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December 1, 2023

## *Via Electronic Mail*

Frederick Casavant, IV, Chair  
Pembroke Zoning Board of Appeals  
100 Center Street  
Pembroke, MA 02359

**Re: Mattakeesett Village – Comprehensive Permit Project  
7-15 Mattakeesett Street, Pembroke, MA**

Dear Chair Casavant:

As you are aware, this office represents Bristol Bros. Development Corp. (“Bristol Bros.”) with respect to its proposed Comprehensive Permit project, “Mattakeesett Village”, at 7-15 Mattakeesett Street, Pembroke, Massachusetts. In anticipation of the continued hearing on December 11, 2023, we write to provide updated materials and additional information in response to comments and requests provided by the Board and its peer-review consultant. Specifically, we write to (i) provide an update regarding our research, and MassHousing determination, concerning qualification of the proposed ancillary commercial (tavern) component of the project as a qualifying ancillary use, (ii) submit an updated List of Waivers and Exemptions, and (iii) confirm that copies of the application materials submitted to MassHousing and Project Eligibility/Site Approval Letter were submitted to the Board as part of the Comprehensive Permit application.

### **1. The Proposed Affordable Housing Project With Ancillary Tavern Component Qualifies for Permitting by Comprehensive Permit.**

As the Board is aware, Bristol Bros.’s initial project proposed to build sixty-six (66) age restricted units of rental housing, within two (2) building, at the 3.27 acre downtown site. Due to changing economic conditions, Bristol Bros. subsequently proposed to include an ancillary tavern use as part of the project, modifying the project to be within four (4) buildings – including a freestanding tavern building.

At the July 24<sup>th</sup> hearing, Bristol Bros. was asked to provide further information about how the proposed ancillary tavern component would be viewed by the relevant regulatory authorities as part of a Comprehensive Permit project. In response to that request, Bristol Bros. provided the revised site and architectural plans to the subsidizing agency for the project, MassHousing,<sup>1</sup> and

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<sup>1</sup> On December 19, 2022, MassHousing issued a Project Eligibility/Site Approval Letter to Bristol Bros. for the

requested its input as to whether the proposed incorporation of an ancillary tavern use meets the criteria for consideration as an ancillary use under 760 CMR 56.00 et seq.<sup>2</sup> As provided in the letter submitted herewith, MassHousing reviewed the revised plans and confirmed that the proposed modification to include the tavern – which comprises approximately 5.5% of the gross floor area of the project – meets the definition of ancillary use. See MassHousing Letter, at Exhibit 1.

Representatives of Bristol Bros. also inquired as to whether the ancillary commercial component may be located within a separate building independent from the residential buildings. MassHousing confirmed that project layout and design review is a local Board decision – and that the Comprehensive Permit Guidelines do not require that an ancillary commercial use be located within the same building as residential units. Research identified other Comprehensive Permit approvals of freestanding ancillary commercial components in other communities, including Westborough and Mashpee.

Based on discussions and comments at and outside of the public process, the community appears generally supportive of Bristol Bros.’s proposal to introduce a tavern use at the downtown location. We note that the Town has made significant investments in public facilities within the downtown, and the proposed 66 age-restricted units and tavern will activate a prime parcel now burdened by an abandoned funeral home.

The proposed casual dining tavern within the Mattakeesett Village project complies with both the dimensional requirements of the Pembroke Zoning Bylaws and the required number of onsite parking spaces for the proposed tavern use. Restaurants and taverns are an allowed use by Special Permit within the Center Protection District under Section IV.7.B.1 of the Zoning Bylaws. The proposed ancillary tavern use within the project is consistent with the regulatory definition of “Project” as it both complements the proposed age-restricted residential units and supports a vibrant Town center neighborhood by adding a tavern dining option within short walking distance to the Community Center, Town Hall, Public Library, Police Station, Fire Station and Post Office, as well as numerous retail and service businesses. Based on the foregoing, we assert that the proposed Mattakeesett Village project, with ancillary tavern use, is appropriate for permitting by the Board under a Comprehensive Permit.

## **2. Updated List of Waivers and Exemptions.**

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proposed project.

<sup>2</sup> The Chapter 40B implementing regulations at 760 CMR 56.02 (Definitions) define “Project” to mean:

a development involving the construction or substantial rehabilitation of units of Low or Moderate Income Housing that is eligible to submit an application to a Board for a Comprehensive Permit or to file or maintain an appeal before the Committee. See 760 CMR 56.04 for eligibility requirements. A Project may contain ancillary commercial, institutional, or other non-residential uses, so long as the non-residential elements of the Project are planned and designed to:

(a) complement the primary residential uses; and

(b) help foster vibrant, workable, livable, and attractive neighborhoods consistent with applicable local land use plans.

