

SUBSIDIZED HOUSING PROPOSAL EVALUATION GUIDELINES

The Wellesley Planning Board adopted the following "Subsidized Housing Proposal Evaluation Guidelines" for housing developments proposed for Comprehensive Permits under Ch. 40B, Sec. 20-23, MGL ("Chapter 774") at a meeting in June 1990. These guidelines are a compilation of material first developed in June 1987, August 1987 and January 1989.

1. The applicant should establish, to the satisfaction of the Zoning Board of Appeals that it has the legal standing to apply for and receive a Comprehensive Permit under the provisions of MGL Chapter 40B, Section 20-23.

This requirement usually includes having received approval of the proposed site for such a development from the appropriate agencies and a determination that the Town has not met the requirement for affordable housing under Chapter 774. While the Town has not met the 10 percent numerical total stipulated in the legislation, it may have met the one and one-half percent of the land areas zoned for Residential, Commercial and Industrial Districts provision. In the event the applicant either does not have approval for the proposed site or the town has met the requirement for affordable housing, either in terms of the percentage of dwelling units in that category or the percentage of land devoted to affordable housing, it would appear that the applicant does not have standing to request a Comprehensive Permit.

2. A Comprehensive Permit should be granted for the minimum number of units feasible for the proposed site.

The exact number of dwelling units will be determined in part by the type and intensity of development that would be compatible with the land uses in the vicinity of the proposed parcel and/or by a thorough review and evaluation of the financial data submitted and updated as development work progresses. This may allow the Permit Granting Authority to reduce the number of dwelling units below that requested by the applicant, particularly if the number requested by the applicant does not conform in all respects to the limitations of one of the zoning districts that permit the type of housing proposed; OR it may permit one or more additional "affordable" units than originally contemplated by applying the excess revenue from earlier market unit sales or rentals to "buy down" one or more of the remaining market rate units to the "affordable" price level.

3. A Comprehensive Permit should be denied unless all the units in the development can be counted against the Town's 10 percent quota established by Chapter 774.

The principle was confirmed by the Supreme Judicial Court in the Ardmore case for a rental apartment proposal that contains

Subsidized Housing Proposal Evaluation Guidelines

Wellesley Planning Board

June 12, 1990

Page 2

seventy-five percent market rental units. The Planning Board believes that all of the units in the proposed development are in effect subsidized by the public. The ambiance created by the protection of low density modestly sized houses with substantial separation between them guaranteed by the underlying zoning, rather than the threat of an equal sized or larger multi-family building being built adjacent at a later date, reinforces the value of the market rate units. The policy of the Town to maintain its single family residential character rather than encouraging higher density development further reinforces the value of the market rate units. Data presented to the Planning Board indicates that if the Town was not allowed to count all of the units approved under Comprehensive Permits issued under Chapter 774 and it was required to continue to approve proposals until a total of 10 percent of its housing stock met the low and moderate occupancy criteria under statutory language of Chapter 774, or the affordable housing criteria of the various subsidy programs, the Town which is almost completely developed, might have to permit 35 percent or more additional dwelling units to crowd into its residential areas. This would change substantially the character of the town, overwhelm the ambiance described above and threaten the values of units like the market rate components of mixed developments as well as the housing built in conformity with the underlying zoning.

4. A housing development proposed under a subsidized housing program, whether for rent or for sale, shall be sized and designed not to exceed the limitations of one of the Town zoning districts that permits the type of housing proposed.

It appears that most of the units proposed under a subsidized housing program will be in multi-family buildings, because of the cost limitations imposed for publicly subsidized housing programs. These units probably will take the form of either two-story units that are attached to one another in townhouse-style buildings, or apartment-style units wherein all of the habitable rooms are located on a single floor and the apartments themselves in three- or four-story buildings. The Town of Wellesley's Zoning Bylaw divides the Town into twenty-two different use districts, of which twelve permit multi-family housing of one or more types. The Bylaw has been carefully developed to include setbacks, height limits, minimum open space requirements, maximum density limitations and minimum parking requirements, so that the resultant housing of that particular type and style will be adequately served; have suitable access to light, air and open space; relate appropriately to adjacent areas; and complement nearby housing of similar and different types. The Planning Board also is continually reviewing the provisions of the Zoning Bylaw and proposing changes for consideration by the Town Meeting. We believe that one of the purposes of the various subsidized housing programs is to provide housing that meets quality standards established in that particular municipality, but be within the price range of households of more modest

