



Bk: 38641 Pg: 182

Recorded: 04/02/2003

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FINDINGS AND DECISION

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Re: Application of Joseph R. Mullins Company, acting as Kimball Woods, LLC (hereinafter the "Applicant") for an Amendment to a Previously Approved Comprehensive Permit granted to the Applicant in Burlington, Massachusetts (hereinafter the "Amendment Application")

DATE: January 21, 2003

Procedural History

On August 20, 2002, the Board of Appeals for the Town of Burlington (hereinafter referred to as the "Board" and the "Burlington Board of Appeals") granted a Comprehensive Permit (hereinafter, the "Permit") pursuant to M.G.L. Chapter 40B §§ 20-23, for property located off Pearl Street (said street being in Woburn) and shown on Assessor's Map 31 as Parcel 130 (hereinafter, the "Property"), for the construction of a rental apartment building consisting of at least 201 units and up to 250 units (the "Project") subject to certain provisions concerning adequacy of parking, traffic conditions and safety, as detailed in the original decision, which Permit is attached and incorporated as Attachment "A". The Permit was recorded with the Middlesex South Registry of Deeds on October 3, 2002 as Document Number 507.

Pursuant to 760 CMR 31.03(3)(a) the Applicant informed the Board that it was seeking to amend the Permit in order to construct the Project at 250 units and fully described said proposed amendments in the Amendment Application filed on December 16, 2002.

Pursuant to the terms of the Permit and 760 CMR 31.03 (c), the Board opened and closed a duly advertised public hearing on January 21, 2003.

The following documents and exhibits were received as part of the Amendment Application and/or during the public hearing process and are hereby incorporated by reference into this Decision amending the Permit:

- \$ The completed Town of Burlington Board of Appeals Application for Hearing and associated Memorandum from Riemer & Braunstein LLP to the Board dated December 16, 2002.
- \$ A Plan of Land entitled "Kimball Court/Kimball Woods, Woburn & Burlington, MA, Conceptual Plan for Covered Parking", dated October 16, 2002, prepared by H. W.

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January 28, 2003

A TRUE COPY ATTEST

June R. Clark

TOWN CLERK

BURLINGTON, MASSACHUSETTS

MARGINAL REFERENCE REQUESTED	
#507	10-3-02
BOOK 36603	PAGE 395

Record owner:
Kimball Woods Realty Trust

Book 35091 Page 103

Joseph R. Mullins, Trustee

Pearl Street Burlington, MA

75.00

577

MSD 04/02/03 09:35:55

Moore Associates, Inc., and as further shown on a Plan of Land entitled "Kimball Woods Preliminary Site Development Plans", dated December 30, 2002, prepared by H. W. Moore Associates, Inc., and as further shown on an architectural plan entitled "Kimball Woods", dated December 4, 2002, prepared by Russell Scott Steedle & Capone Architects Inc. (hereinafter, individually and collectively known as the "Amended Site Plans")

Town Departmental recommendations and correspondence:

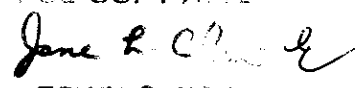
- § Memorandum of the Fire Chief to the Board of Appeals dated January 13, 2003.
- § Memorandum of the Board of Health to the Board of Appeals dated January 9, 2003.
- § Memorandum of the Planning Board to the Board of Appeals dated January 17, 2003.

FINDINGS

The Burlington Board of Appeals hereby makes the following findings regarding the compliance of the Project, as described in the Amended Application, with the requirements of the Permit regarding the creation of sufficient parking to service the proposed 250 units and the adequacy of traffic conditions and safety provisions:

1. In order to provide sufficient parking opportunities for all residents within the Project, the Applicant has proposed to construct a raised parking deck which will accommodate up to 118 vehicles. A portion of this parking deck will be located on the southeasterly corner of the Kimball Woods site, with the remainder of the parking deck located on the adjacent Kimball Court property. This proposed parking deck will not only serve the needs of the residents located within the Project, but will also provide residents of the abutting Kimball Court with alternative parking options. These additional parking spaces will create a parking ratio of 1.67 spaces per unit for the Kimball Woods residents with an overall parking ratio of 1.64 spaces per unit for the entire Kimball Woods and abutting Kimball Court apartment development.
2. The Applicant has designed the internal vehicular circulation pattern to adequately accommodate the increase in residential traffic anticipated to be generated by the Project. The roadway layout will allow two-way traffic throughout the entire site as well as multiple internal routes in the event of an emergency. The Applicant shall continue to maintain the main and emergency access/egress points connecting the Project to the abutting public way (Pearl Street).
3. The site design will also adequately accommodate the increase in pedestrian traffic generated by the Project through a series of sidewalks connecting the

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TRUE COPY ATTACHED

TOWN CLERK
BURLINGTON, MASSACHUSETTS

parking areas to the Project's residential building and the residential buildings in Kimball Court.

4. The Applicant has worked with the City of Woburn to design a utility system which will provide the Project with adequate water supply for domestic needs and fire suppression as well as sanitary sewer capacity. A copy of the final agreement shall be submitted to the Burlington Board of Appeals.

DECISION

Pursuant to M. G. L. Chapter 40B §21, the Burlington Board of Appeals, after a public hearing and the above-noted findings, hereby grants to Kimball Woods LLC an amendment to the Permit for the construction of 250 apartment units with associated infrastructure improvements, subject to the following terms and conditions:

1. All previously issued conditions of approval granted to Kimball Woods, LLC by the Burlington Board of Appeals pursuant to the Permit issued on August 20, 2002, shall continue to remain in effect and are hereby incorporated into and made part of this Decision by reference.
2. The Project as constructed shall not exceed a total of 250 dwelling units and nine (9) stories in height. In the event that the Applicant chooses not to proceed with the construction of the 250 units, the Applicant shall notify the Burlington Board of Appeals.
3. The applicable plans governing the Project shall be the Amended Site Plans.

This Amendment of the Comprehensive Permit shall not be in effect until a copy of this Decision, bearing the certification of the Town Clerk that twenty days (20) have elapsed and no appeal has been filed, or, that if such appeal has been filed that it has been dismissed or denied, and is recorded at the Middlesex South Registry of Deeds and indexed in the grantor index under the name of the owner of record, or is recorded and noted on the owner's Certificate of Title. The fee for recording or registering shall be paid by the Owner or Applicant.

On the 21st of January 2003, the following Burlington Board of Appeals members voted to grant this Amendment to the previously approved Comprehensive Permit granted to Joseph R. Mullins Company, acting as Kimball Woods, LLC, dated August 20, 2002, as stated above:

John M. Mullins
Wayne Z. Harding
George Murphy
William J. Murphy
John A. Berzini

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751771.2

M. Cushing
3/7/03

March 7, 2003

Elean McGee Asst. Town Clerk, of the
Town of Burlington hereby certify that no appeal has
been taken within 20 days after the approval of the
variance by the Bd. of Appeals of said town.

Elean McGee
Asst. Town Clerk