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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Faulkner Mill Realty LLC (hereinafter the Petitioner) for the property located at 4 High Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map H2A Parcel 64 and 57.

This Decision is in response to an application submitted to the Board on September 24, 2004 by the Petitioner for a Site Plan Special Permit under Section 10.4 and Special Permit under sections Table of Principal Uses sub-note (2) and 10.3 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct three residential housing units in one building and twenty-seven in the second building with associated parking.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on November 15, 2004 at 7:30 P.M. and continued until December 13, 2004 at 7:30 P.M. to January 3 at 8:45 P.M. and closed on January 24 at 8:00 P.M. in the Selectmen's Hearing Room at the Acton Town Hall. Board members F. Dore' Hunter, Walter Foster, William Shupert III and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan and Special Permit approval received September 24, 2004, a booklet containing a certified abutters list, USE description, list of other permits, drainage calculations, water balance calculations, earth removal calculations and a traffic study. A five sheet set of engineering plans dated August 31, 2004 revised December 6, 2004, a four sheet set of building plans dated June 3, 2004 revised November 30, 2004, an outdoor lighting layout prepared by Thomas Lemons and HADCO Architectural Outdoor Lighting. Two letters from Stamski and McNary, Inc. dated 11/15/05 and 12/06/04.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated 11/08/04, 12/10/04, 12/30/04 and 01/03/05
2. Town Planner dated 12/13/04
3. Fire Chief dated 11/24/04
4. Municipal Properties Director dated 10/14/04
5. Engineering Administrator dated 10/28/04 and 12/09/04
6. Health Director dated 10/07/02, 02/27/03, 10/14/04
7. Transportation Advisory Committee dated 12/09/04
8. Recreation Director dated 09/30/04
9. Planning Board dated 10/28/04
10. Acton Housing Authority dated 11/12/04
11. Historic District Commission dated 10/31/04 and 12/29/04

Exhibit III

Letters from Iron Work Farm dated 11/15/04, and 12/30/04; Richard Fallon dated 12/08/04 and 12/29/04; Ronald Nealey dated 11/29/04; Two petitions from residents.

Exhibit I is hereinafter referred to as the Plan

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1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in South Acton Village Zoning District and Zone 4 of the Groundwater Protection District. A Special Permit is required to allow more than 4 residential units in one building.
- 1.2 The Petitioner has agreed to install a fence directly behind the rear building. The fence shall be installed prior to the occupancy of any building.
- 1.3 The property is located adjacent to an active railroad. All potential residents shall be notified in writing as part of any lease the presence of the railroad and the likelihood of accompanying noise.
- 1.4 The Petitioner has requested from the Sewer Commissioners permission to connect this property to the Town Sewer system. This approval is not an indication that the Commissioners will approve the requested tie in. The Petitioner must either obtain that approval or design a septic system compliant with Title V.
- 1.5 The Petitioner has shown a sidewalk along the frontage of High Street as required by the Bylaw. A flush concrete sidewalk shall be extended across the entrance to Erikson Grain Mill. The entire sidewalk along the frontage shall be concrete. The Petitioner has also agreed to install a bituminous concrete sidewalk leading to the westerly emergency entrance to Audubon Hill if they can get necessary approvals. Push braces may be needed.
- 1.6 The Fire Chief has concerns about site access. The Petitioner has agreed to revise the parking lot to provide the necessary turnaround.
- 1.7 The Bylaw requires one of the units be owner occupied. The owner has been identified as Faulkner Mill Realty, LLC. Prior to a building permit being issued the Petitioner shall provide documentation on which unit is to be owner occupied and who has legal or beneficial title. The Board finds only one of the units must be owner occupied, not one in each building.
- 1.8 The Bylaw requires buildings in the South Acton Village District be compatible with their surroundings with respect to height, façade facing the street, rhythm of solid surfaces and openings, roof slopes and scale. The Petitioner has worked with both Iron Works Farms and Historic District Commission. The Board finds the Plans as revised are compatible with their surroundings.
- 1.9 The Acton Housing Authority and the Petitioner had reached an agreement to set aside two rental units for low income households. The rents for the two units would have been set at HUD;s Fair Market Rents. Unfortunately the Acton Housing Authority is unable to permanently guarantee Section 8 subsidy.
- 1.10 The Plan as herein modified:
 - Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
 - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.

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- Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
- Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
- Is consistent with the Master Plan.
- Is in harmony with the purpose and intent of this Bylaw.
- Will not be detrimental or injurious to the neighborhood in which it is to take place.
- Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted 4-0, with Peter Ashton abstaining, to **GRANT** the requested Site Plan Special Permit and Special Permit to allow more than four units in one building subject to and with the benefit of the following Plan modifications, conditions and limitations.

2.0 Plan Modifications

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1 The Plan shall be revised to provide a sidewalk east of the site up to the emergency entrance to Audubon Hill. The design shall meet the approval of the Town Engineer. If it is determined the sidewalk cannot be located within the street layout and consent of the affected property cannot be obtained the Board shall be notified. The Plan and any necessary approvals shall be provided prior to any building permit being issued.
- 2.2 The Plan shall be revised to provide for emergency vehicle access subject to the approval of the Fire Chief. The fire hydrant shall be relocated as necessary.

3.0 Conditions

- 3.1 Any changes to the exterior lighting is prohibited without Board approval.
- 3.2 Prior to any building permit being issued the Petitioner shall provide to the Building Commissioner a location of the "owner occupied unit". The Petitioner shall also provide documentation on how the "owner occupied unit" has beneficial title.
- 3.3 The Petitioner shall provide a copy of the lease or rental agreement including disclosure of the railroad.

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- 3.4 The Petitioner shall either obtain permission from the Sewer Commissioners or approval of the Board of Health for a Title V system.
- 3.5 If HUD subsidy becomes available the Petitioner shall cooperate with the Acton Housing Authority to make units available. In addition if the Petitioner ultimately sells the units He has agreed to discuss selling units to the Town.
- 3.6 Prior to occupancy or use of the new building, as-built Plans shall be supplied by the engineer of record and lighting design professional certifying the project was built according to the approved documents. The as-built Plans shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades elevations and exterior lighting equipment installed. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit and Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision, all nonconforming signs shall be removed prior to the issuance of the Building Permit.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on February 28, 2007 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

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5.0 Appeals

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this day of February ,2005

F. Dore` Hunter, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Eva K. Bowen, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Faulkner Mill Realty LLC. has passed and there have been no appeals made to this office.

Date

Eva K. Bowen, Town Clerk

- cc: Petitioner
- Building Commissioner
- Planning Board
- Engineering
- Conservation
- Director of Municipal Properties
- Board of Health
- Town Clerk
- Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury