

MINUTES
SUDBURY BOARD OF APPEALS
TUESDAY, JULY 18, 2006

The Board consisted of:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Jonathan G. Gossels
Constantine Athanas

Also: Jody Kablack, Planning Director

This item was scheduled on the July 18th Agenda as a Miscellaneous Agenda Item for the purpose of voting on a traffic consultant for the Foreign Motors West (BMW) applications.

Ms. Kablack reported that Mass. Highway recommended the firms that she solicited. Responses were received from Fay, Spofford & Thorndike, LLC, MS Transportation Systems, Inc., MDM Transportation Consultants, Inc., and Coler & Colantonio Engineers and Scientists.

Prior to a vote, Mr. Richmond reported that two of the firms, MDM and MS Transportation, are currently working on projects in other towns that his law firm is working on. However, he felt that no conflict of interest applies since all of the firms solicited were selected by Ms. Kablack without any input from the Board. Mr. Richmond stated that he would be filing a Disclosure of Appearance of Conflict of Interest as required by G.L.C.268A, 23(b)(3).

Ms. Kablack stated that following her review of the proposals received, she would recommend the Board hire the firm of MDM Transportation Consultants, Inc.

A motion was made, seconded and unanimously voted to retain the firm of MDM Transportation Consultants, Inc. to review and address the proposed road improvements at the intersection of Old County Road and Route 20 in accordance with the Statement of Work prepared by the Planning Director.

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

Jonathan G. Gossels

Constantine Athanas

SUDBURY MEADOWS
534 North Road
05-28

SUDBURY BOARD OF APPEALS
TUESDAY, JULY 18, 2006

The Board consisted of:

Stephen M. Richmond, Chairman
Jeffrey P. Klofft, Clerk
Jonathan Gossels
Constantine Athanas

At its meeting held on July 18, 2006 it was on motion unanimously voted to approve the Marketing Plan & Income Eligibility Procedures for the Sudbury Meadows Comprehensive Permit.

(Copies of those documents had been forwarded to the Board previously for their review prior to this meeting.)

Stephen M. Richmond, Chairman

Jeffrey P. Klofft, Clerk

Jonathan G. Gossels

Constantine Athanas

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
JULY 18, 2006

The Board consisted of:

Stephen M. Richmond, Chairman
Jonathan G. Gossels, Acting Clerk
Jeffrey P. Klofft
Elizabeth A. Taylor
Constantine Athanas

Also: Jody Kablack, Planning Director
Edward Marchant, Consultant

For the Applicant:

Attorney Joshua M. Fox

Ben Stevens, Trask, Inc., applicant

The hearing was reconvened by the Chairman, Mr. Richmond for the purpose of reviewing the latest draft decision.

All present reviewed the documents page by page. Discussion followed and the clarifications and modifications agreed to will be incorporated into the final document.

The public hearing was then closed.

The following motion was placed and seconded:

MOTION: "To approve the application of Old County Road LLC for a comprehensive permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of thirty-seven (37) townhouse condominiums, including ten (10) units to be sole for occupancy by low or moderate income residents at established sales prices pursuant to the Department of Housing and Community Development's Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity, on land owned by Martin and Diane MacArthur consisting of 6.02 acres at 6 Old County Road in Sudbury (Assessor's Map K11, Parcels 022 and 202) subject to all of the conditions stated in the permit decision."

VOTED: In favor: 5 (unanimous) Opposed: 0

The Decision and conditions contained therein are incorporated into these Minutes by reference.

Stephen M. Richmond, Chairman

Jonathan G. Gossels, Acting Clerk

Jeffrey P. Klofft

Elizabeth A. Taylor

Constantine Athanas

NOTICE OF DECISION
COMPREHENSIVE PERMIT
OLD COUNTY ROAD LLC

THE VILLAGES AT OLD COUNTY ROAD
6 OLD COUNTY ROAD
SUDBURY, MA
ZONING BOARD OF APPEALS CASE NUMBER 05-28
JULY 18, 2006

I. Background

The Sudbury Zoning Board of Appeals (the “Board”) received application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from Old County Road LLC/Benjamin Stevens, Manager (the “Applicant”) on May 13, 2005 to construct a 40 unit condominium development (which was subsequently reduced by the Applicant to 37 condominium units) including ten (10) affordable units, on a 6.02 acre parcel of land located at 6 Old County Road. Said property is within an A-Residential Zoning District and C-Residential Zoning District, and is identified as parcels 022 and 202 on Town Assessor’s Map K-11 (the “Property”). The Property is owned by Martin and Diane MacArthur.

