

Anna Tesmenitsky  
4 Meeting House Path  
Ashland, MA 01721  
617-999-0306  
a\_tesmen@yahoo.com

January 13, 2022

Re: 501 Pond Street Project  
Ashland

Dear Members of the Planning Board:

Kindly accept the following as my public comment as a direct abutter and owner of 4 Meeting House Path, Ashland, MA.

I am not writing as a Planning Board member. See attached letter from the State Ethics Commission if any questions arise as to what I am permitted to do when acting as a general member of the public.

1. **Planning Board Role & Site Walk**

Any development pursuant to the PSMUOD by-law (applicable to this project) shall be allowed only by special permit. This means that this project is not "by right" - the developer cannot just build apartments as proposed. The project must meet criteria of the bylaw and get a super majority vote of the Planning Board. PB can allow commercial, residential, or combo of uses.

The PSMUOD is a very specific type of bylaw, relevant to the area at issue. Please conduct a site walk so that you have a better understanding of the neighborhood and impact of this project.

2. **Commercial/Residential Use – PSMUOD**

Please carefully review each of the 8 criteria and 5 review standards.

At least 3 Development Criteria are not met.

**Criteria 2: Adequacy of the provision of open space, its accessibility to the general public, and/or its association with adjacent or proximate open space areas.**

The only open space proposed is a small dog park for residents of the Project. There is nothing in this project that supports adjacent or proximate open space areas, such as Cadillac Park (which still needs a cross walk to be accessed) or the purchase/creation of any public green space (i.e. such as a section of the parking lot near the empty store front of the former Papa Gino's/Shaw's, where the town of Ashland currently appears to store snow each winter and thus may have some kind of informal or similar permission for public use). While there may be opportunity to partner with the Town in adjacent or proximate open space areas, this is not addressed by the application.

In contrast, note footnote on page 11 of the Narrative and project details document:

Developer has committed to completing proposed gravity connection off of Blue Jay Lane and Bay Colony Drive. Applicant agreed to work with town engineer and consultant Haley & Ward to complete connection as designed. Separate filing with conservation commission will be required for the proposed connection work.

Why is the developer willing to do off site sewer work, but not on and/or off-site green space work?

**Criteria 7: Degree to which the project combines with the purpose of the bylaw.**

Kindly review the purpose of the district: "to promote economic development, encourage more efficient use of infrastructure, add vitality to the corridor and provide better access to employment opportunities and services by allowing high density mixed residential and commercial uses within the same building."

Without genuine commercial use on the ground floor, the project does not properly address the purpose of the district. Using the ground space for a leasing office is not commercial use *as intended* by the bylaw. Tax revenue from this apartment building is not true economic development and/or employment opportunity.

In addition, this appears to be the last or one of the last PRIVATE undeveloped parcels in a key 126 section/intersection of Ashland. There are several large condo developments, many retail establishments, and some light industrial use already in the corridor.

What is missing that is intended by the zoning? The corridor is missing *public* green space people like myself can walk to, efficient use of infrastructure, economic development that encourages employment opportunities, as well as research and development (i.e. biotech, etc.)

This proposal does not fulfill the gap that needs to be filled so that the existing mix of structures and businesses functions as a holistic community.

**Criteria 8: Impact of the proposal on the existing mix of structures and businesses in the PSMUOD.**

One of the most impacted residential structures is my condo development behind the project. Please review carefully the letter your Board received in December of 2021 from the Ledgemere Board of Governors (attached). Please follow through on their requests.

If the follow through is not there, the project does not meet Criteria 8.

- Make it a written condition in any decision that there would be no connection between Meeting House Path and Converse Way (private).
- Make it a written condition in any decision that trees similar to what is already lining Meeting House/Leland be planted all the way across by Trask/developer so that the "gap" in the trees is filled all the way to the end of Meeting House (this is a small area, essentially at the end of my driveway).

