

EXTRA INFO. 7/18/05 ~~(S)~~ 7



TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
planning@acton-ma.gov

Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Don P. Johnson, Town Manager **Date:** July 8, 2005
From: Roland Bartl, AICP, Town Planner *R.B.*
Subject: Somerset Hills L.P. Condominium Conversion – 10-16 Wampus Avenue

UPDATE

1. I have received today confirmation from the owner that they agree to the affordable housing contributions as outlined in the letter from the ACHC (6/3/05) and the Acton Housing Authority (6/6/05) – see attachments. These housing agreements are captured in the draft decision, sections 3.2.8 through 3.2.11 – in brackets with question marks. You can expect the owner to deliver a signed letter tonight at the hearing.
2. The owner has submitted to me the certified mail return receipts of the hearing notice that was sent to all tenants (outstanding item in draft decision; exhibits 1.1, 5th bullet).
3. The owner has provided me with the names of the person who will be attending the hearing on behalf of the applicant (outstanding item on 1st page, 2nd paragraph).

Accordingly, I have attached three copies of a “cleaned-up” decision, which the Selectmen could sign if all else is agreeable to them.

Via Overnight Mail

July 18, 2005

Board of Selectmen
Acton Town Hall
472 Main Street
Acton, MA 01720

Re: Somerset Hills Condominium Conversion, 10-16 Wampus Avenue

Dear Selectmen:

This letter shall serve as the acceptance of the terms set forth in letters from the Acton Housing Authority and Acton Community Housing Corporation.

The Acton Housing Authority sent a letter dated June 6, 2005 to the Board of Selectman stating that Somerset Hills Limited Partnership has agreed to sell a two (2) bedroom unit on the second floor for \$150,000 once the units have been converted and rehabbed. We agree with the terms stated in that letter.

The Acton community Housing Corporation sent a letter dated June 3, 2005 to the Board of Selectmen stating that Somerset Hills Limited Partnership has agreed to restrict 3 units for sale as affordable units once the units have been converted and rehabbed. These units include a one (1) bedroom unit on the second floor at a price of \$130,000 and a two (2) bedroom units on the second floor at a price of \$145,000 each. We agree with the terms stated in that letter.

Please feel free to call me at (508) 416-2021 to answer any questions that you may have. Thank you.

Sincerely,

George Morrill
Project Manager



WELLESLEY
COMPANIES
INCORPORATED

Fax

To: Roland Bartl From: George Morrill

Fax: 978-264-9630 Pages: 19 Including Cover Sheet

Phone: 978-264-9636 Date: 7/15/05

Re: ~~Public~~ Public Hearing Notice CC:

Urgent

For Review

Please Comment

Please Reply

Meeting Attendees:

Robert Buonato, Somerset Hills LP

George Morrill, Somerset Hills LP

Daniel Gazvin, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo PC

Jonathan Cosco, " " " " " "

The information contained in this facsimile message is legally privileged and confidential under applicable law, and is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any dissemination, copying, or disclosure of this communication is strictly prohibited. If you have received this communication in error, please notify the Wellesley Companies at (508) 416-2000 and destroy this facsimile immediately without any copying or distribution.

Legal Notice of a
PUBLIC HEARING
Town of Acton

The Acton Board of Selectmen will hold a public hearing on

Monday, July 18, 2005

at 8:00 P.M., at the Town Hall, 472 Main Street, Acton,

Massachusetts, to discuss an application to remove from rental housing
use rental housing unit/s located at:

10-16 Wampus Avenue
Acton, MA 01720

as petitioned by Somerset Hills Limited Partnership.

Such permits may be granted by the Board under Chapter 548 of the Acts of 1987 and in accordance with the "Regulations For Condominium or Cooperative Conversion Permit Applications" both of which are available for review or purchase at the Offices of the Board of Selectmen and the Town Clerk. A copy of the application is also available for review at these offices. The Offices of the Clerk and the Board are located at Town Hall and are open from 8:00 a.m. to 5:00 p.m., Monday through Friday.

