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**NOTICE OF DECISION
Drumlin Development, LLC
Orchard Hill
lot 31- 761 Boston Post Road
Sudbury ZBA Case 96-15
2 October, 1996**

Deed in Book 27932, Page 242

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DRUMLIN DEVELOPMENT
SUDBURY, MASS.

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A. Background

The Sudbury Zoning Board of Appeals received application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from Drumlin Development, LLC to construct and operate one building of 45 units of assisted living housing for the elderly. In reviewing the application of Drumlin Development as well as evidence presented in written or oral form by citizens and Town Boards during the course of the public hearing, the Board of Appeals has determined that the Town of Sudbury does not meet the specific statutory criteria for availability of low and moderate income housing as those units currently in existence constitute less than 10% of the housing units in the Town and are on sites which comprise less than 1.5% of the total land area of the Town which is zoned for residential, commercial or industrial use excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof. The Board has further determined that the allowance of this application will not result in the commencement of construction of low or moderate income housing units on a site comprising more than 0.3% of the area of land zoned for residential, commercial or industrial use in Sudbury in a single calendar year excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof. The Board also finds that the development as proposed in the application, as modified during subsequent sessions of the public hearing and as modified by the attached conditions is consistent with local needs within the meaning of Massachusetts General Laws Chapter 40B, Sections 20-23 and that it is consistent with the character of the zoning district. Finally, the Board notes that the applicant has presented evidence of agreement to purchase the site as well as preliminary site approval by the financing authority, the Massachusetts Housing Financing Authority.

Therefore, the Board finds that there is compelling evidence to support the granting of a Comprehensive Permit to enable the construction and operation of

the assisted living facility described during the public hearing and known as Orchard Hill, subject to the following conditions.

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B. Application Details

1. This approval is based on a Plan entitled 'Comprehensive Permit Site Development Plan, Orchard Hill Assisted Living Residence, Sudbury, MA, Applicant and Owner: Clifford T. Hughes, Drumlin Development, LLC, 20 Oak Street, Beverly Farms, MA, by Samiotes Consultants, Inc., 10 Central Street, Framingham, MA, dated July 18, 1996, with modifications as required herein, consisting of: Sheet 1 of 8, Existing Conditions Plan; Sheet 2 of 8, Grading Plan; Sheet 3 of 8, Layout and Material Plan; Sheet 4 of 8, Utilities Plan; Sheet 5 of 8, Civil Details; Sheet 6 of 8, Civil Details; Sheet 7 of 8, Septic System Plan; Sheet 8 of 8, Septic System Details; Sheet 9 of 10, Driveway Profile; Sheet 10 of 10, Driveway Profile.
2. This permit shall run to the applicant. The permit does not run to the site.
3. This permit shall become void if applicant does not proceed with the development as approved herein.
4. This permit approves the construction and operation of a forty five (45) unit assisted living residence in one building, with associated accessory structures, facilities, construction and landscaping as identified in the Plan. Nine (9) units shall be reserved for low or moderate income residents at established rates pursuant to the Massachusetts Housing Finance Agency's (MHFA) Elder Choice Program. Any substantial deviations, as determined by the Zoning Board of Appeals, from the approved Plan, including but not limited to changes in the building size, exterior facade, roadways, lighting or screening, shall require approval of the Board.

C. General Conditions

1. In the event removal of earth from the site shall be required to complete the building, roadway, septic or drainage improvements shown on the Plan, the applicant shall comply with the provisions of Article V.A. of the Town of Sudbury bylaws regarding earth removal.