- Make it a **written condition** in any decision that **NO walking paths** be built in the corner where Meeting House meets the golf course/Holliston line. There is already a proper walking path through trees on Leland into the area of the empty former Papa Gino's (where the Town of Ashland stores snow and where a public green space could in theory be considered).
- Assure that the current walking path, informal, between the golf course in Holliston to Meeting House be closed with trees so that overflow traffic due to development on 126 (including the 501 Pond street project) does not lead to additional un-authorized parking on Meeting House.

Again, please conduct a Site Walk so that you can be well-informed and data driven in your decision.

### 3. Density Bonus

There are two ways for the developer to "negotiate" a density bonus via the bylaw – either more affordable housing (25% instead of the standard 10%) or more green space. The term "negotiation" is appropriate because the Planning Board does not have to accept the density bonus or give a density bonus at all.

The density bonus is not necessary in this neighborhood. There are already two large condo developments, some of which are already rentals, and which are far more affordable than other parts of town where single family units dominate.

As a matter of equity, more dense housing should not be placed so precisely into specific parts of town where folks who may not afford single family already reside. The exception should be when those already more affordable communities receive the type of compromise that tips the balance towards what the community needs – i.e. what's missing to fill the gap – public green space, etc.

Let's build more dense affordable housing in parts of town that are predominantly single family or light commercial, etc. That's where affordable housing is most needed and is lacking, not right next to a Condo Community where many people go when they cannot afford single family.

This specific community lacks PUBLIC green space within walking distance or does not have robust infrastructure (i.e. cross walk to Cadillac park) to get there. If density is a consideration, put an emphasis on density bonus for green public space.

Thank you.

/Electronic submission/

Anna Tesmenitsky



**FirstService**  
RESIDENTIAL

Ledgemere Board of Governors  
Ledgemere Country Condominium Association  
c/o First Service Residential  
3000 Davenport Avenue  
Suite 201 Canton, MA 02021

December 2021

Re: 501 Pond Street Project

Dear Members of the Planning Board:

Ledgemere Country Condominium Association is a community of 388 homes, situated on Mountain Gate Road, Leland Farm Road and Meeting House Path. Ledgemere is a direct abutter to the 501 Pond Street apartments proposal. As the elected representatives of our community, and based on our residents' feedback, the Board of Governors seeks to have the Planning Board add the following written conditions to the 501 Pond Street Project proposal:

- Explicitly state in any approvals that there shall be no connection made, pedestrian or vehicular, between Meeting House Path and Converse Way (Private). This should apply both during and after construction.
- Require that trees similar to those already lining Meeting House Path and Leland Farm Road be planted all the way across the area by the developer to close the gap in the trees to eliminate perceived connection between the new development and Ledgemere.

These two conditions are necessary in order for our residents' continued enjoyment of their homes without disruption and disturbance. While we have received verbal assurances from Trask on these items, written conditions on any permits are necessary as well so that plans cannot be altered in the future.

Additionally, We also ask that the Planning Board strongly recommend to the developer of the 501 Pond Street Project that they seek alternative locations for the dog park and trash/dumpster area. On current plans, these are adjacent to our property. We believe there are other options available that do not impact the Ashland residents that live in our Ledgemere community, such as the south side of the property.

We understand that the developer is seeking to negotiate a density increase for this property. The Board is opposed to a density increase from 90 to 120 units. As town residents and taxpayers, we support green space versus increased density as a priority. With increased density, there would also be an increase of vehicles. The number of parking spaces may satisfy

Page 2

town standards, however we are concerned that Meeting House Path and Leland Farm Road would be used for overflow. The Board consistently receives feedback from residents that the existing level of road parking is disruptive and potentially dangerous. An increase of street parking on Leland Farm and Meeting House would be detrimental to the Ledgemere community.

Thank you for your consideration of the needs of Ledgemere in your decision making. We look forward to hearing your response at the January meeting.