The application was properly filed by the Applicant and notice as required by law was given to all entitled to receive such notice as provided by law.

The Applicant is a qualified eligible Applicant to apply for a Comprehensive Permit pursuant to 760 CMR 31.01 in that:

- a) it is a limited dividend organization created in accordance with the general laws of the Commonwealth of Massachusetts for the express purpose of undertaking the development of the Property as a limited dividend organization;
- b) it will receive a government subsidy in that it will receive a loan from MassHousing or New England Fund financing from a Member Bank of the Federal Home Loan Bank of Boston in an amount sufficient to qualify the project as one eligible for a comprehensive permit; and
- c) it has a Purchase and Sale Agreement to purchase the Property.

The Board convened the public hearing on this application on June 23, 2005. The public hearing was continued to August 11, 2005, September 15, 2005, October 18, 2005, November 8, 2005, January 5, 2006, February 1, 2006, March 2, 2006, May 1, 2006, June 1, 2006, June 29, 2006 and July 18, 2006. The hearing was closed on July 18, 2006.

Sitting as members of the Board and present throughout the hearing were Stephen Richmond, Chairman, Jonathan G. Gossels, Clerk, Jeffrey Klofft, Constantine Athanas, and Elizabeth A. Taylor. Steve Garanin also attended the hearings as an alternate.

In reviewing the application of Old County Road LLC as well as evidence presented in written or oral form by citizens and Town Boards and departments during the course of the public hearing, the Board has determined that the Town of Sudbury does not meet the statutory criteria for

availability of low and moderate income housing, as those units currently in existence constitute less than 10% of the year round housing units in the Town and are on sites which comprise less than the minimum land area necessary and as defined in 760 CMR 31.04. The Board has further determined that the allowance of this application will not result in the commencement of construction of low or moderate income housing units on a site comprising more than the minimum land area necessary and as defined in 760 CMR 31.04. The Board also finds that the development as proposed in the application, as modified during subsequent sessions of the public hearing and as modified by the attached conditions is consistent with local needs within the meaning of Massachusetts General Laws, Chapter 40B, Sections 20-23 and that it is consistent with the character of the zoning district. Finally, the Board notes that the Applicant has presented evidence of site control in its application, and evidence of Project Eligibility through its MassHousing Project Eligibility Letter dated February 14, 2005.

Therefore, the Board finds that there is compelling evidence to support the granting of a Comprehensive Permit (the "Permit") to enable the construction of the Project described during the public hearing and known as The Villages at Old County Road, subject to the following conditions.

II. Application Details

This approval is based on the following plans, reports and information submitted to the Board prior to and during the public hearing, and with the benefits of modifications required under this Permit:

1. Plan prepared by Bruce Saluk and Associates, Inc. entitled "The Villages at Old County Road, Sudbury, MA", dated January 8, 2006, consisting of 9 sheets:
 - ◆ Cover Sheet;
 - ◆ Sheet EX, Existing Conditions Plan (last revised 1/17/06);
 - ◆ Sheet C-1, Grading Plan (last revised 6/15/06);
 - ◆ Sheets C-2, Drain Plan (last revised 6/15/06);
 - ◆ Sheet C-3, Sewer and Water Plan (last revised 6/15/06);
 - ◆ Sheets C-4 and C-5, Detail Sheets (last revised 6/12/06);
 - ◆ Sheet P-1, Proposed Road Profile dated May 24, 2006, last revised 6/15/06;
 - ◆ Sheet SW-3, Proposed Road Improvement Plan dated August 11, 2005, last revised 5/22/06;
2. Landscape Plan prepared by Thomas Wirth Associates, Inc. entitled "Landscape Plan, The Villages at Old County Road, Sudbury Massachusetts", dated March 27, 2006, revised 6/16/06, consisting of 3 sheets;
3. Concept Floor Plans dated June 5, 2006 consisting of 22 pages (All the above plans and the General Specifications described in subparagraphs 1, 2 and 3 and 65 shall be referred to as the "Plan").
4. Application for Comprehensive Permit with supporting documents dated May 13, 2005.
5. Stormwater Management Report (Preliminary) prepared by Bruce Saluk & Associates, Inc. dated March 2005

