



## TOWN OF HOPKINTON

OFFICE OF  
THE PLANNING BOARD

TOWN HALL  
18 MAIN STREET  
HOPKINTON, MASS. 01748  
(508) 497-9755

May 12, 2005

### DECISION

Petition for a Special Permit filed by Simba, LLC, P.O. Box 3096, Fayville, MA, for a 20-unit Garden Apartments in Residential Districts Concept Plan entitled **SUDBURY RIVER TOWNHOUSES** to be located at 54 Cedar St. Extension and off Lincoln Street, Assessors Map R3 Blocks 8, 9, and 14. The Special Permit is sought under Hopkinton Zoning Bylaw Chapter 210, Article XIII, Garden Apartments in Residential Districts.

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The Zoning Act having been duly complied with regarding notice, a public hearing was held on March 28, 2005, continued to May 9, 2005. The Special Permit application and Concept Plan showing 27 units was submitted by Simba, LLC (the "Applicant") on January 26, 2005. The land is owned by Simba, LLC.

The property is located in the Agricultural zoning district and contains a single family house and wooded land. The proposed Garden Apartment site would comprise 20.03 acres including 3.13 acres of wetlands, with 11.98 acres of the site considered "useable acres" by the definition contained in the Garden Apartments in Residential Districts bylaw (the "Bylaw"). The plan shows that 10.42 acres of the site would be set aside as permanent open space.

The site is surrounded by single family homes and is adjacent to the Sudbury River and the Town of Southborough to the north.

Garden Apartments in Residential Districts, as defined by the Bylaw, are allowed by Special Permit in zoning districts where residential uses are permitted by right, if the criteria contained in the Bylaw are met.

### Review Standards

In the Commonwealth of Massachusetts, no one has an absolute right to a Special Permit. While the Planning Board must act fairly and reasonably on the evidence presented, keeping in mind the objectives and purposes of the Zoning Act and the Bylaw, the Planning Board has the discretion to deny a Special Permit even if the facts show that such a permit could have been lawfully granted.

The Bylaw states that before the Planning Board may issue the Special Permit, it shall determine each of the following:

1. That the proposed development constitutes a desirable development in the neighborhood and in the town.
2. That the proposed development will not be detrimental to the neighborhood or the town.
3. That the plans generally provide adequately for convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets, property or improvements, with the understanding that review of such items will be more detailed at the site plan stage.
4. That the plans appear to provide adequate methods of disposal of sewerage, refuse and other wastes, adequate methods for drainage for surface water and seasonal flooding, if any, and adequate provision of water for domestic purposes, with the understanding that review of such items will be more detailed at the site plan stage.
5. That the plan complies with the Master Plan.
6. That the provisions of § 210-72A and B of the Article have been met.

The Bylaw states that if the Planning Board does not make all of the above determinations, it shall deny the application stating its reasons for such denial.

Section 210-72.B lists eight general planning, design, conservation, and development objectives of the Bylaw. The Board views these as key to outlining the Town's intent and goals for providing such housing in the community and as guidelines for the Board in its review of applications.

Section 210-74.B(1) of the Bylaw requires that the project be located on a parcel containing not less than 10 acres of useable land but not more than 30 acres of useable land and 200 feet of frontage on a public road. The development parcel will contain 11.98 acres of useable land and have in excess of 200 feet of frontage on Cedar Street Extension, a public road. The property also has about 45 feet of frontage on Lincoln St.

Section 210-74.B(2) establishes a maximum density of 8 bedrooms per acre of useable land. The original submittal proposed 27 units and would have had 4.5 bedrooms per useable acre, and the 20-unit revised plan would have 3.3 bedrooms per useable acre.

Section 210-74.B(5) establishes a maximum height of 2 ½ stories, a maximum of 4 units per building, and allows up to 10% of the dwelling units to be detached family units. The revised plan submitted showed a maximum of three units per building.

Section 210-74.B(6) requires two parking spaces per unit. The number of parking spaces shown on the Concept Plan met this requirement.