Sincerely,

**Ann Gillis, President**

**Joan Logan, Vice President**

**John Brennan, Treasurer**

**Kate D'Angelo**

**Ron L'Heureux**

**Melissa Nadeau**

**Marc Picardo**

**Joshua Steckler**

**Margaret Williams**

----- Forwarded Message -----

From: Mallam, Norah (ETH) <[norah.mallam@state.ma.us](mailto:norah.mallam@state.ma.us)>

To: [a\\_tesmen@yahoo.com](mailto:a_tesmen@yahoo.com) <[a\\_tesmen@yahoo.com](mailto:a_tesmen@yahoo.com)>

Sent: Wednesday, November 3, 2021, 03:54:03 PM EDT

Subject: Your inquiry

Dear Ms. Tesmenitsky,

I am writing in response to your written request for advice pursuant to G.L. c. 268A, the conflict of interest law. In your written request for advice, you stated:

I am an elected Planning Board Member in Ashland, Ma. I am also a direct abutter for a project (501 Pond Street), which will be in front of the Planning Board. I understand I will need to recuse myself as a member of the Planning Board when this item is on the agenda. I have a few questions: (1) I can still participate regarding other items on the agenda? (2) when 501 Pond Street comes up on the agenda, do I recuse myself at that point and leave the Room/get off the virtual meeting (and come back when notified that the next item is on? (3) Can I still be a "member of the public" and participate as a direct abutter by observing the item and speaking ONLY as a member of the public/direct abutter (without making any decision as a Planning Board member?) (4) What if I oppose elements of the project? Can I work with neighbors or similar groups to raise awareness, encourage participation in the process, or build consensus around the project AS a citizen?

As an elected Planning Board ("PB") member in Ashland, you are a municipal employee for purposes of the conflict of interest law. See [Summary of the Conflict of Interest Law for Municipal Employees](#).

Pursuant to G.L. c. 268A, section 19, you may not participate as a member of the PB in any particular matter in which it is reasonably foreseeable that you have a financial interest. You are presumed to have a financial interest in the 501 Pond Street Project because you are a direct abutter to the project. See [Advisory 05-02: Voting on Matters Affecting Abutting or Nearby Property](#). Therefore, you are correct, you must abstain from participating as a member of the PB in the 501 Pond Street Project. I have responded to your specific questions below:

**1. I can still participate regarding other items on the agenda?**

- **Answer:** Yes, you may participate as a member of the PB in other matters on the agenda that are not related to the 501 Pond Street project, provided you do not have any conflicts of interest in participating in the other items on the agenda.

2. **when 501 Pond Street comes up on the agenda, do I recuse myself at that point and leave the Room/get off the virtual meeting (and come back when notified that the next item is on?**

- **Answer:** The Ethics Commission offers the following advice regarding a public employee's abstention from a matter:

Not only must a public employee abstain from voting when he has a conflict of interest, he may not participate in any official discussion of the matter. Ordinarily, the best course of action is simply to leave the room during the deliberation and vote of the board.

See [Advisory 05-02, Part V: Abstaining When a Conflict of Interest Occurs](#). Therefore, when the 501 Pond St. Project comes before the PB, the "best course" is for you to note for the minutes that you are abstaining from participating in this matter as a member of the PB and for you to then leave the room. If the matter is discussed by the PB in executive session, then you are required to leave the room. If the matter is discussed in public session, then you may remain in the room, but you will need to step down from the PB table and sit with the public. You will also need to make sure that you do not continue to participate as a member of the PB while you remain in the room. Additionally, pursuant to G.L. c. 268A, section 17, you may not speak on behalf of any other individual or entity while you are in the room. The conflict of interest law will not prohibit you from speaking at the public meeting on your own behalf as a private citizen. If you speak at the meeting as a private citizen, you will need to take care not to use your PB title or position to obtain any preferential treatment, or any unwarranted privileges or exemptions of substantial value that are not available to similarly situated individuals.