6. Traffic Impact Assessment prepared by Gillon Associates dated March, 2005.
7. Application for Comprehensive Permit dated May 13, 2005 including supporting documentation and plans
8. Letter dated June 9, 2005 from the Design Review Board
9. Letter dated June 13, 2005 from the Board of Selectmen
10. Letter dated June 15, 2005 from the Town Planner
11. Memo dated June 22, 2005 from the Conservation Commission
12. Letter dated July 28, 2005 from Trask, Inc., with new submittals and applicable documentation
13. Memo dated July 6, 2005 from Design Review Board Chairman
14. Memo dated August 10, 2005 from the Planning Board
15. Memo dated August 11, 2005 from the Conservation Commission
16. Letter dated August 11, 2005 from the Design Review Board
17. Letter dated September 8, 2005 from Trask, Inc., with supporting documentation
18. Email dated August 11, 2005 from Richard J. Glavin, Police Dept.
19. Email dated August 12, 2005 from Richard J. Glavin, Police Dept.
20. Letter dated September 14, 2005 from Board of Health Director Robert Leupold
21. Memo dated September 14, 2005 from Town Planner
22. Email dated September 15, 2005 from the Conservation Coordinator
23. Memo dated September 15, 2005 from the Planning Board
24. Email dated September 15, 2005 from Carole Wolfe, Sudbury Historical Commission
25. Memo dated September 15, 2005 from the Design Review Board
26. Sketch plan depicting a 28-unit development (submitted by Mr. Gossels)
27. Four proposals for potential consultants: H&H Associates, RKG Associates, Edward H. Marchant, LDS Consulting
28. Email dated October 25, 2006 from the Town Planner
29. Letters dated November 15, 2005 to unsuccessful consultants
30. Agreement For Technical Services to be signed by Edward Marchant
31. Letter dated November 17, 2005 from Trask, including fee for consultant, the latest proposed plans and supporting documentation
32. Memo dated November 22, 2005 from the Town Planner to Edward Marchant
33. Email dated December 1, 2005 from Town Planner
34. Email dated January 4, 2006 from Town Planner
35. Memo dated January 4, 2006 from Edward Marchant to Sudbury ZBA
36. Concept landscape plan dated December 22, 2005 submitted by applicant
37. Email dated January 6, 2006 from Trask, Inc., to Town Planner
38. Email dated January 6, 2006 from Conservation Coordinator
39. Local Townhouse Comparisons submitted by Applicant
40. Proposed Road Improvement Plan prepared by Bruce Saluk & Associates, revised January 17, 2006
41. Summary Appraisal and Valuation Analysis prepared by Avery Associates dated January 17, 2006
42. Summary of buildings and garages, etc., dated January 20, 2006 submitted by Applicant
43. Local Townhouse examples dated January 20, 2006 submitted by Applicant
44. Project Comparisons submitted by Applicant

45. Concept Plan Option 5, revised January 17, 2006 prepared by Bruce Saluk & Associates
46. Summary of buildings and garages dated February 1, 2006 submitted by Applicant at hearing
47. Update for discussion at Feb. 1 hearing, submitted by Applicant
48. Letter dated February 9, 2006 from Design Review Board
49. Letter dated February 15, 2006 from the Planning Board
50. Overview for March 2 hearing submitted by Applicant at hearing
51. Letter dated April 20, 2006 from Trask, Inc., including supporting documentation
52. Letter dated April 20, 2006 from Town Engineer
53. Memo dated April 28, 2006 from the Planning Director
54. Memo dated May 1, 2006 from the Fire Chief
55. Response to Town Engineer's letter of April 20 submitted by Applicant at hearing
56. Response to Planning Director's letter of April 28 submitted by Applicant at hearing
57. Concept Signs submitted at hearing
58. Order of Conditions dated May 12, 2006
59. Email dated May 16, 2006 from Town Engineer
60. Letter dated May 25, 2006 from the Design Review Board
61. Revised Site Plans dated May 2006 submitted by applicant
62. Memo dated May 31, 2006 from Planning Director
63. Rendering of Permanent Entry Sign submitted at hearing
64. Memo from Town Engineer/DPW Director dated June 9, 2006
65. The Villages at Old County Road General Specifications dated July 18, 2006
66. The Villages at Old County Road Proposed Construction Phasing dated July 10, 2006, revised July 17, 2006
67. The Villages at Old County Road Affordable vs. Market Unit Differences dated July 18, 2006
68. The Villages at Old County Road Unit Specifications dated July 18, 2006

Collectively, the development described by the documents listed in this section is referred to herein as the "Project".

