



TOWN OF SHERBORN
19 Washington Street
Sherborn, MA 01770
508-651-7850

Select Board

Eric Johnson, *Chair*
George Morrill, *Vice Chair*
Jeffrey Waldron, *Clerk*
Paul DeRensis
Charles Yon

David R. Williams, Town Administrator

October 27, 2020

By ELECTRONIC TRANSMISSION ONLY

Richard S. Novak, Chairman
Zoning Board of Appeals
Town of Sherborn
19 Washington Street
Sherborn, MA 01770

**Re: G.L. c.40B Comprehensive Permit Applications
Villages at Sherborn Apartments // 31 Hunting Lane
Pine Residences // 41 North Main Street**

Dear Mr. Novak,

It has come to the attention of the Select Board that the Zoning Board of Appeals recently received the above-referenced applications seeking Comprehensive Permits under Mass. General Laws Chapter 40B (the "40B Applications").

I write to advise you that two parcels of land within the development site of the 40B Applications, identified as Assessors Map 11, Parcel 3B and portions of Assessors Map 11, Parcel 3C (the "Subject Parcels"), are subject to lien under G.L. c. 61B ("Chapter 61B"). Chapter 61B provides, in pertinent part, that "[I]and taxed under this chapter shall not be sold for, or converted to, residential, industrial or commercial use while so taxed or within one year after that time unless the city or town in which the land is located has been notified of the intent to sell for, or to convert to, that other use."

While the owner of the Subject Parcels has given notice to the Town that he is withdrawing them from Chapter 61B classification, in accordance with the one-year period noted above, the Subject Parcels will remain subject to such classification until June 30, 2021. As you are likely aware, Chapter 61B provides the Town with a right of first refusal upon notice that a landowner intends to sell or convert the use of the property. It is the view of the Select Board that by filing the above-referenced 40B Applications, the owner of the Subject Parcels effectively given notice to the Town of his intent to convert the Subject Parcels to other (residential) use, thereby triggering the Town's right of first refusal under Chapter 61B.

During its public meeting held on October 22, the Select Board voted to take the following action:

1. to seek an impartial appraisal performed by a certified appraiser hired at the expense of the municipality or its assignee to determine the full and fair market value of the Subject Parcels;
2. to continue its public hearing, for further consideration of whether to (a) exercise the Town's option to purchase the Subject Parcels and to submit an Article to for consideration by Town Meeting, (b) or to assign the Town's option to Unity Farm Sanctuary, Inc., 17 Unity Lane, Sherborn, MA 01770, or another nonprofit conservation organization, under the terms and conditions that the Select Board may consider appropriate.

The full text of the vote approved by the Select Board is enclosed herewith as Exhibit A.

In accordance with all the above, the Select Board hereby advises the Zoning Board of Appeals as follows:

1. Pursuant to Chapter 61B, the Select Board holds a property interest in the Subject Parcels;
2. The Select Board is considering whether it shall exercise its right of first refusal with respect to the Subject Parcels or assign same; and
3. The Select Board's said property rights under Chapter 61B cannot be waived by the Zoning Board under G.L. c.40B.

In light of the foregoing, it is the view of the Select Board that the Zoning Board of Appeals may have a supportable basis to reject the 40B Applications due to the applicant's failure to establish that it has control of the site, as required by 760 C.M.R. 56.04 (1)(c). The Select Board therefore urges to the Zoning Board of Appeals to consider rejecting the 40B Applications on that basis.

Very truly yours,



Eric Johnson, Chair
Sherborn Select Board

cc: By Electronic Transmission
David Williams, Town Administrator
Diane Moores, Assistant Town Administrator
Jeanne Guthrie, ZBA Administrator
Christopher J. Petrini, Town Counsel

**SELECT BOARD VOTE TO EXERCISE RIGHT OF
FIRST REFUSAL 31 HUNTING LANE, SHERBORN (VERSION 3)**

MAKER OF MOTION:

The Select Board, having heard comments from Sherborn officials and members of the public in accordance with a public hearing held in accordance with G.L. c. 61B, § 9 and G.L. c. 30A, §§ 18-25, moves as follows:

1. to seek an impartial appraisal performed by a certified appraiser hired at the expense of the municipality or its assignee to determine the full and fair market value of Assessors Map 11, Parcel 3B and Assessors Map 11, Parcel 3C at 31 Hunting Lane (the "Subject Parcels"), the original appraisal to be completed and delivered to the landowner on a date to be determined;
2. to continue said public hearing, or to schedule an additional public hearing, for consideration of whether to (a) exercise the Town's option to purchase the Subject Parcels and to submit an Article to for consideration by Town Meeting, (b) or to assign the Town's option to Unity Farm Sanctuary, Inc., 17 Unity Lane, Sherborn, MA 01770, or another nonprofit conservation organization, under the terms and conditions that the Select Board may consider appropriate, said purchase or assignment shall be for the purpose of maintaining the Subject Parcels in use as forest land as defined in section 1 of chapter 61, as agricultural and horticultural land as defined in sections 1 and 2 of chapter 61A, or as recreation land as defined in section 1 of chapter 61B; and
3. the Board intends to act in accordance with the provisions of M.G.L. c. 61B as affected by Section 9 of Chapter 53 of the Acts of 2020 under which all time periods within which any municipality is required to act, respond, effectuate or exercise an option to purchase having been suspended for a period of 90 days after the termination of the governor's March 10, 2020 declaration of a state of emergency.