Section 210-74.B(7) sets forth the setback requirements for buildings from abutting property lines and interior roadways. Buildings must be located a minimum of 100 feet from any property line, but this setback may be reduced by the Board upon a finding that a setback of lesser width would be sufficient to visually screen and/or separate the development from adjacent property. The submitted application requested a waiver to allow the retention of the existing home on the property, which does not comply with the 100 ft. setback. The home would be used as one or two dwelling units.

Section 210-74.B(13) requires a recreation space of at least 600 sq. ft. per dwelling unit for recreation purposes, suitable for the siting of active recreational facilities, in addition to the open space required for the project. The recreation area is indicated on the submitted plans.

Section 210-74.B(17) states that roads are to be constructed in accordance with the standards of the Subdivision Rules and Regulations of the Town of Hopkinton, with the exception of width and length, which shall be determined by the Planning Board. The Concept Plan showed a 22 foot wide traveled way for the interior roadways. The interior roadways appear to meet the design and construction standards of the Subdivision Rules and Regulations, but this will be further reviewed at the Site Plan stage when detailed engineering drawings are submitted.

A minimum of 30% of the development site is required to be set aside as permanent open space as required by Section 210-74.B(18). The plan shows that 10.42 acres of open space would be provided, or 52% of the site. The open space would include land directly adjacent to the Sudbury River.

#### **Discussion at the Public Hearings and Information Received**

In addition to the initial application package, the Applicant submitted supplemental information to the Board which included preliminary drainage calculations. In the past, the property was the subject of an Open Space and Landscape Preservation Development subdivision. The Planning Board approved the Sudbury River Estates 10-lot definitive subdivision plan in 2004. The Applicant does not intend to construct the subdivision plan.

The original 27-unit submittal showed significant site disturbance and grading on the property, with cuts up to 24 feet in depth and two non-contiguous parcels of open space. The revised 20-unit plan showed less grading and site disturbance with cuts up to 6 feet in depth and one contiguous parcel of open space which included a wildlife corridor through the site to the Sudbury River. The Applicant provided information which indicated that the water withdrawal and septic system flows for the 20-unit plan would not exceed those that would have occurred on the parcel with the 10-lot single family subdivision. Neither the original 27-unit plan nor the revised 20-unit plan showed any activity within the buffer zone to a wetland resource area.

Written comments and recommendations on the application were received from the Sudbury River Watershed Organization, Sudbury Valley Trustees, Hopkinton Conservation Commission, Thomas Ryder, Hopkinton Public Health Administrator, several abutters and residents, and Fay, Spofford & Thorndike, LLC, the Board's consulting engineer. Several residents and concerned citizens spoke at the public hearings on the application.

The original submittal proposed all 27 units on one roadway off Cedar St. Extension. The revised plan proposed 9 units on an extension of Lincoln St. and 9 units on a roadway off Cedar St. Extension. The existing home would continue to be accessed off Cedar St. Extension.

Discussion at the public hearings included the following issues:

- Location and quality of the proposed open space and wildlife corridor on the property;

- The amount of site disturbance and grading on the property;
- The possible negative impacts of the water supply and septic system on nearby residents and the Sudbury River;
- Proposed stormwater management system;
- Landscaping and screening;
- The design and layout of the roadways to serve the development;
- The provision of affordable dwelling units;
- The disposition of the existing house on the property.

Some residents expressed concerns about the traffic impacts of the development on Cedar St. Extension and Route 85, drinking water resources, impacts of the water withdrawal and septic system on the Sudbury River, and what could amount to a concentration of multi-family developments in one area of Hopkinton. Some residents noted they were pleased with the responsiveness of the Applicant and were comfortable with the proposed design.

The Applicant offered to provide three affordable dwelling units within the development with the original 27-unit submittal. However, with the reduction in units to a maximum of 20, no affordable units would be provided.