means that otherwise could not afford to live in the Town, and thus be "affordable" to groups that could make real contributions to the community by living in it - - such as public agency employees and younger families with children - - who presently are excluded by the high price of housing. This goal would not be accomplished, in the opinion of the Planning Board, unless the housing proposed is compatible with the housing permitted in accordance with the underlying zoning district requirements.

These limitations include:

not exceeding the maximum density permitted for housing of the type proposed;

not exceeding the maximum height limits permitted for housing of the type proposed;

meeting the setback requirements between adjacent buildings, and setback requirements between the buildings themselves and the boundaries of the site for housing of the type proposed;

meeting the minimum amount of open space required for the type of housing proposed and/or not exceeding the maximum density permitted for housing of the type proposed, as applicable; and,

providing at least the minimum number of off-street parking spaces required for the type and style of dwelling units proposed.

5. The proposed development shall meet site planning, service and utility access, and design and construction standards established for similar buildings under Town Bylaws and Regulations.

It is the policy of the Town to maintain its single family residential character and to encourage the limitation of higher density development to several well defined "nodes" as outlined in the Comprehensive Plan, yet at the same time the Town recognizes its obligation to permit an additional number of low and moderate-income dwelling units under the provisions of Chapter 774 without respect to limitations otherwise established under the Town's Zoning Bylaw. Since the units proposed under the various subsidy programs available are intended to be only a fraction of the total number of units available in many cases, and the sole difference between the market priced units and the "affordable" units made available under that particular program is the public subsidy to reduce the price of the units for the occupants of more modest means, we believe that the subsidized units should "blend in" to the maximum extent possible with the housing units being constructed in response to normal market forces and units in the adjacent area being constructed in accordance with the

requirements of the underlying zoning for that district. It is not in the Town's or the occupant's long range interests to have the units planned, designed or constructed to a lesser standard than that permitted for other units or other buildings of a similar type that are constructed to be leased or sold at market prices. The development should be intended to allow groups that are not now served by the Wellesley housing market to be integrated into the community, and not identified as a separate category and stigmatized by living in housing of a lower standard.

These standards shall include;

meeting the standards prescribed under the Subdivision Rules and Regulations for any streets, sidewalks, or other types of travel ways to be constructed;

providing the type, size and standards required for a subdivision containing a similar number of dwelling units for all proposed utilities, including the location of electrical, telephone and cable television lines under ground;

meeting the fire service and fire equipment access requirements as determined by the Fire Chief for the type of housing units proposed, including adequate approach roadways and equipment maneuvering spaces adjacent to the buildings;

submitting the proposal to the Design Review Board for design review in accordance with the requirements for a similar type and style of building if proposed under the procedures of the Town's Zoning Bylaw;

submitting the proposal for review under the Site Plan Review process in accordance with the requirements for a similar type and style building if proposed under the procedures of the Town's Zoning Bylaw; and,

requiring that the building be constructed to the same building, sanitary and other codes as would be required for a building of that type or style if proposed under the procedures of the Town's Zoning Bylaw.

6. The applicant shall submit information concerning the impact that the proposed development will have on public services offered by the Town.

The growth of traffic in Wellesley generally has been an increasing concern to public agencies and citizens alike. While there is an implied commitment on the part of the Town to relate the provision of public services to the amount of development permitted as a right under the Town's Zoning Bylaw, it is not possible to make such a commitment for a

permit issued under a Chapter 774 procedure. Those permits generally allow an increased level of activity and increased density of development than that permitted by the underlying zoning, and therefore an amount of traffic and demand for public services in excess of the amounts that could be estimated by recourse to the Zoning Bylaw. It is important that these higher amounts be estimated and their impact on the street and service systems of the Town be evaluated. The extent of this evaluation will depend in part on the size of the development proposed and the particular service networks that will be called upon to support the proposed development. It is critical that the abutting neighbors and other off-site land uses not be adversely affected by increased water runoff, increased height of water tables, more intense or more frequent flooding or other forms of inundation due to the proposed development. It is also critical that occupants of the site, as well as abutting neighbors and other off-site land uses, not be adversely affected by a decrease below critical minimums required for water service, waste removal, and electrical power, telephone and cable television services. It may be necessary to request traffic impact, subsurface hydrology, geotechnical analyses and utility impact studies to make these determinations. We recommend that the necessary studies be conducted by consultants with credentials that are satisfactory to the Zoning Board of Appeals. It is important to know how many children are anticipated to live in the proposed development in order to assess the impacts that these youngsters will have on the school system and recreation facilities provided by the Town. These impacts on public services may be far reaching, particularly when viewed in the aggregate of the total amount of development that may have to be permitted under Chapter 774 to meet the Town's subsidized housing quota. This is particularly true if only the subsidized portion of the units provided are permitted to count against the Town's 10 percent quota that is outlined under Chapter 774.

The analysis of the impact that the proposed development will have on the public services offered by the Town shall include;

the impact that the traffic associated with the development will have on the nearby street system, including the number of intersections over which 30 or more vehicles related to the development parcel will travel in a single direction during any single hour, and improvements that must be made to those intersections to achieve a Level of Service "C" in those instances where the Level of Service otherwise would not be at that level or a higher level;

a hydrology study to determine water runoff characteristics after completion of the development and what steps, if any, must be taken to assure that adjacent areas will not be adversely impacted;

geotechnical and soils analysis to make sure that adjacent areas are not adversely affected by blasting, ledge removal, or excavation activities;

an analysis to indicate that there will be sufficient water capacity to meet the flow demands of the proposed use without causing municipal water flow characteristics off site to fall below acceptable levels;

a determination that there will be sufficient sewer capacity to meet the flow demands of the proposed use without causing surcharge in those sewer lines that serve the proposed development, and in the event that there is not, what improvements must be provided to avoid having the service fall below acceptable levels;

a determination that there will be sufficient storm drainage capacity to meet the flow demands of the proposed development without causing surcharge in the storm drainage lines which serve the development as calculated for a 10 year storm, and in the event that there is not, what improvements must be provided to avoid having the service fall below acceptable levels;

a determination that there will be sufficient electrical capacity to meet the peak service demands of the proposed development without causing the service in adjacent areas to fall below acceptable levels, and in the event that the service would fall below acceptable levels what improvement must be provided to avoid having the service fall below acceptable levels;

an analysis to determine whether or not there is sufficient capacity in the fire alarm system to meet the standards prescribed by the fire chief and, if there is not, what improvements must be made to meet the required service levels; and,

an analysis to determine the method of solid waste disposal to be utilized by the proposed development and, if it is not in accord with the standards and programs established by the Town of Wellesley, what changes must be made so as to meet those standards.

- 7. The affordable units provided should be indistinguishable from the units sold at market prices.**

We believe that the purpose of the subsidized programs is to provide housing that meets the quality standard in that particular municipality, but to be within the price range of households of more modest means. The affordable housing is the purpose; the inclusion of market rate housing at a density greater than that permitted by the underlying zoning and the availability of mortgage financing at rates subsidized by

public programs are the vehicles. In a sense, the affordable housing is the host and the market rate housing is the guest. Since the market rate units are drawing advantages made possible only by the inclusion of the affordable units, the higher quality should be provided to the "affordable" housing units, if a choice has to be made with respect to levels of quality. It may be desirable to insure "indistinguishability" by selecting the affordable units through a lottery. The Planning Board feels that this would effectively guarantee equality among units for large scale developments. It would be reasonable to allow the developer to exclude a limited number of units -- say five percent -- so that in unusual situations such as an existing house or penthouse apartments, those specialty units could be excluded from the lottery. In smaller developments, a scattering of units can be best achieved by having the Town choose the units directly, because in that latter situation a lottery may result in all of the affordable units being located in one building or adjacent to one another due to the limited number of chances.