2. Town water shall be extended to serve the facility. Installation of water mains and hydrants shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief. No drinking water wells shall be permitted.
3. Board of Health approval shall be obtained for construction of the wastewater disposal system.
4. All utilities serving this facility shall be installed underground, including any extensions from existing lines or poles external to the subject property. All existing overhead utilities and poles located on the premises shall be removed and replaced with underground services.
5. A Notice of Intent shall be filed with the Conservation Commission for any construction or disturbance proposed within one hundred (100) feet of a wetland resource. If applicable, no work shall commence until an Order of Conditions has been issued by the Conservation Commission and a copy provided to the Zoning Board of Appeals.
6. Any historic artifacts discovered on the site before, during or after construction shall be donated to the Sudbury Historic Commission for addition to the Town's historic collection.
7. The use of sodium based de-icing chemicals shall be prohibited on this site.
8. No storage of fuel or chemicals in quantities greater than normal household use shall be permitted on this site without the approval of the Zoning Board of Appeals.
9. Construction of this facility shall not commence until final building plans have been submitted and approved by the Building Inspector, including an architectural rendering and a landscape plan as detailed in condition D.1 and D.3 below.
10. Occupancy of this facility shall not occur until all conditions of this approval have been complied with.
11. Twenty (20) parking spaces, including two (2) handicapped spaces, are provided on the Plan. Reserve area for an additional nine (9) spaces is proposed. The Zoning Board of Appeals reserves the right to require the owner to construct to specification the nine reserve spaces if, at any future time, it is determined that additional parking is required for safety, convenience or circulation at the site.

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12. There shall be no more than two (2) occupants per bedroom, and no conversions shall be allowed to provide additional bedrooms beyond the 45 approved units without the express approval of the Zoning Board of Appeals.

13. All other statements, conditions and restrictions agreed upon by the applicant during any of the public hearing sessions held on this applications shall be incorporated herewith and become conditions of this approval.

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D. Plan Revisions

1. A Landscape Plan shall be submitted for review and approved by the ZBA which indicates the limits of clearing on the site. All such undisturbed areas shall be labeled as to the extent of vegetative clearing proposed (i.e., no removal of live vegetation, no removal of live vegetation over 6" dbh (diameter at breast height), limited clearing of underbrush and dead vegetation, removal of vegetation and revegetation with listed species). Also included in the Landscape Plan shall be ornamental plantings proposed for the residence, buffer plantings required by this decision and landscaping proposed for the entrance to the facility at Route 20; including landscaping of the detention basins and the entrance sign. A notation shall be included on the Landscape Plan indicating all disturbed areas to be stabilized with vegetation or loamed and seeded.

2. A notation shall be added to Sheet 4 of 8 indicating all utilities shall be installed underground.

3. An architectural rendering of the site from Route 20 shall be submitted for approval by the Board.

4. Sheet 3 of 8 (Layout and Material Plan) shall be revised to indicate the type, location and wattage of all driveway and entrance lighting.

5. A single entrance sign shall be relocated to attain a setback of at least 26 feet from the edge of pavement. This revised location may necessitate a minor modification in the shape of detention basin #2. This sign shall be no more than 6 feet by 4 feet and less than 8 feet tall and illuminated on each side by intensity and color equivalent to that of a 75 watt incandescent lamp.

6. Sheets 6 of 8 and 10 of 10 shall be revised to require 12" of processed gravel instead of 6".

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E. Landscape/Buffering

1. Site clearing shall be limited to those areas outside the Limit of Clearing line shown on the Plan. No clearing shall be allowed within the Limit of Clearing, and no erection of structures within this area shall occur, with the exception of the following. Clearing of vegetation within the Limit of Clearing shall be limited to removal of dead or diseased vegetation, removal of noxious or injurious vegetation, removal of underbrush (provided replacement underbrush which stabilizes the area and deters erosion is planted), and removal of live vegetation which is less than 6" dbh. Development of the relocated trail to the Knox Trail Scout Reservation is permitted if, in the future, connection of this trail to the remaining reservation land is mutually agreed upon by the Boy Scout Council and the applicant. Notwithstanding the foregoing, the applicant agrees to honor any pre-existing covenants with adjacent property owners regarding removal of vegetation in the Limit of Clearing which may specifically prohibit any of these exclusions.

2. Additional screening plantings may be required along Route 20 to screen the facility. These plantings may be necessary in the vicinity of the front entrance and westward from the front entrance to the western property boundary. The Board shall view the site at or shortly before the time of substantial completion of all construction for the purpose of making such a determination. If, in the Board's opinion, additional plantings are required, they shall be a variety of native, evergreen species, planted in a staggered pattern. These plantings will supplement the approved ornamental landscaping or natural vegetation, and will not negate any other landscape requirement of this decision.