The applicant or his/her representative will be at the hearing to present the reason(s) why the permit should be granted.

When the applicant or his/her representative has concluded their presentation, the Chairman of the Board will allow the Board members to speak to the matter under consideration or to raise questions and concerns. Subsequently, the Chairman will give the public the same opportunity to speak to the matter under consideration or to raise questions and concerns.

The Chairman will not allow any member of the public to interrupt anyone else while they are speaking. Each person wishing to speak at the hearing should be as brief as possible and should wait his/her turn. Each person speaking should avoid repeating the comments of those who preceded them. Each person speaking should state their name and address before they make their statement or ask questions.

Any party may appear in person, by agent, or by attorney at any hearing.

When all of the facts have been presented and all persons wishing to speak on the application have been heard, the Chairman will close the hearing. In no case will the Board allow new evidence to be admitted after the close of the public hearing unless this evidence was requested by the Board prior to the close of the public hearing.



Board of Selectmen

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
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Fax (978) 264-9630
bos@acton-ma.gov
www.acton-ma.gov

DECISION
2005.C18

Somerset Hills L.P.
Condominium Conversion Permit
July 18, 2005

GRANTED

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of Somerset Hills Limited Partnership/Wellesley Capital (hereinafter the Owner) for a Condominium Conversion Permit under the provisions of Chapter 584 of the Acts of 1987 - "An Act Relative to the Protection of Tenants and Purchasers of Condominium or Cooperative Units in the Town of Acton" (the Act) and the Town of Acton Regulations for Condominium or Cooperative Conversion Permit Applications (the Rules). The subject property is located at 10-16 Wampus Avenue and 677 Main Street. It is shown on the 2004 Acton Town Atlas map D-5 as parcels 17 and 19 (the Property).

The Board held a public hearing on the matter on July 18, 2005. Mr. Robert Buonato and Mr. George Morrill of Somerset Hills, LP, and Mr. Daniel Gaguin and Mr. Jonathan Cosco of Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, PC represented the Applicant. Board members Peter K. Ashton (Chairman), Walter M. Foster, F. Dore Hunter, and Lauren S. Rosenzweig were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1.1 Documentation and items required by the Rules consisting of:

- A properly executed Application for a Permit to Convert a Rental Housing Unit from Rental Housing Use filed on June 3, 2005.
- The proposed condominium master deed.
- The names of the present tenants in the rental housing units, and the expiration of their lease or rental agreement.
- A copy of the required notice of intent to convert with evidence that it has been delivered to the tenants.
- A copy of the hearing notice with evidence that it has been delivered to the tenants.
- A report by a licensed septic system inspector.
- Application filing fee.

1.2 Interdepartmental communication received from:

- Acton Building Commissioner, dated June 7, 2005.

