



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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ZBA 90-52
Petition of Capital Site Management Associates
418 Worcester Street

Past Procedural History

On December 14, 1988, Capital Site Management Associates filed a petition for a Comprehensive Permit to construct 1 building with three to five stories, containing 56 condominium units, 17 of which would be designated as Affordable Housing, on a 2.57 acre site at 418 Worcester Street, in a Single Residence District. A Public Hearing was held by the Zoning Board of Appeals on January 12, 1989. The Board of Appeals filed a decision denying the Comprehensive Permit on February 17, 1989, which was appealed to the Housing Appeals Committee on March 9, 1989. After a Preliminary Conference of Counsel on April 26, 1989, the Housing Appeals Committee scheduled the first hearing on the appeal for July 11, 1989. Prior to the hearing, the Housing Appeals Committee postponed the hearing for an indefinite period. The Town filed a Motion to Dismiss the Appeal on September 20, 1989, which was held under advisement by the Housing Appeals Committee.

On May 9, 1990, the Housing Appeals Committee held a Continued Preliminary Conference of Counsel, at which time, the Town was advised that the petitioner planned to submit a proposal which, in light of the substantive changes, would be remanded back to the Town for reconsideration. On May 14, 1990, the Housing Appeals Committee issued an Order of Remand, which was amended on May 24, 1990.

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Present Procedural History

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Pursuant to due notice, the Zoning Board of Appeals held a Public Hearing on Wednesday, June 20, 1990 at 8 p.m. in the Great Hall of the Town Hall, 525 Washington Street, Wellesley, on the petition of CAPITAL SITE MANAGEMENT ASSOCIATES requesting a Comprehensive Permit pursuant to the provisions of MGL Chapter 40B, Section 21, which would allow construction of one building with a total structure footprint of 19,958 square feet and a total floor area of 55,978 square feet. The building would contain two and three stories to provide 33 condominium units, of which 28 would be two-bedroom and 5 town house three-bedroom units. Five of the two-bedroom units and all of the town house units would be designated as Affordable Housing. Parking for 61 cars and associated landscaping would be provided. Said construction would be located on a 118,536 square foot parcel at 418 WORCESTER STREET, in a Single Residence District, located on the southern side of Worcester Street, bounded by Single Residence zoned properties on Wareland Road, Maugus Hill Road and Eaton Court. The western property corner is bounded by a Business District fronting Washington Street.

On May 24, 1990, the petitioner filed a request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

The Petitioner's Presentation

Presenting the case at the hearing was Evan Slavitt, attorney with Fine & Ambrogne, who represented the petitioner. Mr. Slavitt introduced Michael Sophocles, general partner of Capital Site Management Associates; Phil Hresko

of Hresko Associates, Inc., project architects; Joe Williams of BSC, project engineers; and Harold Cutler, Fire Safety Consultant. David Bohn of Vanasse Hangen Brustlin, Inc., Traffic Consultants and Meryl Epstein of Fine & Ambrogne were also present.

Mr. Hresko gave a detailed presentation of the project using a site plan, floor plans and elevation drawings. He stated that the pedestrian access to the site would be via a stepped walkway from Washington Street. Vehicular access to the site would be gained through a power controlled gate system at the foot of the driveway exiting onto the Service Road of Worcester Street. After being allowed to enter through the gate, vehicles would proceed up the driveway to the plaza.

Mr. Cutler discussed the building construction in relation to fire safety. The wood frame building will be fully sprinklered with automatic single station smoke detectors in each unit. The double-loading corridors and exit stairs at each end of the building comply with the State Building Code.

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Mr. Cutler stated that the fire department access in the form of the driveway and parking lot area are in compliance with national standards for turning radii, width of road and access to the building. In his opinion, the water supply of 1,000 gallons per minute is more than adequate to meet the water demand of the building, which he estimates at 250 gallons per minute.

Mr. Williams explained that the installation of a 150 foot pipe with a 5 foot diameter and a weir orifice pipe with a 7 inch diameter hole set into the outlet side of the pipe would serve as a retention pipe for additional site drainage. This pipe would be located beneath the parking lot.

The Board questioned the effect of the security gate on traffic back-up onto Worcester Street as residents stopped to pick up mail from mailboxes installed between the gate and Worcester Street.

Mr. Slavitt stated that the location of the gate allows at least one full car width between the gate and the edge of the state road.