3. **Can I still be a "member of the public" and participate as a direct abutter by observing the item and speaking ONLY as a member of the public/direct abutter (without making any decision as a Planning Board member)?**

- **Answer:** See Answer to question 2 above. The conflict of interest law will not prohibit you from speaking on **your own behalf as a private citizen** provided the PB is discussing the matter in public session (if the matter is discussed in executive session, then you are required to leave the meeting while the matter is being discussed. The Ethics Commission offers the following advice regarding this issue in [Advisory 88-01: Municipal Employees Acting as Agent for Another Party](#):

### **Representing One's Own Interests and Personal Points of View**

Since acting on one's *own* behalf is not considered acting as agent, a municipal employee may always represent his or her own interests or points of view. For instance, a local employee may file her own grant application, or represent himself before the Zoning Appeals Board.

Note, however, that in matters involving the city or town, a municipal employee may *not* act on behalf of his or her own business partnership; representing the partnership would, by definition, involve acting as an agent.

Municipal employees may represent themselves before their own agencies, although they may *not* take any type of official action on the matter that affects themselves. In this situation, the employees should make every effort to clarify that they are acting on their own behalf, including:

- stating, in all written correspondence, that they are acting on their own behalf, and in their personal capacities rather than their official role;
- sitting in the audience before speaking at a hearing or public meeting, rather than sitting with other officials or staff members;
- making a public declaration, to be included in the minutes of the meeting, that they are acting on their own behalf, and in their personal capacities rather than their official role; and

- leaving the room during any Executive Session deliberations on the matter.

Municipal employees may also express their personal points of view concerning a matter pending before local government agencies. However, in such a case, the employee should clarify the situation by explaining that his or her comments constitute a personal opinion, and are not made on behalf of any group, organization, business or other individual. Without such a clarifying statement, the circumstances surrounding the employee's comments could be interpreted to constitute acting as an agent.

Note that when representing themselves or expressing personal points of view, municipal employees must *also* observe §19 of the conflict law, which prohibits municipal employees from taking any type of official action on matters which affect their own financial interests, or the financial interests of their immediate families, businesses or other organizations with which they are closely associated.

**4. What if I oppose elements of the project?**

- **Answer:** Yes, as a private citizen and on your own personal behalf, you may oppose elements of the 501 Pond Street Project. You may not use your PB title, or any other PB resources in connection with your private opposition of the project. Pursuant to G.L. c. 268A, section 23(b)(2), you may not use your PB position to obtain any unwarranted privileges or exemptions of substantial value that are not available to similarly situated individuals. For example, you may not use your position as a PB member to oppose the project.

**5. Can I work with neighbors or similar groups to raise awareness, encourage participation in the process, or build consensus around the project AS a citizen?**

- **Answer:** Pursuant to G.L. c. 268A, section 17, you may not act as an agent or attorney for anyone other than the Town of Ashland in connection with any particular matter that is of a direct and substantial interest to the Town. You may not act as an agent or representative or spokesperson for any other individuals, entities,

organizations, or groups in connection with a particular matter that is of a direct and substantial interest to the Town. For example, you may not contact a municipal department or appear before a municipal board on behalf of a group or another individual in connection with the 501 Pond Street Project. See However, the conflict law will not prohibit you from meeting privately, as a private citizen (i.e. not in your capacity as a member of the PB and provided you do not use any PB resources) with a group of people to strategize ways to raise awareness about the 501 Pond Street Project, provided you are not acting as an agent, representative, attorney, or spokesperson for the group. See Advisory 88-01: Municipal Employees Acting Agent for Another Party.

This email and your request for advice are confidential by statute. This means that you may disclose this advice to anyone you wish, but the Commission will not disclose this request or any other identifying information except in the circumstances set forth in 930 CMR 3.01(8).

Very truly yours,

Norah K. Mallam  
Staff Attorney  
State Ethics Commission  
One Ashburton Place, Room 619  
Boston, MA 02108  
617-371-9500

The information contained in this communication, including any attachments, is confidential, is intended for the use of the recipient(s) named above, and may be exempt from public disclosure or subject to the attorney/client or work product privileges. If the reader of this message is not an intended recipient, you are notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, please delete it and destroy all copies.