

## Planner's Report

To: Foxborough Board of Selectmen

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From: Paige E. Duncan, AICP

Date: August 11, 2021

Re: 119 Morse Street 40B – Staff Review

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### Introduction

A condominium project entitled “Morse Street Condominiums” has been submitted to the Board of Selectmen’s office by 119 Morse Street Realty Trust (Foxstar Corporation). Since the project shows greater density than currently allowed under conventional zoning, the developer plans to file a Comprehensive Permit application with the Zoning Board of Appeals (ZBA) to allow the development as shown. Under standard R-40 zoning, it is estimated that four or fewer new homes could be built on this property<sup>1</sup>. Upon grant of a Comprehensive Permit through MGL chapter 40B, the development could be built at a higher density than allowed under existing zoning.

In Foxborough today, one-acre buildable lots are selling for upwards of \$300,000. Based on this high land cost, a home built on a \$300,000 lot would have to be large enough to justify a \$900,000 price tag (general rule of thumb, land costs are 1/3 of total sale price). Therefore, we are routinely seeing 3,000± square foot homes being built on lots in Foxborough. As evidenced by our two-plus year *Conversation on Housing*, there is a demonstrated need/demand for smaller housing units (900 – 1,500 square feet) in Foxborough, which will naturally have a lower price than a 3,000 square foot house. The high cost of land today does not allow for the construction of smaller homes unless increased density is allowed.

Rather than filing a standard 40B application, the developer has applied under the provisions of a Local Initiative Project (LIP), seeking to partner with the Town. With a LIP, the Board of Selectmen is asked to sign the application which will then be submitted to the State for site eligibility review. The project itself, whether a LIP or not, will ultimately require approval from the ZBA under MGL Chapter 40B, regardless of whether the BOS votes to support or not, and regardless of whether the State issues a Site Eligibility letter. By signing the application, the BOS is not approving the project, but rather is letting the State know they agree there is a need for this type of housing in Foxborough.

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<sup>1</sup> The subject property is zoned General Industrial. Construction of new homes on this property is allowed only through the Chapter 40B process. According to Assessor’s records, the existing house on the property is approximately 3,300 square feet in size.

Because Foxborough has more than 10 percent of its housing stock classified as affordable (12.8±%), the town is not obligated to approve a 40B application. Under a LIP, however, the property owner can request the town to co-sponsor the application, which is the case here. The Draft Housing Production Plan included the 119 Morse Street site as a possible location for future affordable housing. The *Conversation on Housing* and Draft HPP has documented a need for additional housing, particularly smaller, non-apartment units, in Foxborough. One of the reasons behind this need, despite appearing to have ample affordable housing on the books, is that 498 of the 878 “affordable” units on the State’s affordable housing inventory for Foxborough are the apartments in The Lodge and The Sylvan complexes, near the Mansfield town line.<sup>2</sup> All of these units count as affordable but not all of the units are affordable! In fact, only 125 out of 498 units at the Lodge and Sylvan are actually restricted as “affordable”; the rest are rented at market rate but still count on the SHI as affordable. Questions arise whether these types of apartment units are truly affordable and if they meet housing needs of Foxborough residents.

### **Project Summary**

The proposed project is located at 119 Morse Street. The project as submitted shows:

- 40 stacked flats (20 lower flats and 20 upper flats)
- 10 duplex cottages
- Existing 3,300 square foot home converted to two (2) units
- 52 units total
- These units will be ownership, not rental
- Six (6) acre site
- Site is served by Town water and sewer
- Zoning district: General Industrial.
- Zoning overlay: Future Aquifer Area (Water Resource District)

25% of the units will be affordable (13) while 39 units will be market rate. The affordable units are projected to sell for \$272,900 (10 affordable flats) and \$299,300 (the 3 affordable cottages). Like standard 40B projects, LIP projects are subject to profit limitations where profit and developer fees to all partners and owners are limited to no more than 20% of the total

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<sup>2</sup> Note: The SHI is based on the number of housing units calculated during the 2010 census. New household numbers for Foxborough from the 2020 Census are expected within the next 6-12 months, and will likely reduce Foxborough’s percentage of units on the SHI. We do not anticipate this number going below 10% but do recommend increasing affordable units consistently each year to stay ahead of this formula for the decades to come.

development costs. Additionally, no fewer than 25 percent of the units in a LIP development must be affordable at 80 percent of Area Median Income (AMI).

See the table below for more information on AMI and Foxborough; since this has been a common question during our *Conversation on Housing*. What these figures below translate to is that a household of two members would have to make below \$71,400 per year to qualify to purchase an affordable unit in this development. A household of four members would have to make less than \$89,200. As you can see, the income limits are fairly high to qualify, which demonstrates the high cost of living (housing) in this region.