The Board also questioned the impact of traffic exiting and entering the driveway, with particular reference to the medical building driveway 80 feet to the right. Mr. Bohn stated that the important issue is that the drives are separated and that vegetation be removed within the immediate bumper area of the edge of the road so that drivers have good visibility and sighting in both directions.

In a discussion regarding the retaining wall at the roadway edge, the Board commented that due to the elevation and the angle of repose necessary to construct the wall, which is approximately 12 feet from the property line, it would be necessary to encroach approximately 20 feet onto the abutting property for construction purposes. Mr. Williams stated that if a temporary construction easement could not be obtained, the construction could be very expensive as sheeting would have to be driven.

The Board also commented that although the turning radius of the road is within normal standard practice, in reality, a trailer truck, moving van or fire truck would not be able to turn around in the plaza and would have to back down. Mr. Cutler agreed.

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A lengthy discussion ensued regarding the ability of the proposed drainage system to adequately handle storm drainage. The Board stated that runoff calculations ascertaining that the Town drain has excess capacity to handle the increased runoff had not been provided. The Town Engineer has stated that the excess capacity is not available. Mr. Williams stated that according to his calculations, the runoff from the site would not overburden the existing system.

Mr. Slavitt stated that this problem could be solved by standard engineering practices, and that if the Board were concerned, it could make this a condition in the Comprehensive Permit. He added that these were preliminary plans, and that detailed plans were not required or appropriate at this time. If the Board believed these plans were inadequate and denied the permit on that basis, the matter would ultimately be resolved before the Housing Appeals Committee. The Board stated that plans consisted of a bare outline, which made the feasibility of the proposal difficult to determine.

The question of the target market for the project, the lack of amenities for children in light of the purpose of the HOP program and access for the handicapped were discussed. Mr. Slavitt stated that lawns and facilities are not required, and that a 200 square foot tot lot is anticipated. Mr. Hreskso explained the handicapped vehicular pattern, including parking and entrance to the building, stating that the only handicapped access would be vehicular.

Citizen Participation

Renee Silva, 27 Maugus Hill Road, questioned the adequacy of sight distance

for drivers exiting the driveway in light of the speed of oncoming traffic. Mr. Bohn answered that it was important that the vegetation be cleared so as to give the driver sight distance sufficient to react to oncoming speeds.

Sandra Shear, 29 Maugus Hill Road, stated that she has had a severe drainage problem for 28 years, due to water coming from above and crossing her property which abuts the site. Construction of subsurface drainage pipes and a retaining wall on her property have not stemmed the water.

Robert Murphy, member of the Planning Board, questioned the adequacy of the roadway. He stated that there is only one place on the entire drive with sufficient width for a single-unit vehicle to pass an automobile, and that the Vanasse Hangen report states that a single-unit vehicle must use the entire width of the driveway.

Mr. Murphy stated that in regard to the 1981 Wellesley Master Plan, it was the intention of the Planning Board to show a pattern, and not to identify particular parcels as included or excluded in a multi-family category. The proposed site was not, as the petitioner stated in its narrative, "explicitly" designated for multi-family use.

Mr. Murphy continued that the developer had requested an exception from the density requirement for a Single Residence District, using the requirements for a Limited Apartment District as a standard. However, a 50 foot setback from any Single Residence or General Residence District is required, as is the requirement that at least 75% of the lot be maintained as open space. If

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these requirements were met, the number of allowed dwelling units would be less.

A fourth concern was the lack of recreation space considering that the intention of the HOP program was affordable housing for first time homeowners who would either have children already, or have children during their years of occupancy. Mr. Murphy felt that if the project were intended to meet the purposes of the HOP program, adequate recreation space should be provided.

Marjorie Arcand, Planning Board member, expressed concern about fencing and the size of the proposed tot lot, which she felt was inadequate. Mr. Slavitt explained that the entire site would be fenced, and that the tot lot would have interior fencing.

Mrs. Arcand questioned the length and degree of slope of the proposed walkway from Washington Street to the building entrance. Mr. Hresko said that the grade would change from 160 feet at the street to 214 feet at the top.

Mrs. Arcand expressed concern that as school busses would not be ascending the driveway, whether the bottom of the walkway was a safe place for children to be picked up. Mr. Slavitt responded that the developer would work with the School Department on that issue.

Mrs. Arcand then questioned where snow storage would be provided, and the effect of possible sand and salt from the driveway to the drainage system. Mr. Slavitt responded that the location of snow storage had not been determined as yet. He added that any possible sand or salt used to maintain

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the driveway in winter would go into the storm drainage system as does sand or salt from other Town roads.

