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TOWN OF ACTON  
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Planning Department

**INTERDEPARTMENTAL COMMUNICATION**

**To:** Board of Appeals **Date:** April 22, 2003  
**From:** Roland Bartl, AICP, Town Planner *R.B.*  
**Subject:** Hearing # 03-08 – Franklin Place LLC, Comprehensive Permit Application

A review and evaluation of the proposed affordable housing development yields the following comments:

**1. Lack of Consistency with Master Plan**

Consistency with the Town's planning goals and objectives is not necessarily a criterion for evaluation of comprehensive permit applications under M.G.L. Ch.40B, S.20-23 and 760 CMR 31.00. Nevertheless, it seems appropriate to mention this subject in light of Acton's Master Plan and the history of affordable housing development efforts and successes in Acton:

The 1990 Master Plan established two planning principles for the Town that are relevant in the evaluation of this pending proposal.

- a. The declaration that affordable housing generation is a critical planning objective to meet the housing needs of Acton's low and moderate income population, and
- b. The designation of mixed-use growth centers for future concentrated development as a measure against further suburban sprawl and traffic congestion in Acton<sup>1</sup>.

Consistent with these principles, Acton adopted zoning in 1990 that designated five growth centers (East -, North -, South -, and West Acton Villages, and Kelley's Corner) and an Affordable Housing Sub-district B. It allows high-density housing developments (up to 5 units/acre) within walking distance of the designated centers as well as other established retail and service areas<sup>2</sup>. These principles received affirmation in the 1998 Master Plan update.

Over the years, Acton has supported two high-density comprehensive permit projects that fit the stated planning principles: Westside Village off Sudbury Road adjacent to the Powder Mill

<sup>1</sup> The concept of designating growth centers while discouraging growth in areas that are distant from these centers is consistent with the region's MetroPlan 2000 first published in the late 1980's. Today, this approach to growth management has become an integral part of the "smart growth" principles.

<sup>2</sup> The Town also adopted an Affordable Housing Sub-district A for many other areas. It provides a moderate density bonus over base zoning for the inclusion of a small number of affordable units. Any density increases from that would be insignificant.

The subject site is included in Sub-district A. It is too small on its own to be eligible for the affordable housing bonus option without combining it with the Horton parcel to the north, which is also in Sub-district A. If it were eligible by itself, the bonus option may yield 9-10 units including one or two affordable unit at an overall density of +/-2 units/acre. This takes into consideration site constraints and the need to build a subdivision street. The proposed density of Franklin Place is over 6.5 units/acre.

Road commercial area and most recently Crossroads Condominium just south of Kelley's Corner. A third high-density affordable housing project was approved at Harris Street near Great Road under local affordable housing regulations. All three developments are located wholly or partially within the Town's designated Affordable Housing Overlay District B, consistent with the Town's stated planning principles. In addition, the Planning Board and the Acton Community Housing Corporation successfully negotiated the creation of numerous affordable housing units on scattered sites either as contributions from large residential projects or in developments within Acton's low-density Affordable Housing Overlay District A. Most of these scattered sites reused existing housing stock.

Because of all these efforts, Acton managed to maintain its percentage of affordable housing stock during the past decade while staying true to its planning goals. This was not a small feat in the face of a decade of rapid development of market rate housing. Franklin Place, in the right location near a village or commercial center could be a great asset. In the proposed location and density, it is entirely inconsistent with Acton's Master Plan. The adjacent industrial uses do not offer any conveniences, retail or otherwise<sup>3</sup>, to which nearby residents could walk. The choice of this site for a comprehensive permit project negates a decade of careful work and nurturing that managed to achieve some level of acceptance and support for affordable housing as a valid community planning objective. Pursuit of this project threatens this consensus. In most other Massachusetts communities, affordable housing developments are contentious and vehemently opposed by abutters, and affordable housing advocates are pitted against community preservationists. It would be unfortunate if Acton were destined to join their ranks. Contentious 40B development projects could have a long-term adverse effect on the success rate of affordable housing in Acton.

## 2. **Purchase Price of Land May Exceed MassHousing Policy**

The application contains a purchase and sale agreement between the applicant and the landowner (Balduf). It identifies a 40- to 48-unit project and tags the purchase price on the number of units approved under a comprehensive permit - \$40,000 per unit up to 40 units plus \$18,750 for each of possibly eight more units up to a total of 48 units. The agreement sets forth a minimum price of \$1.05 million for seven standard building lots in the event that a comprehensive permit application fails the Town's muster. There are further contingencies should the 7-lot subdivision fail as well.

MassHousing in its 11/8/02 conditional eligibility letter states that the developer must comply with MassHousing's Acquisition Value Policy. It states in part that "economic benefits of the comprehensive permit shall accrue to the development and shall not be used to substantiate an acquisition cost that is unreasonably greater than the current appraised fair market value under existing zoning without a comprehensive permit in place." This is a common-sense requirement. The purpose of Chapter 40B is not to yield extra developer or landowner profits, but merely to subsidize the creation of affordable housing.

The purchase and sale agreement offers the seller an inappropriate comprehensive permit premium. As the project is now proposed (32 units), the purchase price according to the P&S agreement would be \$1,28 million rather than the \$1.05 million based on standard zoning. The comprehensive permit premium amounts to \$230,000 or \$7,187.50 per unit. This premium should be eliminated. The benefit should accrue to the development in the form of fewer overall dwelling units, a greater percentage of affordable units, lower-priced affordable units, or a combination of these.

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<sup>3</sup> With the exception of the U.S. Post Office ½ mile across Main Street at 7 Post Office Square.