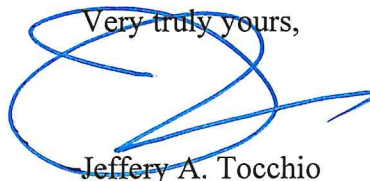
Enclosed please find an updated List of Waivers and Exemptions (the "List") that reflect the proposed project, as modified. See List, at Exhibit 2. The updated List includes a waiver from Section IV.7.B.1 of the Zoning Bylaws which requires issuance of a Special Permit from the Planning Board for the tavern use in Center Protection District. In this instance, review and permitting will be undertaken by the Board under the Comprehensive Permit.

**3. Confirmation of Submission of MassHousing Application Materials.**

The peer review comments provided by Merrill Engineers and Land Surveyors (Merrill), on October 4, 2023, note that it appeared that copies of the application and materials submitted by the Applicant to the subsidizing agency, including applications for site approval, were included in the Comprehensive Permit application, and requested confirmation from the Applicant. We can confirm that copies of all of the application materials submitted to MassHousing, as well as the Project Eligibility/Site Approval Letter issued by MassHousing, were submitted to the Board as part of the Comprehensive Permit application.

We appreciate the requests in advance and the opportunity to submit responses in advance of the December 11<sup>th</sup> hearing. Thank you for your continued attention to this matter.

Very truly yours,



Jeffery A. Tocchio

Enclosure

Cc: Amy E. Kwesell, Esq. (*via email* – [akwesell@k-plaw.com](mailto:akwesell@k-plaw.com))

# **Exhibit 1**



Massachusetts Housing Finance Agency  
One Beacon Street Boston, MA 02108

Tel: 617-854-1000  
Fax: 617-854-1091

Relay 711  
[www.masshousing.com](http://www.masshousing.com)

November 27, 2023

Bristol Bros. Development Corp.  
190 Old Derby Street, Suite 311  
Hingham, MA 02043  
Attention: James E. Bristol

Re: Notice of Project Change  
Mattakeesett Village, Pembroke  
MH ID No. 1156

Dear Mr. Bristol:

We have received your Notification of Project Change describing proposed modifications to the above-captioned Chapter 40B development. The Project received a Determination of Project Eligibility (Site Approval) from MassHousing on December 19, 2022, for the construction of sixty-six (66) age restricted units of rental housing on 3.27 acres of land located at 7 Mattakeesett Street, known as Mattakeesett Village (the "Project").

You requested a determination as to whether a proposed modification to include an ancillary tavern use at the downtown site comprising only approximately 5.5% of the gross floor area of the Project meets the criteria for consideration as an ancillary use. MassHousing has reviewed the revised plans and confirms that the proposed modification meets the definition of ancillary use.

MassHousing will review the approved Comprehensive Permit Plans once the Project returns for Final Approval, and at that point will determine whether the approved plans still meet the requirements of the 40B regulations and guidelines.

If I can answer any further questions regarding this Project, please do not hesitate to contact me.

Very truly yours,

Jessica L. Malcolm  
Manager  
Planning and Programs

cc: Ed Augustus, Secretary, EOHLC  
Frederick Casavant IV, Chair, Zoning Board of Appeals  
Daniel W. Trabucco, Chair, Select Board  
William Chenard, Town Manager

## **Exhibit 2**



### **Additional Waivers for Local Regulations:**

The Applicant anticipates requesting the Pembroke Board of Zoning and Building Appeals to approve the following additional waivers, not identified above, from the local regulations:

#### **Pembroke Zoning Bylaws:**

- Section IV.1.A&B – No multiunit dwellings allowed in RA
- Section IV.7.A&B – No multiunit dwellings allowed in CP
- Section IV.7.B.1 – Special Permit from Planning Board for restaurant in CP.
- Section IV.7.C.1 – All buildings and structures within public view within CP district to be of American Colonial, Greek Revival, Federalist and or traditional New England architectural design, or similar style, approved by the Planning Board.
- Section IV.7.C.2 – Planning Board approval required for all signs constructed, erected or altered and signs to conform to the provisions of Section V.1. of the bylaws with additional enumerated restrictions.
- Section IV.7.C.3 – The exterior finish of all buildings within the CP district shall be made of brick, glass and or wood, wood simulated, or a suitable substitute material approved by the Planning Board; and the Planning Board must approve of the exterior finish color of the brick, glass and wood or suitable substitute to be applied.
- Section IV.7.D.4 – No paved area, other than accessways and sidewalks, shall be built within fifteen (15) feet of the front lot line.
- Section IV.7.D.5 – No paved area, other than accessways and sidewalks, shall be built within 10 feet of the side lot line.
- Section IV.7.D.6 – No paved area, other than accessways and sidewalks, shall be built within 10 feet of the rear lot line.
- Section V.1.C.1 – Signs
- Section V.1.C.3 – Sign setback
- Section V.1.E.1 – No sign shall be located within twenty-five feet of any public or private way or within a radius of one hundred and fifty feet from the point where the centerlines of two or more such ways intersect except that a sign may be located on or be attached to a building if the building is located within such distances.
- Section V.1.E.2 – No sign shall be located within fifty feet of any other sign unless such signs are placed back-to-back.
- Section V.1.E.3 – The Inspector of Buildings/Zoning Enforcement Officer may issue a permit for a sign to be located closer than the above distance if the board determines that such sign will not be inconsistent with the purposes of this bylaw and that such sign will not be injurious or offensive to the neighborhood.