Robert Cultice, Vice-Chairman of the Board of Selectment, read into the record a letter outlining the concerns of the Selectmen, and urging denial of the comprehensive permit.

~~Mr. Slavitt stated that in response to the issue of density, that HOP~~
guidelines are simply guidelines and that HOP will make the ultimate decision on the funding of this project. He explained that the architect was not available to participate in the Planning Board review which could not be rescheduled, but that a presentation had been made to the Design Review Board.

Mary Sullivan, Chairman of the Planning Board, noted that in the narrative, in the section on consistency with local zoning, the petitioner cited instances of compliance with Single Family Districts and Limited Apartment Districts, when, in truth, the project exceeded the 25% maximum ground coverage requirement of the former and had less than the required 75% open space of the latter District. She added that the Planning Board has gone on record as being opposed to the granting of the comprehensive permit.

Mr. Slavitt stated that consistency was not required; that the Zoning Board would determine whether the proposed building is appropriate for the site, given its affordable housing component, and that the analogies were given to explain how the building fits in with its lot and the neighborhood.

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Richard Gleason, Board of Public Works member, stated that a new primary electric line would be required to service the project, and questioned the impact of the additional input of sewerage from the project. He also pointed out that the site is extremely fragile in respect to mud sides. Mr. Williams stated that the sewer line has adequate capacity to handle the additional sewerage which would amount to about 7,000 to 8,000 gallons per day.

Mr. Slavitt stated that he was confident that their erosion plan will hold the dirt. When asked by the Board where the details of the erosion plan were to be found, Mr. Slavitt responded that the Landscaping Plan showed part of the erosion system.

The Board expressed concern as to erosion control measures during construction and if the developer was prepared to put up a bond in case of damage to abutting property. Mr. Williams said that erosion control would consist of erosion control netting and haybales. Mr. Slavitt stated that the law prevents any impingement on adjacent property.

The Board noted that the test borings showed the water table at a depth of 10 feet. Since the retaining walls all have a height greater than 10 feet, the water table will be introduced to the open excavation creating a constant flow of water. The Board added that glacial till, once disturbed, liquifies. Mr. Williams felt that installation of well points would draw down the water table, but the Board responded that the location of ledge within several feet of the water table would prevent the use of well points to solve the problem.

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James Lodestro, 19 Maugus Hill Road, asked if blasting would be necessary, and if it were, what protection would be provided for affected neighbors. He also asked what guarantee the neighborhood had that the development would be completed if the developer had insufficient funds to complete the project once it had been started.

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Mr. Williams stated that blasting was the least desirable option, but if necessary, State permits had to be obtained. Mr. Slavitt gave a short explanation of the HOP funding process, and explained that in the last analysis, there would always be a landowner or a bank in control of the site who would have to respond to a DEP order for erosion control.

Ruth Burns, 47 Maugus Hill Road, spoke about the difficulty of negotiating the access drive in winter, particularly if vehicles were stopped at the control gate. The alternative of backing down the driveway into Wellesley Hills Square would be extremely dangerous. She noted that the constant water seepage problem adds to the hazardous condition of the roads in winter when the water freezes.

Jeanette Potts, 89 Crest Road, requested information on the size and tax basis of the units.

The Board questioned the procedure followed by HOP to insure that the original buyers of the affordable units will always require the affordable units due to continued income constraints. Mr. Slavitt responded that the developer would comply with the HOP regulations, but that he had no further information.

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Sara Johnson, a member of the Board of Selectmen, expressed opposition to the project as not being sensitive to the needs of those served by the HOP program.

Ms. Johnson added that in her opinion, due to the complexity of the site, it would be uneconomical to build housing complying with Wellesley zoning laws on the site. The development of this site relies on the developer's ability to gain relief from zoning laws under the granting of a Comprehensive Permit. The benefits of 10 units of affordable housing are not adequate to outweigh the costs and risks to the Town associated with this site.

Rudy Demarkles, 53 Maugus Hill Road, explained that when the original developers of Maugus Hill Road sites attempted to construct a road, the road washed into the Town parking lot and the developers went bankrupt, costing the property owners about ten thousand dollars apiece to complete the street.

He also described that in a thunderstorm, the manhole covers on Worcester Street lift off the street level about 12 inches. In his opinion, the removal of vegetation and the construction of flat roofed buildings on the site will increase the runoff problem which the Town storm drainage system is not capable of handling.