### More on Area Median Income (AMI)

- ◆ Median household income in 2017 was \$98,199.
  - ◆ This is almost \$24,000 higher than Massachusetts overall.
  - ◆ However, this is **lower than the Area Median Income**.
- ◆ Average household income for a homeowner is \$123,295.
- ◆ Average household income for a renter is \$62,212.
- ◆ **34% of households in Foxborough are considered low-income.**

Persons in Household	Extremely Low Income <30% AMI	Very Low Income 30% to 50% AMI	Low Income 51-80% AMI	Area Median Income AMI
1	\$24,900	\$41,500	\$62,450	<b>\$113,300</b> Boston-Cambridge-Quincy
2	\$28,450	\$47,400	\$71,400	
3	\$32,000	\$53,350	\$80,300	
4	\$35,550	\$59,250	\$89,200	
5	\$38,400	\$64,000	\$96,350	
<b>% OF FOXBOROUGH HOUSEHOLDS</b>	11%	11%	12%	

Source: Draft HPP, 2019 U.S. Department of Housing and Urban Development

- ◆ **4.3% of households live below the poverty threshold.**
  - ◆ Single: < \$13,000; 4-person: < \$26,000

### What is the Local Initiative Program (LIP)

The Local Initiative Program (LIP) was authorized in 1989 by state regulation (760 CMR 45.00) to offer municipalities greater flexibility in their efforts to provide affordable housing. LIP is a State program that encourages the creation of affordable housing by providing technical assistance to communities and developers who are working together to create affordable housing opportunities. LIP is administered by the Department of Housing and Community Development

(DHCD) to encourage communities to produce affordable housing for low- and moderate-income households.

A LIP is *“a Project for which the project eligibility application is submitted by the Chief Executive Officer of the municipality under 760 CMR 56.04(2), in accordance with these Guidelines (“LIP”).”*

### **Why is this Project Coming to the BOS and not the ZBA?**

By filing as a LIP, the developer is asking the Town, through its BOS, to partner with the developer to supporting and submit the request for project eligibility from the state. After a vote of the BOS, if approved, the Chair would sign the application to be submitted to DHCD. If the project as proposed is considered eligible at the State level, DHCD will then issue a site eligibility letter which then allows the developer to apply for a Comprehensive Permit to the local Zoning Board of Appeals.

What’s different about a LIP over a standard 40B (Comprehensive Permit) application:

- No financial subsidy required. The subsidy will be technical assistance from DHCD, therefore DHCD would be the subsidizing agency.
- Must be supported by Board of Selectmen.
- Municipality has shared responsibility with DHCD for monitoring and compliance of affordable housing (see recommendations below).

Source: <https://www.mhp.net/writable/resources/documents/SWAP-40B-02-27-18.pdf>

### **Staff Review/Comments**

On July 28, 2021, the following Town Departments were presented with an overview of the project by Bill Buckley of Bay Colony Group and Jeremy Lake of Union Studios.

- Matt Brennan, Health Agent
- Rich Noonan, Deputy Police Chief
- David Laracy, Deputy Chief - Fire Prevention
- Jane Pierce, Conservation Agent
- Bob Worthley, Water Superintendent
- Lance DelPriore, Town Engineer
- Barry Ringler, Building Commissioner
- Bill Keegan, Town Manager
- Gaby Jordon, Staff Planner
- Paige Duncan, Planning Director

### Board of Health

1. Since site is on sewer, no issues with wastewater. Asked if trash removal would be individual per unit or dumpsters. If dumpsters, they need to be away from the buildings to avoid fire hazard.

### Police

1. Given the project is proposed as ownership/condominium, the developer may want to consider restricting future rental of units through homeowner's association documents to ensure that owners with vested interest in the neighborhood and area remain on site.
2. Will the project include public access to proposed trails connecting to open space? Given the roads in this project will remain private, we assume public access to open space through this project will be limited? Same if there a small dog park/area. People from outside the neighborhood will likely want to use amenities if there's any perception that they are open/accessible to the public. This should be clear up front.

### Fire

1. Documentation has been submitted on the bridge. To be reviewed.
2. Fire supports looping of the water line.
3. Fire protection system will be provided. The four-unit buildings will be required by State building codes to have sprinklers, but the two-family units do not require sprinklers. The developer's representative indicated they would install sprinklers in the two-family units if cost allows.
4. Allowing a development in this area might entice additional development in an area that is blighted and beginning to cause some issues for the Town. Increasing adjacent land values might improve prospects for the "Bleachery" property and others nearby.