- Section V.1.F.2&3 – Size of Signs
- Section V.4.B – Access; there shall be a maximum of two points of ingress-egress for each parcel of land, and they may not be more than forty feet wide at the curb line.
- Section V.7 – Site Plan Approval by the Planning Board
- Section V.9 – Determination of Adequacy of Way by the Planning Board
- Section V.10 – Lot Characterization Number regulation.

Pembroke General By-Laws, Article XXI – Earth Removal

- Waiver of application of the by-law for removal of earth materials in connection with the construction of the proposed project.

Pembroke General By-Laws – Article XXXI-A – Demolition Delay Bylaw

- Waiver of application of the by-law for building at 7 Mattakeesett Street

Pembroke General By-Laws – Article XXXV – Stormwater Management By-Law

- Waiver of application of the by-law for the redevelopment of the property for the construction of the affordable housing project.

Title V Rules and Regulations Exclusive to Pembroke, MA

- Waiver of application of local rules and regulations, as the affordable housing project will be reviewed and approved by the Board of Health in accordance with the MassDEP Environmental Code Title V (310 CMR 15.00).

Planning Board Rules and Regulations Governing the Issuance of Site Plan Approval

- Waiver of application of the Planning Board rules and regulations, as the affordable housing project will be reviewed by the Board of Zoning and Building Appeals consistent with M.G.L. c. 40B and the regulations promulgated thereunder.

The project shall be exempt from the filing fee requirements established by the Board of Zoning and Building Appeals, Planning Board, Conservation Commission, or other Town entities, except for fees specifically relating to Comprehensive Permit Applications.



Through the Comprehensive Permit, the Pembroke Board of Zoning and Building Appeals (the “Board”) has the authority under M.G.L. chapter 40B and its implementing regulations to waive requirements of local bylaws as necessary to construct the project as permitted; further, the Board can act on behalf of any local permitting authority through the Comprehensive Permit process. The project plans reflect an attempt to minimize the number of waivers requested and reflects a plan that is contextually appropriate on several different levels. Following please find a table/list of the waivers necessary to permit the proposed project; this list will be updated as necessary as permitting of the project commences and proceeds.

TABULAR ZONING ANALYSIS				
Zoning Requirements – Center Protection District (CP) and Residential A District (RA)				
Local Regulation	Requirement – CP	Requirement – RA	Proposed	Waiver
Min. Lot Area	40,000 s.f.	40,000 s.f.	145,199± s.f.	No
Min. Lot Frontage	150 feet	150 feet	317± feet	No
Min. Front Setback	40 feet	40 feet	104± feet	No
Min. Side Yards	20 feet	20 feet	22± feet (east)	No
Min. Rear Yards	25 feet	25 feet	40± feet	No
Max. Building Coverage	N/A	N/A	18.5%	N/A
Min. Open Space	§IV.7.D.10: The sum of the ground area of the lot covered, or to be covered by all buildings or structures and all paved areas, to include patios, roadways, accessways, turnarounds, loading areas and parking areas not exceed sixty-five percent (65%) of the total site area, except by special permit.	N/A	Impervious: 57.4% Landscaped: 42.6%	No

	§IV.7.D.11: At least thirty-five percent (35%) of the total site area shall be landscaped. Along any rear or side lot line that abuts a residential or municipal use there shall be planted a natural hedge greater than six (6) feet in height and located within ten (10) feet of said lot line, except by special permit.			
Max. Height	36 feet	N/A	> 36 feet	Yes
Max. Stories	2.5 stories	2.5 stories	3 stories	Yes
Max. Gross Floor Area (§IV.7.D.9)	The building floor area shall not exceed fifteen percent (15%) or nine thousand (9,000) square feet whichever is lesser of the total site area, except by special permit.	N/A	47% or 68,383 s.f.	Yes
Max. Dwellings	N/A	1	66 units	Yes
Proposed Units/Acre	N/A	N/A	20 units	N/A
Parking Spaces	Two (2) parking spaces per dwelling unit for multiunit dwellings  One (1) parking space for every four (4) seats for Tavern	N/A	93 spaces / 1.4 spaces per dwelling unit  33 spaces for Tavern  126 spaces total	Yes