There being no other evidence or comment offered, the Public Hearing ended. Following the Public Hearing, and the Board's discussion which ensued, the Chairman of the Board called for a voice vote on the granting of the Comprehensive Permit. All three sitting members voted to deny the petition of Capital Site Management Associates for a Comprehensive Permit. The reasons for said decision are hereinafter set forth.

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STATEMENT OF FACTS

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The property in question is located at 418 Worcester Street, in a Single Residence District, on 118,536 square foot lot, which is bounded by Single Residence zoned properties on Wareland Road, Maugus Hill Road and Eaton Court. The western corner of the site is bounded by a Business District fronting Washington Street.

The petitioner is requesting a Comprehensive Permit pursuant to MGL Chapter 40B, Sections 20-23 to construct one building with two to three stories which will contain 28 two-bedroom condominium units, and 5 three-bedroom town house units. Five of the two-bedroom units and all of the town house units will be designated as Affordable Housing.

The petitioner is requesting the following exceptions to the Wellesley Zoning Bylaws: 1) exception to Section II - Single Family use in a Single Residence District; 2) exception to Section XIX as the density exceeds the 25% lot coverage allowed in a Single Residence District; 3) exception to Section XIV - Site Plan Approval as the project involves more than 2,500 square feet which is considered a major construction project requiring said approval; 4) exception to Section XX - maximum building height of 40 feet for town houses should the Board of Appeals feel this exception is necessary; and 5) exception to Section XIX - Yard Requirements of setback of 30 feet, 20 feet, 20 feet for front, and rear setbacks respectively, should the Board of Appeals feel this exception is necessary.

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The following plans were submitted on May 24, 1990: Cover Sheet containing Wellesley Estates Proposal Information; Site Survey Plan (L1) drawn by Steven E. Springer, Registered Land Surveyor, dated May 10, 1990, revised May 18, 1990; Site Layout Plan (L2), Site Grading Plan (L3), Site Utility Plan (L4) and Site Landscape Plan (L5), drawn by Philip Hresko, Registered Landscape Architect. Plans L2-L4, dated May 10, 1990, were drawn by Joel Williams, Registered Professional Engineer. Plans L2-L5 were missing both the north/south arrow and a scale. On May 30, 1990, Joel Williams notified the office of the Board of Appeals of the precise scale for Plans L2-L5.

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Plan L2 showed a stop sign; Plan L3 showed mailboxes; but none of the submitted plans clearly depicted and identified the location of the power controlled access gate at the entrance to the roadway. Mention of this gate was made for the first time at the petitioner's presentation to the Design Review Board on June 14, 1990. However, no other reviewing Board was aware of the possible existence of such a gate, and therefore did not make mention of it in their responses to the Board of Appeals. Following the Public Hearing at which the concept of a power controlled access gate was discussed, a plan of the Entry Gate (SKA-L1) dated June 27, 1990, was submitted.

The following architectural plans drawn by Philip Hresko, Registered Architect were also submitted: Parking Level Plan (A1) dated February 12, 1990, revised May 18, 1990; First Floor Plan (A2) dated February 12, 1990; Second Floor Plan (A3) dated February 12, 1990; North (Front), North (End), South Elevation (A4) dated February 12, 1990, revised May 18, 1990; East (Front), East (End), West Elevation (A5) dated February 12, 1990, revised May 18, 1990; and Wall Section

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(A6) dated February 12, 1990. Elevation Plans A4 and A5 did not have topographical elevation data, which was not submitted until June 15, 1990.

Accompanying the above referenced Plans was a document entitled "Wellesley Estates; An Affordable Housing Proposal; Application for a Comprehensive Permit" which included a Written Narrative, Official Development Prospectus, Site Approval Letter, Memorandum from Kate Racer dated April 2, 1990, Evidence of Developer's status as a Limited Dividend Organization; Deed to 418 Worcester Street; Index-Cross Reference Sheet; Borings B1 through B6; and Traffic Study prepared by Vanasse Hangen Brustlin, Inc., dated May, 1990.

The Design Review Board reviewed the proposal on June 14, 1990. In the opinion of the Board, the overall architectural quality of the proposed project was very poor and entirely out of character with the town and the site. The Board also commented on the excessive density of the proposal; the inaccessibility of the site to pedestrian traffic and conversely, the inaccessibility of shopping, churches, libraries and transportation to the residents due to site access constraints; and the potential traffic hazards engendered by the location of the mailboxes and the locked security gate at the foot of the driveway.