The proposed apple orchard shall be installed in accordance with the approved landscape plan, and shall be maintained and operated as detailed in a letter to the applicant from Richard Johnson of Stephen Stimson Landscape Architect dated July 25, 1996, included as an addendum to the application. Due to the significant use of apple trees as screening vegetation, the owner shall be required to maintain live, healthy trees in the front yard of the property, and shall not abandon or remove the orchard without the express permission of the Zoning Board of Appeals. If removed, the owner will be required to provide other types of landscape vegetation, as approved by the Board.

3. All large healthy trees on the site shall be retained and not disturbed or destroyed during the construction of the facility except for those trees which must

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be removed or disturbed for the construction of the building, driveways, septic system and uses accessory thereto.

F. Construction Details

1. Detailed plans of the following utilities and services shall be prepared in accordance with all applicable regulations and requirements and shall be submitted for review and approval of the listed authorities prior to commencement of construction:

water mains - Water District Superintendent
 hydrant locations - Water District Superintendent and Fire Chief
 fire alarm cable and boxes - Fire Chief
 primary and secondary electrical cables including distribution boxes and transformers - Wiring Inspector
 street lighting and telephone cables - Wiring Inspector
 gas pipes - Building Inspector

2. Complete building plans shall be prepared and submitted for review and approval by the Building Inspector. No construction will be permitted to begin until final plans and architectural elevations are approved by the Building Inspector. All plans and construction shall conform to minimum standards set forth in the Massachusetts Building Code, unless deviations are expressly permitted by the Zoning Board of Appeals. As built plans certified by both a professional engineer and a professional land surveyor shall be provided to the Building Inspector.

3. All plumbing, gas, electrical, building and other permits normally required shall be applied for and obtained prior to commencement of construction.

4. Final drainage plans shall be submitted for review and approval of the Town Engineer. The parking lot drainage shall be designed to control a 20 year storm, crossing culverts shall be designed to control a 50 year storm, and the detention basins shall be designed to control a 100 year storm. There will be no increase in the rate of runoff from pre-existing conditions and post-development conditions.

5. The proposed wastewater disposal system shall comply with the current provisions of 310 CMR 15.000: The State Environmental Code, Title V.

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6. Construction shall be carried out in a manner that does not adversely affect abutting property owners.
7. The proposed building shall be of wood frame construction with wood clapboard or cedar shingle exterior.
8. No living areas shall be located below ground.
9. Fire access shall be provided on three sides of the building.
10. All trash shall be housed inside the building.
11. All exterior lighting shall be arranged to prevent glare and light spilling over to neighboring properties or the public way. There shall be no building flood lighting and no night-time external illumination of the cupola. Internal lighting of the cupola shall be directed downward and shall be limited to that necessary for internal illumination. Lighting along the roadways within the development shall consist of fixtures as discussed at the September 10, 1996 public hearing session for this application and shall be limited to 75 watts or less per fixture. All lighting details shall be shown on sheet 3 of 8.

G. Driveways

1. All roadways and driveways shown on the Plan shall be constructed of bituminous concrete pavement. The paved width of the main driveway shall twenty four (24) feet with a grade not to exceed 5% in any location, as shown on sheet 9 of 10. Four foot shoulders shall be installed throughout the entire length of the main driveway. Swales shall be constructed along the driveway beyond the shoulder to channel runoff into drainage structures. All swales shall be vegetated and stabilized to prevent erosion. The main driveway turnaround shall have minimum diameter of 80 feet with an easterly radius of 40 feet. The service driveway shall be no less than 16 feet wide with a grade not to exceed 10% in any location, as shown on sheet 10 of 10. Granite curbing shall be installed on both sides of the Route 20 entrance for a minimum length encompassing the full length of the rounded curve plus a straight section of at least six (6) feet.
2. Parking along the fire lanes or driveways is prohibited.

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3. A curb cut permit from the Massachusetts Highway Department is required. Evidence of approval from that agency shall be submitted to the Town Engineer prior to commencement of construction.