III. Exceptions

The Board hereby grants exceptions to the following local bylaws and regulations and rules and regulations promulgated thereunder in approving this project:

1. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 2210 waiving the requirement that no more than one principal structure shall be placed on a lot. The site will be utilized as a townhouse condominium development with multiple dwelling structures.
2. Zoning Bylaw, Article IX of the Sudbury Bylaws, Sections 2322/2324 waiving the requirement that the Board of Selectmen must approve the use, storage or parking of trailers in residential districts. The Applicant shall be permitted to locate one (1) construction trailer on the Property for no more than three (3) years from the date of this approval, and one (1)

sales trailer for no longer than one (1) year after the first occupancy permit is issued, subject to Condition IV.13 below, unless these dates are extended by the Board.

3. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 2460B requiring a special permit from the Zoning Board of Appeals to demolish and reconstruct a non-conforming structure that is larger than the original structure. No additional special permit shall be required.
4. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 2610, Dimensional requirements to waive the front yard setback from forty (40) feet to no less than thirty (30) feet and the side yard setback from twenty (20) feet to no less than thirteen (13) feet. The proposed structures shall be located as shown on the Plan.
5. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3200, Signs and Advertising Devices to permit the development entrance sign as proposed in the application (size and location), with the exception that the sign shall not be illuminated between the hours of 11:00 P.M. and 6:00 A.M. No further permitting shall be necessary.
6. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3310 to permit all units in the development to access Old County Road via one common driveway. The Board has duly considered the width and construction of the roadways in the development for safe and adequate access, and the proposed roadway has received the approval of the Fire Chief.
7. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 4100, Flood Plain Overlay District to permit the development as shown on the Plan and approved by the Sudbury Conservation Commission.
8. Rules and Regulations Governing the Subsurface Disposal of Sewage in Sudbury:
 - a) Section III requiring the size of the leaching area to be based on sidewall area only. Effluent loading rates shall comply with 310 CMR 15.242 and related sections of Title V requirements.
 - b) Section IV requiring minimum design flow rates for multi-family residences. The sewage disposal system shall be sized using the design flow rates in 310 CMR 15.203.
 - c) Section VI requiring a variance to utilize a pump. Applicant shall comply with all Title V and 310 CMR 15.00 requirements.
 - d) Section X requiring a variance to construct retaining walls in lieu of the slope requirement. Retaining walls shall be designed to meet Title V and 310 CME 15.00 requirements.
9. Sudbury Bylaws, Article XXVII, In-ground Irrigation Systems, sections 6 and 8 to permit the installation of an irrigation well within the development without further approval of the Board of Health and to waive the requirement to provide an Integrated Pest Management

Plan for the Project. The location of the well shall comply with the separation requirements of Title V (310 CMR 15.00), the Wetlands Protection Act (G.L. c. 131, § 40), and DEP wetlands regulations (310 CMR 10.00). The Landscape Plan for the development contains many native species which will not require significant irrigation.

10. Sudbury Bylaws, Article VIII(B), Scenic Roads to allow the removal of thirteen (13) trees within the Old County Road right-of-way. Removal of the trees and replacement with roadway landscaping has been reviewed and approved as part of the Landscape Plan for the Comprehensive Permit.
11. Sudbury Bylaws, Article V(A), Removal of Earth. No Earth Removal Board permit shall be required for the construction of the Project as shown on the Plan.
12. Sudbury Bylaws, Article XXII, Wetlands Administration. The provisions of the Sudbury Wetlands Administration Bylaw are hereby waived for the construction of the Project except to the extent that they are included in the Order of Conditions issued for the Project.
13. Sudbury Bylaws, Article XXVI, Public Way Access Permit. No Public Way Access Permit shall be required for the Project as shown on the Plan.

IV. General Conditions

This Permit is granted subject to the following conditions:

1. This Permit is granted to the Applicant and may not be transferred or assigned to any party without the Board's approval. Any change in control of a voting majority of the members of the Applicant will constitute a transfer or assignment. The Permit does not run with the land.
2. This Permit shall become void if the Applicant does not commence with development of the Project as approved herein within two (2) years of the filing of this Permit with the Town Clerk. Commencement of development shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under that permit. The Board may grant extensions for good cause.
3. This Permit approves the construction of the Project, consisting of thirty seven (37) units of attached residential housing in ten (10) buildings, with associated accessory structures, facilities, infrastructure and landscaping, all as shown on the Plan, as modified by this Permit. Unit sizes and mix of units, including the number and location of bedrooms and garages, shall be consistent with the materials submitted to the Board as updated May 5 and 17, 2006.
4. Ten (10) units shall be reserved in perpetuity for purchase and occupancy by low or moderate income households earning no more than eighty (80) percent of the Median Family Income for the Boston-Cambridge-Quincy, MA-NH HMFA (HUD Metro Fair Market Rent Area), as determined by the U.S. Department of Housing and Urban Development (HUD) and as adjusted for household size (the "Affordable Units"). Eight