All of the plans and materials noted above were distributed to the Design Review Board, the Planning Board, Wetlands Protection Committee, Town Engineer, Fire Department and the Board of Health pursuant to MGL Chapter 40B, Section 21. Written responses from each authority were received and are on file in the office of the Board of Appeals.

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The Engineering Department stated that the existing town drainage system does not have the capacity to handle the increased runoff resulting from the project and questioned the feasibility of the proposed retention system based on the information submitted. Neither an erosion control plan nor calculations indicating the availability of excess capacity of Town drainage lines were submitted. The Town Engineer noted the difficulty of construction of proposed retaining walls without encroachment on abutting properties. A review of the Landscaping Plan was difficult as the plan did not properly identify or key the plans to the labels to denote location of plant materials, although there was no visible attempt to use landscaping to prevent erosion. The Town Engineer also noted the presence of a mound adjacent to the roadway which drops 25 vertical feet in 25 horizontal feet, and expressed concern as to provisions ensuring slope stability. In the Town Engineer's opinion, this mound would limit sight distance on the roadway.

The Wetlands Protection Committee also stated that the location of the project on the side of a drumlin with an approximate 17 percent slope meant that erosion during construction would be a serious problem and noted the lack of an erosion control plan. They also regarded a subsurface drainage plan essential. The Committee stated that insufficient information had been provided in the plans to assess the quality and performance of the drainage system, and requested another design for storage of runoff as the proposed retention pipe would not function as intended.

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The Fire Chief stated that he was unable to approve the project as access to the rear of the building for firefighting and rescue operations is inadequate; and the pipe size proposed to serve the site is inadequate to supply the fire flow required for the building based on its size, construction and occupancy. The Fire Chief also questioned that the access road could actually be constructed according to the plans submitted due to the retaining walls and slopes.

The Planning Board voted to recommend denial of the comprehensive permit for a number of reasons. The Board is of the opinion that the density of the project is inconsistent with the density of the surrounding neighborhood. The Board had serious concerns with the grade and design of the access road in regard to safe vehicular passage of two vehicles simultaneously, snow removal and line of sight of exiting vehicles onto Worcester Street. The Board questioned the adequacy of the storm drainage plan and potential erosion during and after construction. The Board also noted that the description of proposed land use in the 1981 Wellesley Comprehensive Plan has been misconstrued in the narrative submitted by the petitioner.

Letters of comment and review were also received and are on file from the Board of Selectmen, the Natural Resources Commission, and George Bezkorovainy, Traffic Engineer with Bruce Campbell & Associates.

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DECISION

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Capital Site Management Associates, a Massachusetts General Partnership, is requesting a Comprehensive Permit pursuant to the provisions of MGL Chapter 40B, Sections 20 through 23 to construct one building with two to three stories containing 28 two-bedroom units and 5 three-bedroom townhouse units, of which 5 two-bedroom units and all townhouse units would be designated as affordable housing. The proposed site is located at 418 Worcester Street, in a Single Residence District, on a 118,536 square foot lot. Vehicular access would be gained solely through a serpentine roadway connecting Worcester Street (Route 9 Access Ramp) with the site. Pedestrian access would be gained only through a steep walkway over a 10 foot wide right of way adjoining and parallel with the southwestern side of the property.

The Zoning Board of Appeals has made a careful study of the evidence submitted and has unanimously voted to deny the petition for the Comprehensive Permit for the following reasons:

1. NON-COMPLIANCE WITH HOP GUIDELINES

In the opinion of the Board, the petitioner does not meet the requirements of the state funding agency in several specific areas, the most critical of which is density. Section 7, Project Standards for Developers and Communities of the Homeownership Opportunity Program, October, 1989 Guidelines for Communities and Developers, states on Page 21:

"...The density relief requested by the developer should be reasonable given the general development pattern for the area contiguous to the project site.

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In general, homeownership proposals should be no greater than 8 units per acre. However, based on the development pattern in the area contiguous to the site, a much lower level of density may be appropriate."

And on Page 22:

"Developer-only projects: In the absence of community support, the density level of a HOP project cannot exceed 8 units per acre, unless the developer can demonstrate that the municipality previously has approved homeownership projects of comparable scale and density on similar sites."

~~According to HOP Guidelines, the acceptable density for the 2.57 acre site~~ would be 22 units, and not the 33 units which are proposed, as the property is located in a Single Residence District with a minimum lot size of 20,000 square feet.