The 7-lot standard plan assumption appears reasonable. Nevertheless, the Board of Appeals could request a copy of the 7-lot preliminary plan for its own evaluation. Given the numbers in the purchase and sale agreement, the applicant undoubtedly has one available. In addition, the Board of Appeals could ask the applicant for funds to conduct its own independent appraisal.

**3. Project Contingencies**

The pro forma carries \$465,700 for contingencies, which become extra profit in the absence of any unforeseen emergencies. The Board of Appeals could require that unused contingencies go towards further affordable unit subsidies, additional affordable units, or both, and the Board of Appeals could hold the contingency funds in escrow to better control their use for true emergencies.

**4. Unit Types**

The Building Tabulation Plan in the application suggests that all units will have two bedrooms. 14 of the 32 units come with lofts that can serve as third bedrooms with little or no modification. How the additional 14 bedrooms may affect the sewage flow and the adequacy of the proposed septic system is a matter for the Board of Health to advise. The units with lofts or third bedrooms may also attract larger households. Three to four of the 14 loft units should be in the affordable unit category.

**5. Affordable Units**

The Board of Appeals should designate which units will be the affordable units, and should condition a development schedule that spells out the phasing by which affordable units must be completed in relation to market-rate units.

**6. Units for Persons with Disabilities**

The Board of Appeals may require that some units, including affordable units, be made accessible for persons with disabilities. If the Acton Commission on Disabilities has not yet been notified of this proposal, it should be contacted and consulted to help determine the specific needs for such units in Acton. The Board of Appeals should require that persons with disabilities get priority access in the lottery for handicapped accessible affordable units.

**7. Market Study**

Previous comprehensive permit applications have included a market study by a qualified real estate professional or appraiser to document that there is sufficient demand for the proposed market-rate units at the asking price. To the extent that the future is predictable, this will help ensure that the sales of the market rate units can in fact subsidize the proposed affordable units.

**8. Grants or Loans**

Will there be any grants or loans from public or quasi-public State or Federal agencies that constitute a subsidy?

**9. Children**

The plan shows no accommodations for children. It is not only lacking formal play space, but the layout of the site and buildings (parking and driveways in the front, steep embankments around the back) provides no informal play space either. Based on similar developments in Acton, the expected number of school-age children in this development is 10-12 at any given time with additional kids below school age. Their needs have been ignored. There are no nearby public play areas with easy and safe access that they could fall back on.

## 10. Septic System

The system as shown is sized for a sewage flow of 7040 gallons per day (gpd) for 64 bedrooms based on the 110 gpd per bedroom standard in Title V. The 14 lofts as bedrooms could add another 1540 gpd bringing the total to 8580 gpd. Either volume would result in a significant nitrate concentration that sends a troublesome plume into the adjacent wetland and nearby Conant Brook, which feeds the Town's Conant Wells  $\frac{3}{4}$  mile downstream. The project proponent should consider a low-cost nitrate removal system such as BoiClere. This could be another destination of project contingency funds.

## 11. Traffic

The anticipated traffic generation from the project is 212 trip ends per weekday, 18 in the morning peak hour, 21 in the evening peak hour, and 17 during the Saturday peak hour (ITE Trip Generation Manual, 6<sup>th</sup> Edition, Land Use 220 – Apartment). These figures are below the traffic study threshold of Acton's special permit and subdivision rules.

## 12. Non-residential Buildings and Vehicle Parking

The application does not include architectural plans for the garages and the small building in the center-island. The purpose of the latter is unclear. It is also unclear exactly how many vehicles will fit in the proposed garages. The total number of parking spaces including garages should be two per unit plus a small allowance for guest parking.

## 13. Certifications

The architectural drawings lack the architect's stamp or seal, and signature.

## 14. Missing Information

The application more or less ignores sections VI.E.5.d.vi., vii., viii., ix., and x. of the Board of Appeals' rules for comprehensive permits.

## 15. Bond

The Board of Appeals may consider a bond or other form of performance guarantee to secure the basic infrastructure on the site thereby protecting future homeowners from the unlikely but possible scenario of the developer defaulting on the project part way after some residents have already moved in.

## 16. Zoning Bylaw Compliance Issues

- a. Zoning, in section 4.3.6.2, requires that post-development groundwater recharge on the site is not less than under pre-development conditions. The proposed drainage system suggests that the design might meet this requirement, and the application does not list this section under requested zoning waivers. The applicant should provide recharge calculations to proof compliance.
- b. Zoning, in section 6.3, requires a certain number of parking spaces. The application does not ask for a waiver, which suggests intent to comply. Yet, I could not find documentation of compliance.
- c. Zoning, in sections 6.5 and 6.6, requires certain dimensions for parking spaces. The application does not ask for a waiver, which suggests intent to comply. Yet, I could not find documentation of compliance.
- d. The applicant is requesting waivers from section 6.7, parking lot design requirements to allow the parking layout as shown on the site plan. I will not comment on the details of it except to note that
  - the driveway and maneuvering aisle widths appear to meet zoning requirements;

- the driveway layout appears to accommodate fire engines, school buses, etc;
  - a landscape plan would assist in evaluating the proposed alternatives;
  - the parking rows in front of the buildings are reminiscent of a motel.
- e. Zoning, in section 3, requires a site plan special permit for multi-family dwellings, and section 10.4 sets forth site plan design standard. The application is silent on this matter. No waivers are requested, yet no site plan special permit application is on record nor is there an itemization of waivers from site plan standards. The application lacks information to discern compliance: no storm water calculations, no outdoor lighting plan or details, and no landscaping plan. Sidewalks appear adequate.

cc: Planning Board  
Town Manager  
Commission on Disability  
ACHC

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