### Conservation Commission

1. This site is located within the "Priority Habitat" of a rare turtle. Its wetlands include the 200-foot Riverfront Area, bordering land subject to flooding (floodplain), bordering vegetated wetlands, isolated wetlands and the Wetlands Bylaw's 25 Foot No Activity Zone.
2. Jane Pierce indicated that she was in favor of the proposed project's connection to the Town's Rumford River Conservation Area, particularly since she has been trying to stop the damage caused by illegal ATV/OHV activities in this isolated area for many years. Creating narrow hiking trails between the proposed development and this conservation area would likely encourage more passive recreational use by local residents. Their regular visits would result in more land "stewards", since residents who regularly visit "their" conservation areas tend to care for and monitor them more, as well as report any issues they encounter.

3. The site's previously proposed project (DEP 157-466) for the construction of six commercial buildings, a driveway, parking area, stormwater management and utilities was reviewed by the Conservation Commission during several meetings in 2008 and then issued an Order of Conditions. Since the site is located in a mapped Priority Habitat, this 2008 project was also reviewed under the Mass Endangered Species Act (MESA) by the Natural Heritage and Endangered Species Program (NHESP File #18-37867). In their 2018 findings letter for this 2008 project, NHESP "determined that the project must be conditioned in order to avoid a prohibited Take of state-listed species" and "may require an additional filing" "pursuant to the MESA" "if there is a change to the project."
4. During the recent meeting, the developer's representatives stated that they had designed around the most sensitive areas and believe they can mitigate any issues.

#### Water Department

1. The Foxborough Water Department consulted with Environmental Partners (EP) to analyze the option that was presented to the Project Review Committee. EP confirmed the Water Department's recommendation that a loop be installed between water mains in the Morse/Spring Easement and the Morse Street dead end. The loop from easement to Morse Street will optimize water quality and redundancy for all customers within the proposed development and provides the highest available fire flow. The option of a double feed from the Morse/Spring easement would provide limited redundancy and would be detrimental to water quality by adding additional pipe volume and increasing water age in the development. The loop to Morse Street also provides the minimum size (8-inch) water main for fire protection in accordance with MassDEP guidelines for public water systems. EP also recommends that the existing 6-inch AC be replaced with new 8-inch to increase reliability of the looped configuration.
2. Pressure reduction will likely be required for all building services due to the high static pressures. Required fire flow for the development needs to be determined by the developer's fire protection engineer. EP recommends that the developer perform a fire flow test in the vicinity of the development to confirm model simulation results.
3. Since units will be individually owned, each unit will need their own service line, shut off valve and meter.
4. It is understood that the current development plans are preliminary and this analysis needs to be reevaluated after design plans are finalized.

### DPW

1. Stormwater Bylaws – Despite the possible exemption qualified by 40B, we request that the Town’s recently enacted stormwater bylaws be followed to maximum extent feasible. The Rumford River has been identified by MassDEP as a Category 5 water body with a number of various impairments and is the lowest possible rating.
2. Subdivision Roadway Design Standards – To the maximum extent feasible, roadways should be constructed in accordance with Town’s subdivision design standards to ensure longevity and safety.
3. Water line should be looped per Water Department recommendation.
4. DPW just completed a hydraulic model on the sewer system and the segment (manhole to manhole) of sewer main immediately downstream from this project is at max capacity and will require an increase in pipe size to accommodate any additional flow. Additionally, project will have to pay for connection and capacity.
5. The existing bridge measures 15' in width. This is insufficient for two vehicles to pass safely. The Fire Department and Planning Board has been holding a minimum width of 18' for all shared driveway submittals, this should be no different. If the span over the stream is 10' or greater it will require review by a structural engineer.
6. Roads shall remain private and will not be eligible for town services including snow removal or pavement repairs.
7. Information should be provided on sight light/visibility when exiting the site in a vehicle. Since Morse Street hosts a gym (fitness) and other non-residential uses, negative traffic impacts are not anticipated. Much of the traffic is likely to leave the site and head towards Mansfield.
8. See abutter comment and information on cost regarding Morse Street sidewalk below.

### Planning

1. The affordable units should be affordable in perpetuity through deed restriction.
2. The initial and continuing affordability of the subsidized units should be guaranteed through agreements with regard to purchase and condominium fees, and through resale restrictions. The developer should bear the responsibility to pay for the cost of continued monitoring to ensure that the affordability and marketing requirements are followed for term that was approved.
3. The ZBA should require a local preference for up to 70% of the affordable units. The developer should assist the Town as needed to submit a request to DHCD to this local

preference. I should note there has been recent discussion about local preference and I do not believe it is guaranteed the state will continue to allow maximum local preference. To be determined, but I think the Town should try.