#### **Findings and Votes of the Board**

At its meeting on May 9, 2005, the Planning Board voted to: 1) determine that the Approval Criteria had been met, and 2) grant the Special Permit and approve the Sudbury River Townhouses Garden Apartment Concept Plan, entitled "Sudbury River Townhouses", prepared by Beals and Thomas, Inc., dated January 24, 2005 and revised through May 2, 2005, with the following conditions:

1. The Garden Apartment Site Plan shall clearly delineate the open space area on the development parcel.
2. The development on this site shall contain a maximum of 18 units in new townhouse style condominium buildings and up to two additional units in the existing house. The Applicant requested a waiver of the 100 foot setback requirement so that the existing house could be retained and remain a dwelling with one or two units. The Board decided to review the waiver request at the Site Plan stage when more is known about the house and the proposed site development.
3. The Garden Apartment Site Plan shall show fire protection and prevention measures. The Applicant shall consult with the Fire Department in development of the plan and relative to the necessary capacity and design of the system for the property.
4. The drainage system shown on the Garden Apartment Site Plan shall be designed to ensure that the water quality of the stormwater runoff is not detrimental to the wetlands and receiving water bodies. The drainage system shall also be designed to allow for as much infiltration and aquifer recharge as possible. An operation and maintenance plan, including

detailed step-by-step instructions for the stormwater management system maintenance, shall be submitted with the Site Plan.

5. Due to its location near the Sudbury River and community water supplies, the site shall be designated as a “no-salt” area and signs shall be erected to this effect when the roadways and driveways are paved.
6. The Applicant shall utilize a xeriscape approach to landscaping on the property. Low nitrogen and low phosphorus lawn fertilizers, or no fertilizers, shall be used on lawn and recreation areas, due to the proximity of the site to the Sudbury River and community water supplies.
7. The letter dated May 9, 2005 from Fay, Spofford and Thorndike, LLC, the Board’s consulting engineer, contained several comments and recommendations relative to the Concept Plan. These items shall be addressed at the Site Plan stage to the satisfaction of the Planning Board.
8. An erosion and sedimentation control plan shall be submitted with the Garden Apartment Site Plan. It shall address soil erosion and sedimentation control measures at and downstream of the site.
9. Dedicated open space shall not be used for storage of construction vehicles, building materials, stockpiled loam or other material during construction.
10. The Garden Apartment Site Plan shall show proposed landscape features, such as trees and plantings.
11. Site lighting shall be minimal, and shall be directed downward, not up or outward. No lighting shall spill onto the street or abutting properties. The Site Plan shall show all outdoor lighting fixtures proposed, including a detail of the fixtures. A photometric plan shall be submitted with the Site Plan.
12. The Garden Apartment Site Plan shall show the limit of clearing proposed for the site, both temporary (for construction purposes) and permanent.
13. No dwelling units shall be located within the buffer zone to any wetland resource area as defined by the Hopkinton Wetlands Protection Bylaw and Regulations. Only incidental activities shall be located within the 100 ft. buffer, such as some grading, roadway, utilities, and stormwater management facilities, if approved by the Conservation Commission.
14. The Applicant shall further develop the unit designs to achieve an exterior appearance that fits with the neighborhood and is an asset to the area. The Applicant is encouraged to seek input and recommendations from the Design Review Board.

On the motion to grant the Garden Apartment Concept Plan Special Permit subject to the foregoing conditions, the vote of the Board was as follows:

Mark Abate	Yes
Scott Aghababian	Yes
Sandra Altamura	No
Evan Ballantyne	Yes
John Coolidge	Yes
Pamela Duffy	Yes
Jaime Goncalves	No
Brian Herr	Yes
Claire Wright	Yes

Any person aggrieved by this decision may appeal in accordance with M.G.L. Chapter 40A within 20 days of the filing of the decision with the Town Clerk.

This Special Permit shall become void within two years from the date of issue in accordance with Mass. General Laws, Chapter 40A, Section 9.

This Special Permit shall not be effective until filed with the Registry of Deeds by the Applicant.

John H. Coolidge  
Chairman

cc: Simba, LLC  
Beals and Thomas, Inc.  
Town Clerk  
Conservation Commission  
Director of Municipal Inspections  
Fire Chief  
Board of Health  
Director of Public Works  
Fay, Spofford & Thorndike, Inc.  
Sudbury Valley Trustees