4. A deceleration lane shall be constructed on the eastbound lane of Route 20 to provide a turning lane for vehicles entering the site. Approval from the Massachusetts Highway Department is required for this improvement. In the alternative, the applicant shall propose measures to enhance sight distance at the western property boundary, which may include installation of attractive, low fencing to delineate the property line and selective removal of vegetation along Route 20, subject to the approval of the Zoning Board of Appeals. The owner shall be responsible for periodic mowing of the shoulder areas of Route 20 to keep the sight distance free of visual obstacles. The Town Engineer shall view the development and sight distance lines at or shortly before completion of the development to determine the need for a sight easement, which would permit the Town to maintain a clear line of sight along Route 20. If required, the applicant shall record such sight easement prior to occupancy of the facility.

5. All parking spaces shall be constructed in compliance with the minimum dimensions of the Town of Sudbury Zoning Bylaw, consisting of 9 foot by 18.5 foot stalls and a 24 foot maneuvering aisle width for perpendicular parking spaces.

6. As built plans of all driveways and drainage structures shall be submitted for review and approval of the Town Engineer prior to occupancy of the facility.

H. Inspections/Maintenance

1. A construction schedule shall be submitted to the Zoning Board of Appeals, Town Engineer and Building Inspector prior to commencement of construction in order to facilitate inspections. Such schedule shall be revised quarterly to reflect work completed and changes in construction timing.

2. The owner shall be responsible for extermination of rodents and insects on the subject premises.

3. The owner shall be responsible for periodic monitoring and maintenance of grease and oil traps and catch basins. Regular cleaning of catch basins and traps is critical to proper functioning of the drainage system, especially during construction when siltation is likely to occur.

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4. Snow removal, maintenance of roads and walks, lighting and utilities shall be installed and maintained by the applicant or its assigns. The Town of Sudbury does not accept responsibility for any infrastructure improvements in this development.

I. Legal Requirements

1. The applicant shall provide adequate builders risk insurance and comprehensive liability insurance in accordance with industry standards and Massachusetts Housing Finance Agency regulations.
2. Prior to construction, the general contractor shall provide a 100% payment and performance bond payable to the financing agency. The owner shall guarantee completion in accordance with the approved Plans, or restoration of the land to its former condition if the development is abandoned prior to completion.
3. A Reserve for Replacement Fund shall be established by the owner pursuant to MHFA regulations.
4. An application review fee based on the standard rates applicable and sufficient to cover the cost of Town employee review time of the subject application shall be submitted prior to occupancy of the facility.
5. All permit fees normally required for building permits and other Town permits shall be paid to the Town.
6. All necessary easements shall be granted by the applicant where required by public utility companies or the Town of Sudbury. Evidence of recordation of all easements shall be submitted to the Zoning Board of Appeals.
7. Evidence of financing approval shall be submitted to the Zoning Board of Appeals prior to commencement of construction.
8. If at any time during construction, any Town official or representative determines that a violation of the approved Plan or this decision has occurred, the Town shall notify the applicant by certified mail and the applicant shall be given 30 days to rectify said violation or construction activities shall be ordered to cease until the violation is corrected.

9. This permit shall expire if construction does not begin within three (3) years of the date of filing this decision with the Town Clerk. The Zoning Board may grant extensions for good cause.

10. To the extent legally allowable, priority shall be given to Sudbury residents for occupancy of the low and moderate income units. To the extent legally allowable, occupancy shall be restricted to those 55 years of age or older.

11. The applicant has volunteered to record the following deed restrictions pursuant to this approval, which shall run with the land and be recorded at the Middlesex South Registry of Deeds, with the recording information submitted to the Zoning Board of Appeals prior to commencement of construction:

- a) the owner covenants to prohibit further subdivision of this property in perpetuity.
- b) the owner covenants to prohibit the removal of trees greater than ten (10) inches diameter and construction of developed walking trails within 100 feet of the western property boundary in perpetuity.
- c) the owner covenants to require no less than nine (9) units to remain dedicated to low income occupancy for a period of fifty (50) years
- d) the owner covenants to permit the use of subject premises for elderly housing for a period of fifty (50) years.