(8) of the Affordable Units shall be two (2) bedroom units, and two (2) of the Affordable Units shall be three (3) bedroom units. All Affordable Units shall have one (1) car garages. The initial sales prices of the Affordable Units shall be established in accordance with the requirements established by the Department of Housing and Community Development in its Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity if New England Fund financing is utilized, or with the requirements established by MassHousing if the Housing Starts Program financing is utilized. The Affordable Units shall be Units 2, 6, 11, 17, 20, 23, 28, 32, 34 and 35 as shown on the Plan.

5. Any changes to the Project must be reviewed and approved by the Board in accordance with 760 CMR 31.03.
6. No construction activities for the Project shall commence on the Property until the Plan has been revised according to this Permit, the Plan is endorsed by the Board, and the limits of disturbance around the property are properly marked and shielded from impact by construction vehicles. The Director of Planning and Community Development shall be called to inspect the site prior to disturbance. Notwithstanding the foregoing, the Applicant shall be permitted to continue with its environmental investigation and remediation, install haybales around the perimeter of the areas to be disturbed, and begin the site work for the installation of the off-site walkway prior to Plan revisions and endorsement by the Board.
7. All construction of the Project, including the construction of walkways and drainage improvements external to the Property and as described in Conditions IV. 18 and 19, shall be completed within three (3) years from the date of issuance of the building permit unless a request is filed with, and approved by, the Board extending such time.
8. Building permits for the Project shall not be issued until final building plans have been submitted and approved by the Building Inspector.
9. The Applicant shall comply with all conditions of the Order of Conditions for the Project issued by the Sudbury Conservation Commission.
10. The Applicant shall be permitted to remove and/or replace approximately 35,000 cubic yards of earth from the Property incidental to the construction of the residential buildings, the construction of the wastewater disposal system, and the construction of the roadway and drainage system. Hours of operation for earth removal shall be 7:00 am - 6:00 pm, Monday through Friday; there shall be no Saturday or Sunday hauling. The truck route from the site shall be limited to the major roads of the Town of Sudbury, as well as Old County Road and Water Row. Trucks shall not use residential side streets, including but not limited to Goodman's Hill Road. Appropriate measures shall be taken to stabilize the soil on outgoing trucks via the use of covers. Appropriate measures shall be taken during construction to prevent the tracking of material onto any public way. Such measures shall include the installation of a stone apron at the entrance to the site as shown on the Plan. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.
11. Exterior construction activities shall be confined to the hours between 7:00 am and 6:00 pm, Monday through Friday and between the hours of 8:00 am and 4:00 pm on Saturday. There shall be no construction on Sundays, or on state or federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to or after

the times stated herein. For this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and the erection of new structures.