It is reasonable to assume that as the purpose of the HOP program is to provide affordable housing for first time homeowners that some, if not all of the affordable units will be purchased by young couples with children or with the expectation of children. In the opinion of this Authority, the proposed construction does not serve the needs of the target market as the recreation facilities for children are extremely limited, the grade of the pedestrian walkway makes it almost inaccessible for parents with strollers or children with bicycles and there is a definite question regarding the safety of a school bus stop at the foot of the walkway.

It is the opinion of this Authority that the issues raised in the original MHFA site approval letter of November 4, 1988 regarding density, the access road and traffic still have not been properly addressed in the current proposal. According to the previously referenced issue of the HOP Guidelines, Section 5 on Page 13 states:

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"Failure by the developer to address legitimate concerns may eliminate a project from further consideration."

The issue of density has been discussed; the issues of the access road and traffic will be discussed under Consistency with Local Needs.

2. CONSISTENCY WITH LOCAL NEEDS

Architectural Design

There are two major criteria in determining whether a proposal is consistent with local needs. MGL Chapter 40B, Section 20 states:

"...the need...to promote better site and building design in relation to the surroundings"

HOP Guideline, Appendix A, MHFA Design Guidelines for Homeownership Proposals states:

"A. Architectural Treatment

VISUAL IMPACT IN RELATION TO COMMUNITY

The building form should be appropriate and integrated into the topography and neighborhood.

The density characteristics and building form of the proposal should conform to and not detract from the surrounding area."

In the opinion of the Design Review Board following a review of the proposal on June 14, 1990, "...the overall architectural quality of the proposed project was very poor and entirely out of character with the town and the site". The Board felt that the great massing of the structure in one long poorly scaled rectangular mass made it appear like a "barracks" and tended to accentuate the inappropriate massing of the structure and the bland uniformity of the facade. It was commented that the structure appears to be designed for a flat site as the design does not acknowledge the steep terrain. The Board

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felt that the site plan and the architectural design of the structure severely lacked the most basic good design attributes.

Protection of Health and Safety of Occupants and Residents of the Town

The second criteria is found in MGL Chapter 40B, Section 20 which states the need "to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town".

It is the opinion of this Authority that neither the health and safety of the occupants nor the health and safety of the town residents has been protected in this proposal, and in fact, the health and safety of both groups would be endangered were this project to be completed.

Site Access General Is Inadequate and Unsafe:

The Fire Chief, in a letter dated June 6, 1990, stated that he is unable to approve the project as access to the rear of the building for firefighting and rescue operations is inadequate.

Access Driveway

The Site Approval letter from MHFA dated November 4, 1988, states:

"(1) The proposed access road to the site must be designed in such a way as to be appropriate for emergency vehicle use and allow for adequate safety in adverse weather conditions."

In the opinion of this Authority, the design of the proposed access road is not appropriate for emergency vehicle use, nor does it allow for adequate safety in adverse weather conditions. The grade of the access drive exceeds

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the 9% maximum Town street grade standard. Traffic exiting the project driveway will have a restricted line of sight due to both horizontal and vertical curves and topographical conditions adjacent to the roadway.

The serpentine roadway with a 42 foot radius and a minimum inside radius of 30 feet is not adequate to allow trailer trucks, moving vans or fire engines to reach the building without using the entire radius of the roadway curves. This maneuver is not consistent with the requirements of MGL Chapter 41 pertaining to safe vehicle operation.

There is only one location along the entire roadway at which a standard single unit vehicle could pass a vehicle approaching from the opposite direction. The steepness and the curved nature of roadway would mean the an emergency access vehicle could not reach the buildable portion of the site if another vehicle were descending the road, disabled or illegally parked on any other section of the roadway. The steepness and serpentine turns would make it almost impossible to back a vehicle down to Worcester Street if the roadway were blocked in any manner.

Should a single unit vehicle be able to ascend the roadway unimpeded, the width of the entrance plaza is insufficient to enable the vehicle to turn around to descend. At the Public Hearing, Harold Cutler, the petitioner's Fire Safety expert, stated that fire trucks would have to back down the driveway in order to exit the premises.

The Vanasse Hangen Brustlin, Inc. Traffic Survey submitted by the petitioner states on Page 20:

"In addition, the drive should be properly maintained during the winter season. Attention should be given to maintaining the roadway free of snow and ice so as to be passable at all times."

Residents of Maugus Hill Road and Wareland Road, to which the petitioner compares the grade of the proposed roadway, have stated that during winter storms, it can be impossible to travel Wareland Road to the summit. The Engineering Department has stated that the evergreens shown on the Landscape Plan to be located beside the roadway will contribute to winter ice control problems, further compounding the problems of the excessive driveway grade. Residents of the area have also stated that during winter months, ground seepage which freezes makes the roads difficult to safely navigate. The effect of ice on the proposed roadway would render it practically impossible for vehicles to ascend or descend safely.

