

August 4, 2024

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Sherborn Zoning Board of Appeals  
19 Washington Street  
Sherborn, MA 01770

Re: Opposition to Proposed Development at 34 Brush Hill Rd

Dear Members of the Sherborn Zoning Board of Appeals:

We are writing to express our objections and opposition to the proposed Chapter 40B development at 34 Brush Hill Road (also known as 0 Brush Hill Road). We have previously written our objections to this development in a letter to the Sherborn Select Board dated September 26, 2023, but want to address more specifically the issues of septic, groundwater, stormwater, and wetlands which will be the topics discussed at the next ZBA meeting on August 6, 2024. As a separate matter, we also request that a Traffic Impact Analysis be performed for all the reasons cited in the various letters and comments by the neighbors of the Brush Hill Road community, including but not limited to, the extreme narrowness of this windy and state certified scenic road, and the addition of eight homes would increase residential traffic by 50%.

By way of some background, the location of the proposed development has consistently failed the local groundwater elevation test. As such, construction of a single home is prohibited to ensure protection of public health. Instead, this developer is proposing to sidestep the local bylaws in order to build eight homes which are estimated to discharge up to 1,980 gallons per day into a septic system. This is simply an unacceptably high volume of daily septic in such close proximity to groundwater drinking water wells. For decades, those with lesser economic means have suffered disproportionately from poor land use practices and those inequities should not be supported by bypassing important protections to keep residents safe in favor of development. The potential families who would reside at Brush Hill Homes should not have to risk their health due to deposition of too much septic into their groundwater.

This proposed development is inappropriate for development for the following the reasons:

**1. Impacts to Drinking Water Quality**

Sherborn is uniquely situated whereby we are entirely dependent on private water and septic. Therefore, it is highly important to have protections in place to ensure that each resident has clean drinking water, and any proposed development does not put residents and Brush Hill Road neighbors at risk of being exposed to contaminated drinking water. The dense housing

development puts at risk our drinking water wells to contamination from elevated nitrogen levels leaching from the project.

a. Heightened Concern for Clean Water in the Brush Hill Road Community

The General Chemical toxic waste site on Leland Street in Framingham is closely situated to this proposed housing development on Brush Hill Road. In fact, the General Chemical toxic waste site is less than one mile from the proposed development (1560 meters). General Chemical contaminated the groundwater with known carcinogens, including chlorinated hydrocarbons, Per- and Polyfluorinated substances (PFAS) and other hazardous substances. It also contaminated residential properties near General Chemical that resulted in the necessary demolition of four houses. Fortunately for those who reside in Framingham, they have access to public drinking water supplies. This is not the case for those who live next door in Sherborn. The Sherborn town line is approximately one-half mile from the General Chemical toxic waste site.

Groundwater flow is extremely difficult to determine and measure because it can follow random cracks in bedrock. Controlling the spread of the contaminated groundwater plume is of utmost importance. The hazardous compounds that General Chemical released are highly mobile in groundwater and can travel long distances. Pumping draws water towards the wells which can also draw the contaminated groundwater plume towards this proposed development and the surrounding area. Properly identifying and protecting the areas affected by well pumping is critical to maintaining groundwater quality and quantity. The proposed development needs to take this serious issue into consideration.

b. Insufficient Water Supply

Besides the concern for water quality, Sherborn is also plagued by limited water quantity. There is simply not an abundance of available and potable water beneath Sherborn. It is far from uncommon for wells in Sherborn to run dry. People living on Brush Hill Road, including those who abut the proposed project, must limit water consumption, especially during the summer months, because our wells run dry. The addition of eight more homes will only strain an already overburdened drinking water supply.

c. Septic Infiltration into Drinking Water Wells

The Town of Sherborn mandates that applicants for a permit to construct a septic system must pass not only a percolation test but a groundwater elevation test. Requiring both ensures that a property's septic percolates effectively and is handled in an environmentally sound manner. The Commonwealth of Massachusetts only requires a percolation test. This proposed development consistently failed the groundwater elevation test for its septic permit application. In addition, the proposed development property is bordered by wetlands on three sides. This high-water table further affects how the septic from this proposed housing development will enter and move through the groundwater. The reason for performing both the percolation test and a groundwater elevation test is to help ensure that Sherborn's limited potable groundwater is protected.

A development pursuant to 40B does not pose an absolute bar to local concerns. In fact, as Chapter 40B, section 23 provides, the comprehensive permit regulations specify that consistency with local needs is the central issue in all cases before the Housing Appeals Committee (760 CMR 56.07(1)(a)). For example, in Reynolds v. Zoning Board of Appeals of Stow, 88 Mass. App. Ct. 339 (Mass. App. Ct. 2015), the Court held “When faced with evidence that one or more adjacent private wells will have elevated nitrogen levels (the issue in the Reynolds case) and there is no public water source in the area and no proposal to provide the abutter with clean water, it is unreasonable to conclude that the local need for affordable housing outweighs the health concerns of existing abutters.” The proposed development on Brush Hill Road raises many of the same issues regarding threats to drinking water resulting from a development with no alternative sources of water available.

## 2. Stormwater Impacts

Brush Hill Homes has submitted a Stormwater Management Plan (the Plan). The Plan shows vegetated wetlands within the property citing the regulation requiring a 100’ setback or buffer from any development. This vegetative wetland includes an intermittent brook. We have personally observed that this brook dries up during the dry summer months when experiencing drought conditions but then flows again for the rest of the year. We have also followed this brook to where it eventually discharges to an important state water resource before connecting with a stream.

