivers Region, working in partnership with organizations including the Greenscapes North Shore Coalition and Mass Audubon. Regardless of whether the Applicant in this instance can be incentivized to modify its project in a way that doesn't violate the spirit of existing state and local laws, we believe there is much the Town of Newbury can do to insist that they do and be proactive for future projects.

Many thanks for considering these comments.

Sincerely,



Patrick J. Lynch, JD, MPA
PIE-Rivers Partnership

Attachment (1)

² https://www.townofnewbury.org/sites/g/files/vyhlf951/f/uploads/byfield_estates_project_eligibility.site_approval_ltr_12.12.19.pdf

ATTACHMENT 1:
TEXT OF SEPTEMBER 17, 2019 LETTER SUBMITTED TO MASSHOUSING

September 17, 2019

Michael Busby
40B Project Coordinator, MassHousing
Via email to mbusby@masshousing.com

Re: 55 Rear Pearson Drive, Newbury, MA

Dear Mr. Busby,



PIE - Rivers Partnership

Thank you for accepting these comments on Cricket Lane LLC's proposed Byfield Estates development at 55 Rear Pearson Drive, Newbury, MA, which was submitted to the Mass Housing Comprehensive Permit Program, dated July 1, 2019. The Ipswich River Watershed Association convenes a regional partnership of municipalities and non-profit organizations, called the Parker-Ipswich-Essex Rivers Partnership ("PIE-Rivers"), formed to support communities in protecting the natural resources of the region. The Partnership will often review and comment on land use projects located throughout the region; we respectfully submit these comments on Byfield Estates, located in the Parker Watershed.

It is our understanding that in order for the project to receive Site Approval, Mass Housing must "determine that the site of the project is generally appropriate for residential development and that the conceptual project design is generally appropriate for the site." In addition, an applicant seeking site approval for a project "must demonstrate that the proposal is consistent with the Commonwealth's Ten Sustainable Development Principles."

It is our firm opinion that the conceptual project design as shown in Cricket Lane's application is *NOT appropriate for this site* and also that it is *NOT consistent with the Commonwealth's Sustainable Development Principles*. As you are aware from the maps and site plans in the application, the 15.08-acre site proposed for the project abuts the 1,555-acre Martin Burns Wildlife Management Area, an important high value natural resource area with Natural Heritage Endangered Species Habitat and other associated wetlands. The site is stated to have 6.96 acres of wetlands, including two certified or pending-certification vernal pools, intermittent streams, forested upland buffer areas, and areas of steep slope and ledge. It is our opinion that the current proposal, which includes filling wetlands, developing new impervious areas for 24 homes including 48 parking spots and an access road stated to be 840+ feet long, septic systems and leaching areas located in and near vernal pools and within wetland buffer zones, and traditional grey stormwater management infrastructure throughout the site, would have a *direct, negative impact* on the Parker River watershed, its wetland areas and buffer zones, and its sensitive resources including the Parker watershed's public water supplies. As such it is NOT appropriate to develop this site as proposed by Cricket Lane.

In addition, we are very concerned about the developer's self-assessment for "consistency with the Sustainable Development Principles", and disagree with many of their statements. The application reports the following:

Page 28: The project is NOT walkable to transit, village center, school, library, retail and services. While the site is located approximately 2 miles to the Newbury Library and the temporary town offices, the 2-miles of roadways do not have sidewalks and are primary arteries to Route 95 with extremely heavy traffic. Pedestrians do not use these roads. There are two small general stores and one bar located in Byfield Center but no other retail establishments.

Page 29: The project does NOT support the revitalization of city and town centers; nor does it concentrate development or offer mixed uses. Rather, the site is to be built with a new 800+ foot new cul-de-sac located at the end of a 2500+ foot long dead end residential street, abutting significant conservation areas.

Page 30: The affordable housing proposed by this project will not be affordable to many potential qualified applicants due to the choice to develop the units as condominiums, with significant association fees.

Page 30: Contrary to the developer's assessment, this project *does not protect* sensitive land and has negative impacts on the site's wetlands. The proposed wetland mitigation filling and the development of significant impervious areas, as described earlier, will *negatively impact* the sensitive wetland and upland habitat on and abutting the site. The only open space proposed to be protected by the project is land that is already unable to be developed due to its wetlands or steep slope and ledge.

Page 31: We do not see any alternative technologies or low impact development practices in the proposed plans. In fact, new connections to the Byfield water infrastructure will be developed and a new irrigation well is stated to be needed for traditional ornamental landscaping. The Parker River is considered one of the most highly stressed rivers in the Commonwealth, according to the Massachusetts Water Resource Commission. Lack of recharge in the upper-watershed (Boxford/Georgetown) causes stretches of the river to run dry, thus limiting water to downstream supplies. Byfield is a water-poor community, lacking sizable aquifers and suitable alternative water withdrawal sources, and sensitive to drought conditions as was seen recently in 2016. ANY new housing development in Byfield should be required to include water-neutral elements and best management practices, neither of which is in the Byfield Estates plans.

Page 31 & 32: As stated earlier, these proposed homes are not located near jobs, transit, or other services. The homes are not walkable to any public transportation. Not only wouldn't the project reduce dependence on private automobiles, the homes would *require* private automobiles and would bring hundreds of new daily trips across the one-way access road and through the Pearson Drive neighborhood.

Page 32: I would be interested to see some detail about how the project will support local businesses, use locally harvested wood or agricultural products, and use or re-use locally recycled materials – all boxes which were checked by the developer but were not explained.

Page 33: The applicant checked the box that the project is consistent with a municipally supported regional plan. In fact, this property was *NOT* one of the sites identified as a "Potential Housing Development Location" in the [Town of Newbury's Housing Production Plan 2018-2022](#). When asked, during the town's recent Select board meeting presentation, if the developer had considered any of the sites that were identified in the town's Housing Plan, the applicant stated: "No."

In summary, ***we do not believe this particular proposal in any way meets the criteria of the Commonwealth's Ten Sustainable Development Principles*** and are very concerned about the impact of Cricket Lane LLC's proposed Byfield Estates development at 55 Rear Pearson Drive in Newbury, MA on the significant natural resources of the site.

Please incorporate these comments into the public record on this matter, and please contact me if you have any questions about these comments. Thank you for your consideration.