The petitioner has not addressed the problem of snow removal operations. The proposed driveway creates a "canyon effect" with inadequate snow storage capabilities, which coupled with the difficulties to be overcome for snow removal equipment in ascending the driveway, could make the access road extremely hazardous during winter months even if it can be properly plowed and sanded.

Entrance Gate at Access Road Is Ill-conceived and Would Create Unsafe Traffic Conditions

Although the gate at the top of the Pedestrian Walkway was depicted in the plans, the only reference on the submitted plans to the proposed entrance gate at the foot of the access roadway was by the use of an architectural symbol. When the submitted plans were distributed for review, the reviewing Boards were unaware of the proposed existence of this gate. A detail drawing of the power controlled entrance gate was submitted to the Board of Appeals on June 28, 1990.

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In the opinion of this Authority, the proposed gate will not allow health and safety equipment larger than a small van to enter the property, as the width of the roadway from the card sensor pedestal is approximately 10 feet and the location of gate is on the first curve of the roadway.

The problem of ascending the driveway in winter months will be exacerbated by the location of the power controlled entrance gate, which will stop ascending cars from maintaining sufficient speed to gain the summit of the roadway, particularly as the location of this gate is on the initial curve in the access road. Again, vehicles will be forced to back down the drive, should they be able to negotiate the turns, into approaching traffic.

According to the submitted plans, the mailboxes for the residents will be located outside the control gate. Although the petitioner stated that there is one car width distance between the mailboxes and Worcester Street, the Board is of the opinion that this space is not sufficient. A backup of residents' vehicles, stopped either to retrieve mail, or await the opening of the gate, could result in vehicles backed up onto Worcester Street, creating a hazardous situation for both the driver and oncoming traffic.

At the intersection of the access drive with Worcester Street, a sight distance of 250 feet in each direction is required. Although the Vanasse Hangen Traffic Survey states that "this distance can be provided by removing vegetation along the site frontage", the site frontage is only 85 feet, which may necessitate removal of vegetation on land not owned by the petitioner in order to create the required sight distance. There is no guarantee that the removal of vegetation needed for safe egress and ingress can be assured.

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Retaining Walls

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The construction of the proposed roadway is dependent on the construction of the proposed retaining walls. One retaining wall on the access road is 22 feet high and less than 10 feet from abutting property. Safety requirements dictate that the angle of repose for excavations with soil conditions of silt and sand be 1 on 1, or 45 degrees; and with soil conditions of glacial till be 2 on 1, or 63 degrees, which would require the excavation for the retaining wall to go beyond the property line by more than 20 feet. Without the granting of a temporary construction easement by the abutter, construction of this retaining wall would be extremely difficult, if not impossible. Such an easement has not been obtained and most likely will not be secured.

Test borings at this location show bedrock as pink granite, which is rarely removable by mechanical means. Projecting contours to this location using Borings B1, B2 and B3 show bedrock at 2 to 3 feet higher than the roadway as designed. Construction of the retaining wall and roadway in this location would require blasting. It is the opinion of this Authority that due to the proximity to a medical building, abutting property and existing retaining walls in the area, blasting is a real and an unacceptable danger.

Test borings at this location also show the water table at about 10 feet. All of the proposed retaining walls are of a height greater than 10 feet, so water would be introduced to an open excavation. The disturbance of the glacial till with the introduction of water creates an unstable condition which could result in mudslides damaging abutting properties and residents.

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Pedestrian Access Is Hazardous and Not Up to Legal Standards

It is the opinion of this Authority that the proposed pedestrian access would be hazardous to both the unimpaired and the handicapped, and does not meet the legal handicap requirements. Although in its narrative, the petitioner lists the amenities of Wellesley Hills that are within "walking distance", this statement relies on geographical distance rather than actual accessibility. The proposed walkway is at a 24% grade, making it impossible for handicapped persons to negotiate in any weather, and dangerous for the able-bodied in inclement weather. Mothers with strollers, children with bicycles, and those with any physical problems would find both the descent and ascent of this walkway extremely difficult. As this is the only pedestrian access to the site, the Board of Appeals is of the opinion that this is an unacceptable solution which does not take into consideration the health and safety of proposed occupants.