- Acton Fire Chief, dated July 13, 2005.
- Acton Board of Health, dated June 13, 2005 and July 7, 2005.
- Acton Planning Department, dated July 8, 2005.
- Acton Housing Authority, dated June 6, 2005.
- Acton Community Housing Corporation, dated June 3, 2005.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The subject Property consist of two buildings and other improvements housing together 48 one- and two-bedroom dwelling units on +/-7.44 acres of land at Wampus Avenue and Main Street, and an additional +/-1.64 acres opposite on Main Street. The Owner intends to convert all 48 dwelling units from rental units to condominium ownership units.
- 2.2 The Owner has provided each tenant of all housing accommodations on the Property the notice required under section 4 of the Act of his intent to convert the Property to the condominium form of ownership, including information about the period of notice before conversion evictions can take place, the right to purchase the unit, relocation benefits, assistance in locating comparable rental housing; and provisions for the extension of rental agreements.
- 2.3 The Owners has not provided documentation required under section 2.5 of the Rules, such as a sample purchase and sale agreement, to show the terms of purchase that will be offered to the tenants and how those terms compare to terms offered to the public.
- 2.4 The Owner has provided a description of the buildings prepared by an independent professional engineer licensed to operate in the Commonwealth along with asbestos and lead paint inspection reports. However, the Act requires that such engineer (or architect) also certifies that the buildings meet all applicable building and health codes and comply with State regulations regarding asbestos and lead paint. The descriptions and reports do not meet the intent of the Rules.
- 2.5 The Owner has indicated verbally to Town staff that the Property will undergo renovations in preparation of the conversion of the housing accommodations to condominium ownership.
- 2.6 The Owner has agreed to make certain units available as affordable units to be counted towards Acton's affordable housing stock under M.G.L. Ch. 40B.
- 2.7 The Board of Health has recommended certain changes to the proposed master deed and replacements of septic system tanks, manholes, and pipes.
- 2.8 The Fire Chief has recommended certification for required smoke detectors and upgrade to the fire alarm system as necessary to comply with current standards.
- 2.9 As proposed and as conditioned herein the conversion of the Property to condominium ownership will comply with the Act and the Rules.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, and limitations, the Board voted on July 18, 2005 to GRANT the Condominium Conversion permit.

3.1 WAIVERS

Although not requested, a waiver is granted from section 4.3.3 of the Rules – Monitoring Wells Agreement. Since the adoption of the Rules in 1988, changes in Title V and Acton Board of Health regulations have made this section obsolete. The Board of Health has indicated no objection to this waiver.

3.2 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. The Town of Acton may elect to enforce compliance with this decision and the Act using any and all powers available to it under the Act and other applicable law.

- 3.2.1 The Owner shall protect the tenants of all housing accommodations on the property from harassment during the period that the tenants are entitled to remain in the unit, specifically:
- Only to the extent permitted by law or as provided by existing lease or rental agreements, the Owner may show tenant occupied units to prospective condominium purchasers, but shall limit such showing appointments to three per week and only during the hours of 5:00 PM and 8:00 PM on weekdays (Monday through Friday). However, the Owner shall give all tenants the option of selecting other times and days of the week more suitable to them, and the Owners shall fully respect such tenants' preferences.
 - The Owner shall make showing appointments only after notifying the affected tenants of the specific time of the showing.
 - The Owner shall minimize disturbances and inconveniences to the resident tenants that may result from construction or renovation work conducted in preparation of the condominium conversion. No conversion related construction or renovation work shall be carried out except between the hours of 7:00 AM and 6:00 PM, Mondays through Fridays.
 - The Owner shall notify in advance all tenants of any expected and unavoidable disturbances or inconveniences due to conversion related work on the Property.
 - The Owner shall not increase the rents except as provided for in section 4 (e) of the Act.
- 3.2.2 The Owner shall inform potential purchasers of units of any asbestos material or lead paint known to be presents in any part of the building in which the unit is located, and shall provide copies of recent asbestos and lead inspection reports.
- 3.2.3 Before filing the condominium master deed at the Middlesex South District Registry of Deeds or the Land Court, the Owner shall provide the Board with documentation showing the terms of purchase that is being offered to tenants and to the public.
- 3.2.4 Before filing the condominium master deed at the Middlesex South District Registry of Deeds or the Land Court, the Owner shall modify it to provide for a separate account dedicated solely for the repair, replacement, and maintenance of the wastewater disposal system serving the Property. This account shall be funded initially with a sum exceeding \$5,000, and then with portions of the condominium fees paid by each unit owner.
- 3.2.5 Before the sale of any condominium unit on the Property, the Owner shall have replaced septic system tanks, manholes, and pipes to the satisfaction of the Acton Board of Health.
- 3.2.6 Before the sale of any condominium units on the Property, the Owner shall provide certification that they are equipped with smoke detectors as required by M.G.L. Ch. 148, S. 26F and shall upgrade the fire alarm systems in the buildings on the Property to meet current laws and regulations. The smoke detector certification and alarm upgrades shall

meet the approval of the Acton Fire Chief, who shall have the authority to perform inspections as he deems necessary.