We believe that it is essential that the housing units be substantially identical if the occupants among the various units are also substantially identical. The thrust of maintaining the same level of amenity scattering the "affordable" units among the total development will work to insure the anonymity of the occupants of the "affordable" units and not stigmatize them as second class citizens by placing them uniformly in smaller units or units in less desirable locations. This will insure that the occupants reflect a broad range of occupations and income levels, and not have a "two-tier" arrangement or two classes of occupants.

Features leading to indistinguishability include:

the affordable units being the same general size and contain the same number of rooms as the market price units;

the amenities provided, such as equipment in the kitchen, number and fixtures in the bathrooms, and size and finish materials in the various rooms be the same as those of the market price units;

that the "affordable" units be scattered throughout the site and not concentrated in one building, one section, or less desirable locations from a marketing and living standpoint;

that the type and style of the "affordable" units be essentially the same as the market priced units;

that the lottery or Town agency-based selection process be used to designate the "affordable" units and,

that the type of households in the market sales and

"affordable" units be essentially the same.

8. The affordable units should remain affordable in perpetuity unless the appropriate town agency or group of agencies feel that the public interest is no longer served by retaining them as affordable.

The disposition of units at the end of the 40 year restriction time period should be carefully evaluated with provisions made in the deeds if appropriate, or by some other mechanisms such as purchase by the Town or some other public entity, so that the owner at that time does not receive a financial windfall by being able to sell or rent at the then market price a unit that had been purchased, taxed and operated at cost assessments set at a much lower "affordable" level.

9. The return to the applicant from the total project should be limited to that permitted by statute for a Limited Dividend Corporation, or an amount that could be reasonably anticipated if the property was developed by adhering to the under lying zoning, whichever is greater.

If such a standard is not established, the pressure would be almost irresistible to attempt the largest development possible with the lowest number of "affordable" units allowed in order to maximize the financial gain to the developer. We believe that the establishment of a standard of a limited return would support the Town's goal, as the Planning Board understands it, of creating a development that is as close in scale, size and intensity as possible to the adjacent development that was constructed in accordance with the underlying zoning yet include the maximum number of "affordable" units possible in such a scheme. The Zoning Board of Appeals should insist that it or financial experts appointed by that board, have full and frequent access to all of the developer's financial data during the development period and at the conclusion of the project. The developer should be permitted to make a reasonable return for the investment made and the risks taken, but should not be allowed an exorbitant profit for an undertaking made possible by a public action. We believe that the return permitted for a limited dividend enterprise strikes a fair balance. Excess profit should be donated to a town affordable housing agency to be established, or a higher number of affordable units could be provided through the "buying down" technique of one or more market rate units to the prices or rentals established for "affordable" units.

10. The applicant should have the necessary bonding and insurance to compensate off-site property owners and occupants for losses from any construction activities of any nature including but not limited to blasting and ledge removal.

We believe that this is a usual requirement of the Town for

any such activity, particularly where the use of explosives is involved.

11. A bond or surety be required to insure that the site does not remain unfinished if the corporation goes into bankruptcy.

Sufficient money should be available to complete the project as proposed or to demolish the unfinished buildings and restore the site to its original condition or perhaps a more park like condition if the project could be completed as proposed and the Town owned the land because of foreclosure.

12. The perimeter of the lot should be adequately landscaped to provide screening from abutting land uses and public ways.

This requirement will further emphasize the aspects of compatibility with adjacent land uses mentioned earlier. The so-called Glen Grove development, which was granted a Comprehensive Permit under Chapter 774, is an example of the quality and level of landscaping to which we are referring.

13. The Wellesley Housing Authority should be identified as the agency to oversee the sale or selection of tenants for affordable units, and a criteria for local preference should be established where possible.

The Planning Board recommends that a criteria be developed cooperatively by interested and affected agencies, committees and citizen groups with the Housing Authority acting as the lead agency.