Physical Features of the Site Topography

Soil Conditions Render Construction Unbuildable for All Practical Purposes

The U.S. Soil Conservation Service's Soil Survey Report classifies the soil type found on the project site as of the Paxton series, which means that there are "severe" constraints for building site development. In other words, "one or more soil properties or site features are so unfavorable or difficult to overcome that a major increase in construction effort, special design, or intensive maintenance is required." Erosion during construction is a serious problem, which has not been addressed by the petitioner. Page 6 of the Official Development Prospectus states that 13,700 cubic yards of material

will be removed from the site, which equates to approximately 450 trips with a 30 cubic yard dump trailer. Removal of such a large quantity of material will have to be accomplished in an environmentally sensitive manner, but no erosion control plan has been submitted. The ability of a dump trailer to safely access and exit the site is also questionable

The petitioner's plans call for a 1:1 slope for areas adjacent to the driveway. There is no indication of what materials will be used on this slope. Soil will not hold on such a slope, and there is no indication whether the proposed treatment of this area will be stone rip rap, poured concrete or some other material. No replacement vegetative cover is shown on the landscaping plan for this area.

The Town has had experience with past land development which has occurred on this hill. During construction of a 1955 residential subdivision, serious erosion and sedimentation occurred as a result of storm water runoff with resulting damage to Town and private property for which the expense of cleanup was considerable.

Test borings show silt with some sand and clay content over glacial till to a depth of from 15 to 20 feet where bedrock is encountered. Water is encountered from 2 to 8 feet above the bedrock. Although both materials are reasonably stable in an undisturbed state, once these materials are excavated and unconsolidated, and exposed to water from rain or ground seepage, they become very unstable, almost to the point of liquefying. The topography of this site makes it prone to mudslides during the construction and excavating procedures, endangering adjacent property and residents.

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Test borings also show that the bedrock elevation is higher than the parking lot and a good portion of the access roadway necessitating extensive drilling and blasting to allow for the installation of underground utilities, the five foot diameter 150 foot long retention pipe, construction of the road and the retaining walls. The necessary blasting together with the exposure of the excavation to water from above and below will cause portions of the site to become unstable with resultant damage to abutters and their property.

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Storm Drainage Capacity Is Inadequate

Both the Engineering Department and the Wetlands Protection Committee have expressed concerns regarding the inadequacy of the runoff calculations from both the building and the site. The Engineering Department has stated that the existing Town storm drain does not have adequate capacity to handle the increased runoff resulting from this project.

In the opinion of both the Wetlands Protection Committee and the Board of Appeals, the five foot diameter 150 foot long drainage pipe in front of the building will not function as a retention pond. Calculations supporting the design of the drainage system were not submitted. Due to the lack of information provided in the plans, quality and performance of the drainage system, which is critical at this particular site, is difficult to assess.

Water and Sewer Services Would Be Inadequate

The Fire Chief has stated that he does not believe that the pipe size proposed to serve the site is adequate to supply the fire flow required for the building. Due to lack of design detail, the Engineering Department cannot assess the effect of the pump on the Town water system. The Engineering

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Department questions the adequacy of Town sewers as no calculations have been provided to determine that excess capacity of sanitary sewer lines is available to accept the proposed flow. They also state that a sewer easment will be required for the sewer line if it is constructed as shown.

Traffic at Intersection of Worcester Street and Route 16 Is Intractable

Traffic from the site would create an adverse impact on the safety of both the residents of the building and the Town. The Vanasse Hangen Traffic Survey concludes that although the critical intersection of Route 16 and Worcester Street (east) is presently operating at Level of Service F during peak hours, the traffic generated by the project would not have a significant impact.

Based on the conclusions of Bruce Campbell & Associate, the Town Traffic Consultant, the Board believes that a serious condition exists with respect to traffic and the impact of the project with respect to traffic admits of no practical solution.

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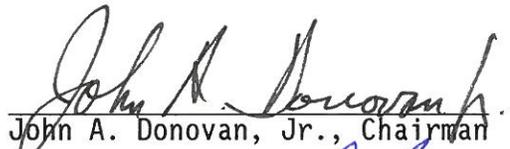
CONCLUSION

For all of the foregoing reasons, the application for the Comprehensive Permit is hereby unanimously denied by the Zoning Board of Appeals.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS, CHAPTER 40B, SECTION 21, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

cc: Board of Selectmen
Planning Board
Inspector of Buildings

edg


John A. Donovan, Jr., Chairman


Kendall P. Bates


William E. Polletta

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