- 3.2.7 Before the sale of any condominium unit on the Property, the Owner shall renovate such unit and the building in which such unit is located and provide the Board of Health and the Building Commissioner with a detailed and expressed certification that the unit complies with all applicable Town and State building and health codes including regulations regarding asbestos and lead paint. Such certification shall be made by an independent registered engineer or architect licensed to practice in the Commonwealth.
- 3.2.8 The Owner shall offer to the Acton Housing Authority one 2-bedroom dwelling unit for a maximum sale price of \$150,000 following the completion of all renovation work in such unit.
- 3.2.9 The Owner shall offer for sale to low-income households one 1-bedroom unit for a maximum sale price of \$130,000 and two 2-bedroom units for a maximum sale price of \$145,000 each. The Owner shall hire a consultant, selected from a list that the Acton Community Housing Corporation (ACHC) has pre-approved, to oversee and ensure the Local Initiative Program (LIP) application to and certification by the Massachusetts Department of Housing and Community Development (DHCD) for of said three units, and to administer their marketing and lottery sales in compliance with LIP guidelines. The Owner shall prepare, or have the consultant prepare, all legal documents required by DHCD for the sale of the LIP units (regulatory agreements, deed riders, etc.).
- 3.2.10 The aforesaid four affordable dwelling units shall be located on the 2nd floor in scattered locations in either of the two building and shall be provided with the replacements and/or upgrades listed in a spreadsheet that the Owner provided to the Acton Community Housing Corporation entitled Somerset Hills LP, Acton MA, Standard Unit Specs & Budget.
- 3.2.11 Upon the request of the ACHC, the Owner shall offer for sale an additional low-income 1- or 2-bedroom unit subject to the ACHC "buying down" its market rate unit price to the maximum prices set forth in paragraph 3.2.4 above. The sale of this unit shall also follow steps, procedures, and requirements set forth in paragraph 3.2.4.
- 3.2.12 The Owner may proceed with the proposed condominium conversion subject to compliance with all continuing obligations and requirements of the Act, the Rules, and this Decision, including but not limited to: offering the units to the tenants at prices on terms equal to or more favorable than what is offered to the public; adhering to all time frames and periods specified in the Act and in this decision; and offering lease extensions and relocation assistance.
- 3.2.13 This decision shall be filed with the Acton Town Clerk, and it shall be recorded concurrently with the condominium master deed in the Middlesex South District Registry of Deeds or the Land Court.

3.3 LIMITATIONS

The authority granted to the Applicant under this permit is limited as follows:

- 3.3.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Act, the Rules, and other applicable laws and regulations.
- 3.3.2 Other approvals or permits required by law and other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.3.3 This condominium conversion permit shall expire after 1 year has elapsed from the date that this decision has been filed with the Town Clerk without recording of the condominium

master deed at the Middlesex South District Registry of Deeds or the Land Court. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension and to issue any appropriate changes to this Decision.

3.3.4 The Board hereby reserves its right and power to modify or amend this Decision and its terms and conditions with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals to this Decision, if any, shall be made pursuant to section 6A of the Act within 20 days after the date of filing this Decision with the Town Clerk. A notice of an appeal shall be submitted to the Town Clerk.

The Town of Acton Board of Selectmen

Peter K. Ashton, Chairman

Walter M. Foster

F. Dore' Hunter

Lauren S. Rosenzweig

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals filed with this office.

Eva Bowen, Town Clerk

Date

Copies furnished:

Owner -
certified mail #
Fire Chief
Town Planner

Tenants
Health Director
Acton Water District

Building Commissioner
Town Clerk
Assistant Assessor