4. The BOS may want to discuss and consider other possible conditions such as:
  - a. Require a higher proportion of units be affordable by SHI standards (which would result in more than 13 permanently affordable units in the project).
  - b. Rather than 80% AMI, allow the level of affordability to be lower (i.e., 50 percent of AMI) or even higher (i.e., 100% of AMI) for additional units to broaden eligibility for affordable units.
5. The Foxborough Planning Board will be discussing this project at their meeting on Thursday, August 12<sup>th</sup> and we will provide an update on this meeting prior to the August 17<sup>th</sup> BOS meeting.

#### Resident Input

1. Email received from Jessica L. Uth - 71 Morse Street

"Hello! I'm actually really excited to hear about this project! The area out behind the pond sounds like a wonderful place for it as well.

I do have one question / concern: Is there any intention to install sidewalks to connect Morse through to the Mansfield line. I ask for a few reasons:

1. Both car and foot traffic will increase with a large apartment development and unsafe to walk that section of Morse on foot.
2. The elementary school is within one mile of the planned new development and, with no sidewalk for more than half that distance, there is no truly safe way for children to walk. It's already unsafe for my new kindergartner, and he and his sister are here with me at 71 Morse.
3. It would be incredibly nice to have a safe foot path to the center of Mansfield where both the nearest commuter rail and shopping centers are located.

Bottom line is Morse Street is in desperate need of a consistent sidewalk. There's a school at one end and a town center at the other all the while cars use our neighborhoods as a speedway. If it's possible to integrate the need for a sidewalk into this project, given the points I've outlined above, me and other residents would be grateful."

Thank you,  
Jessica Leibovitz-Uth  
Resident and family of four at 71 Morse Street



2. DPW Response to Abutter Request: Distance from Morse Place to 119 Morse Street is approximately 2,800 feet. Barring any unforeseen complications, cost to construct a new sidewalk would be around \$250,000 to \$300,000 for the Town. A survey may be required to determine if a sidewalk can fit within the existing right-of-way. Expanding the Morse Street crossing of Glue Factory Pond to include a sidewalk would be significantly more costly. Current DPW budget does not have the capacity for a project of this size and funds are prioritized for maintenance of existing infrastructure over expansion.

### **Benefits and Other Considerations to Highlight**

- The *Conversation on Housing* documented a need for smaller, more naturally affordable housing units. Seniors and those just starting out have lamented the lack of availability of small homes that don't require a tremendous amount of rehabilitation needed (a known barrier for seniors). As described previously, smaller homes will not be built in this region without some relief from zoning requirements. This project will provide a minimum of 13 affordable units in perpetuity. These units, if re-sold, will remain affordable through deed restriction and limitation of profit. All purchasers are well aware of the profit limitations and restrictions when buying. Affordable units, at a minimum, must serve households below 80% of the area median income. In addition to the "affordable" units, the remaining 39 units will be of smaller size and therefore more naturally affordable than standard new housing being built in Foxborough today.
- As stated previously, allowing this project might entice additional development in an area that is blighted and beginning to cause some issues for the Town. Increasing adjacent land values might improve prospects for the "Bleachery" property and others nearby, thereby raising property values and reducing enforcement issues for the Town.
- As stated by Jane Pierce, Conservation Agent, illegal ATV/OHV activities in this isolated area has been an issue for many years. By creating hiking trails between the proposed development and the conservation area, more passive recreational use by local residents is expected. Their regular visits would result in more land "stewards".
- The property is served by sewer and water and is therefore able to accommodate increased density over traditional development on septic and/or private wells.
- The property is located just over one mile to Mansfield's train station. GATRA Go can provide on-demand rides from the property to the train station.
- Further, in evaluating this proposed project, it might be helpful for the BOS to look at how it could help to meet community housing needs and goals. The BOS may want to consider the following questions:

*Will the project ...*

- Create housing opportunities for a range of community needs, including families, seniors, veterans, small households, and people with disabilities?
- Be located on a site where there is available infrastructure (e.g., sewer lines) to support the proposed density of development, and where residents can access facilities and services with less dependence on auto transportation?
- Use environmentally responsible design. Minimize impact on natural resources, use native plants, green building construction materials, and energy-efficient design?
- Incorporate landscaping treatments that blend with surrounding area, retaining mature trees where possible? Minimize impervious surfaces?
- Preserve historically significant buildings and features?
- Create public benefits such as pedestrian linkages to adjacent public properties, open space and park improvements, or enhanced infrastructure serving the surrounding area?
- Provide safe and convenient traffic circulation, parking, and pedestrian movement within the site? Does circulation address the needs of the handicapped? Is reasonable access for school buses and emergency vehicles should be provided?
- Consist of sound and uniform construction throughout the development, with no apparent distinction either visually or materially between the market-rate and the subsidized units? Are subsidized units dispersed throughout the development?