12. A performance bond may be required by the Zoning Board of Appeals to ensure construction and functioning of the roadways, drainage system, landscaping or other conditions in compliance with the approved Plans. Such cost estimate to be determined by the Town Engineer at the then current bonding rates established by the Planning Board.

13. This decision shall be recorded at the Middlesex South Registry of Deeds. Recording information to be submitted to the Zoning Board of Appeals prior to commencement of construction.

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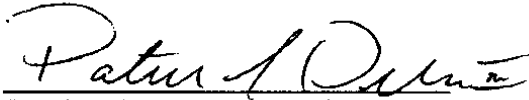
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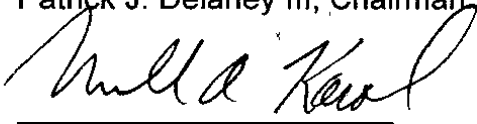
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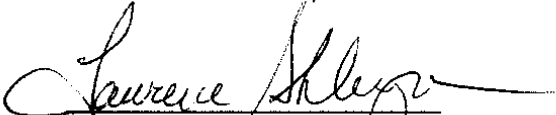
On Motion:


To conditionally approve the application of Drumlin Development, LLC (hereinafter referred to as the applicant) for a comprehensive permit under the provisions of General Laws chapter 40B sections 20-23, inclusive, to permit the construction and operation of one building of 45 units of assisted living housing for the elderly, with 9 units reserved for low or moderate income residents in accordance with the Massachusetts Housing Finance Agency (MHFA) Elder Choice Program, on land now owned by James J. O'Keefe Trust (Assessor's map K05, parcel 31) consisting of 10 acres on Boston Post Road in Sudbury as described in the application submitted to the Zoning Board of Appeals (hereinafter referred to as the Board), as modified during subsequent sessions of public hearing and subject to the previous conditions:

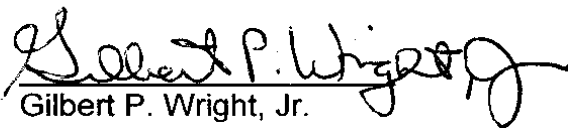
voted


Patrick J. Delaney III, Chairman


Marshall A. Karol, Clerk


Lawrence Shluger


Thomas W. H. Phelps


Gilbert P. Wright, Jr.

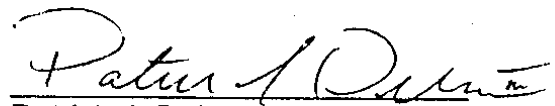
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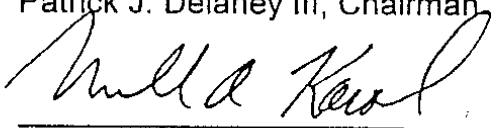
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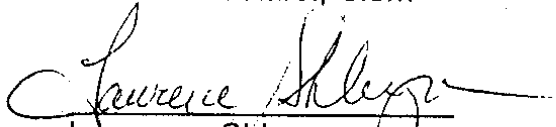
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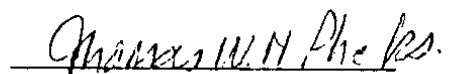
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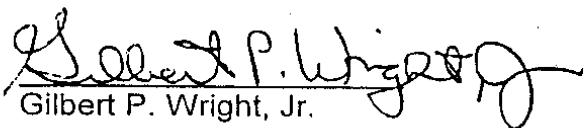
voted


Patrick J. Delaney III, Chairman


Marshall A. Karol; Clerk

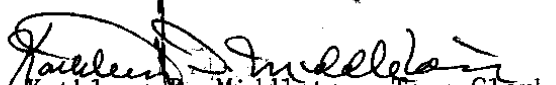

Lawrence Shluger


Thomas W. H. Phelps


Gilbert P. Wright, Jr.

July 1, 1998

This is to certify that no notice of an appeal from the Board of Appeals decision #96-15 was filed in this office within 20 days after such decision was filed on October 15, 1996.


Kathleen D. Middleton, Town Clerk