The Plan describes an enormous amount of stormwater runoff impacting the wetlands located on the property. In fact, the Plan is predicting 2.061-acre feet for a hundred-year flood (an acre foot equals 325,850.943 gallons which means that 671,578 gallons would be discharged into the wetlands). We were unable to locate in the Plan the capacity of the stormwater collection basin and whether it is designed to handle a hundred-year flood event with this volume of stormwater entering the system.

In addition to the volume of stormwater that would discharge into the wetlands, the Plan further has a portion of the proposed on-site sewage disposal system extending into the 100’ wetland buffer. The combined volume of stormwater and septic discharge and proposed destruction of this important wetland buffer places an unacceptable threat to the health and protection of the wetlands. No impacts to the wetland should be tolerated.

The Plan states that “based on the observed soil conditions during the on-site soil testing, the intent is to meet the MassDEP Stormwater Regulations for recharge (0.25 inches over the impervious surfaces for HSG - C soils) for the new area of impervious surfaces.” It is not good enough to *intend* to meet MassDEP stormwater regulations, the Plan must meet these regulations.

The Plan mentions that the Deep Sump Catch Basins will be fitted with an oil and gas trap hood to collect runoff from paved surfaces. The runoff is then directed to a Stormwater Treatment Unit. It further states that the proposed treatment units will be a “CDS Treatment Unit or approved equal. This unit has been verified by the NJCAT and Certified by the New Jersey DEP to provide 50% TSS removal,” (total suspended solids or TSS). Are there any treatment units for

deep sump catch basins that have been certified by Massachusetts DEP? Furthermore, TSS removal should be significantly better than just 50%.

According to the Plan, the long-term maintenance of the stormwater and discharge systems will cost less than \$10,000. The anticipated maintenance costs seem unrealistically low.

Furthermore, missing from the Plan are costs associated with replacement of a failed system, inspections, and increased costs over time due to inflation.

The Plan never addresses the impacts to drinking water resulting from the enormous amount of stormwater discharge. This is a critical impact that must not be overlooked.

### 3. Adverse Impact on Wildlife and Open Space

The proposed 5-acre development property is a rich habitat for wildlife. We have personally observed fishers, mink, fox, coyotes, deer, and signs of black bear on that parcel. As far as birds, we have seen and heard owls, hawks, tanagers, buntings, bluebirds, pileated woodpeckers, cedar waxwings, warblers and many more. The proposed access driveway is a well-traversed corridor for wildlife joining the proposed development site and adjoining conservation lands with the farm, the Massachusetts Bay Circuit Trail, and woods on the other side of Brush Hill Road. This proposed development would block this important wildlife corridor. The proposed development does not address how it will offset this loss of a critical habitat corridor, its impacts to the soil hydrology or the carbon footprint associated with clear cutting and destroying this beautiful green space. Since any development has a permanent impact on our environment, climate mitigation and resilience impacts must be implemented by the developer.

### 4. The Intrinsic Value of the Proposed Development Site

The proposed site is quintessential green space that not only serves as a habitat for wildlife, but also assists the Town and the State in reducing its carbon output. These are lovely woods filled with stands of mature and beautiful trees. Informal trails cut through the property joining the conservation land parcels on either side and connection with the Massachusetts Bay Circuit Trail. Dwindling green space should not be sacrificed for more construction; they provide great value to more than just humans. Unlike the proposed Brush Hill development, sites should be selected in locations where existing properties can be redeveloped and are in proximity to services and public transit.

### 5. Traffic Impact Analysis

Brush Hill Road has received Massachusetts state designation as a scenic road pursuant to MGL Ch. 40, Section 15C. This designation governs, *inter alia*, the maintenance and removal of trees and stone walls. In many places along Brush Hill Road the width is exceedingly narrow. In fact, there are many spots where it is less than 16 feet, some at 15 feet, and the narrowest is 14 feet, 9 inches. Right where the proposed access driveway from Brush Hill Road leads to the proposed housing development, the width of Brush Hill Road is 15 feet. Furthermore, there are stonewalls and canopy shade trees all along the road. The narrowness of Brush Hill Road would impede or make it impossible for emergency vehicles to make the turn from Brush Hill Road onto the

proposed access driveway. Brush Hill Road is not only narrow, but very windy and with several treacherous blind curves. During rush hour, commuters drive along Brush Hill Road far in excess of posted speed limits. If someone is parked on Brush Hill Road, cars can be prevented from proceeding on. In the winter months, the snow greatly narrows the road even further, making it even more difficult to travel.

The addition of eight more homes, and, therefore, an estimated sixteen more automobiles traveling the proposed driveway and the narrow Brush Hill Road will make walking, biking, and driving much more hazardous than it already is now. As discussed during the June 26, 2024, ZBA meeting, there should be a Traffic Impact Analysis performed.

### Conclusion

For all the reasons stated above, the parcel is simply wrong for any development. The potential human health concerns outweigh the potential benefits of the proposed development, especially since the Town of Sherborn already has a viable plan to meet and exceed its 40B obligations in a safe and responsible manner.

Thank you for your thoughtful consideration.

Sincerely,

Michelle and Andrew Lauterback