12. Demolition of existing structures shall not occur until all required notices of demolition are provided in accordance with the regulations of the Department of Environmental Protection and the Division of Occupational Safety. Demolition activities will be confined to the hours between 7:00 am and 6:00 pm, Monday through Friday. No demolition shall be allowed on Saturday or Sunday. If any asbestos containing material is to be disturbed in such demolition, the Applicant shall comply with applicable federal and state regulations to ensure safe removal and disposal. Trucks carrying demolition materials from the site shall be covered when they leave the site and shall be limited to using the major streets of the Town of Sudbury as described in Condition 10 above. Trucks shall avoid using residential side streets. Appropriate measures shall be taken to keep dust and noise of demolition to a minimum.
13. The Applicant shall be permitted to locate one (1) construction trailer on the Property for no more than 3 years from the date of this approval, and one (1) sales trailer for no longer than one (1) year after the first occupancy permit is issued. The trailer locations shall be shown on the Plan, shall be located in an already disturbed area, shall not require the need to remove any vegetation, shall not obstruct sight distance entering or exiting the Property, and shall not be located within fifty (50) feet of any property line. No further approval shall be necessary.
14. The Applicant shall remove contaminated soils in the vicinity of the existing barn following demolition of that structure. This work shall be completed to achieve a permanent response action outcome under M.G.L. Chapter 21E prior to issuance of any certificate of occupancy requested for the Project. Verification that this work has been completed shall be submitted to the Board.
15. Addresses for the dwellings shall be Old County Road, and shall be issued by the Town Engineer/Director of Public Works. All mailboxes shall be located within the development as shown on the Plan.
16. The Applicant shall review the final, stamped Architectural Plans with the Design Review Board, and shall consider the recommendations of the Design Review Board. If any of these recommendations is disputed by the Applicant, the Applicant shall notify the Board and the Board shall discuss those items and make a final determination. Final Architectural Plans, stamped by a registered architect, shall be submitted to the Board prior to issuance of a building permit.
17. The number of market rate units with first floor master bedrooms shall not exceed fourteen (14). The Applicant shall have discretion in determining the total number of units with first floor master bedrooms, provided the total number of units with first floor master bedrooms does not exceed 14.
18. A walkway shall be constructed, at the Applicant's sole expense, in accordance with Town specifications and the Plan, along the north side of Old County Road from the development entrance to the eastern property line of the Stan Mar Office Park. Construction of the walkway shall be completed prior to issuance of the first occupancy

- permit for the Project. The Town shall be responsible for obtaining any required easements for the walkway construction.
19. The Applicant shall perform drainage improvements within Old County Road at its expense, including the installation of a catch basin at the development entrance, as shown on the Plan. Drainage improvements shall be completed prior to issuance of the first occupancy permit for the Project.
 20. The Applicant has agreed to contribute, and shall contribute, \$40,000.00 (Forty Thousand Dollars) to the Town, which amount shall be applied by the Town towards traffic mitigation in the general vicinity of the Property to reduce the impacts of this development on traffic flow and improve safety. This contribution shall be submitted to the Town prior to the issuance of the building permit for the development.
 21. The Applicant has agreed to contribute, and shall contribute, \$5,000.00 (Five Thousand Dollars) to the Town, which amount shall be applied by the Town towards restoration of the Military Training Field located on Old County Road to increase the public recreational and historic assets in proximity of the development. In the alternative, the Applicant may agree to loam and seed the Military Training Field at his sole expense and with the permission of the Board of Selectmen. The Applicant shall notify the Board of its election to contribute money or loam and seed, prior to the issuance of the building permit for the Project. This contribution shall be submitted to the Town, or the work completed, prior to the issuance of the first occupancy permit for the development.
 22. In the event that the Town of Sudbury is not the Monitoring Agent for the Project, the Applicant shall pay for the Town to hire an independent accounting firm to review the revenues and costs of the project to determine if the profits from the development exceed 20% of approved costs, which review shall be consistent with MassHousing standards for similar projects, in scope and cost. Revenues and costs associated with upgrades and/or options must be included within the cost certification submission prepared by the Applicant. The estimated cost of this Monitoring Service shall be calculated and added to the performance bond.
 23. Automatic fire protection sprinkler systems shall be designed in accordance with the applicable provisions of NFPA, and shall be installed in each unit in accordance with the provisions of 780 CMR 906.0.
 24. The stormwater management system shall be constructed as shown on the Plan.
 25. Landscaping shall be installed at the Property in accordance with the Plan.
 26. Sight distance at the intersection of the development entrance and Old County Road has been designed to meet the minimum engineering standards for safety at the posted speed limit of the adjacent roadway. Prior to the issuance of the first occupancy permit, or at any earlier time mutually agreed upon by the Applicant and the DPW Director, the DPW Director shall inspect the conditions at the entrance to the development and certify that the actual conditions comply with the design specifications for sight distance. If actual conditions do not comply with these specifications, the DPW Director shall notify the Board and the Board may require additional activities of the Applicant as necessary to satisfy the design specifications.
 27. The Applicant shall request a reduction in the speed limit on Old County Road in the vicinity of the project to 30 mph, or to the appropriate standard, to the Board of Selectmen and the Sudbury Police Department prior to plan endorsement.

28. The Project shall contain sixty (60) parking spaces, as shown on the plan, and shall include handicapped spaces as required by 521 CMR 23.2.1.
29. The Applicant shall repair in a timely manner any damage to public roads adjacent to the Project that results from the construction and/or maintenance of the Project.
30. The Applicant shall not expand the paved sections of the Project beyond that which is depicted on the Plan.
31. All fire lanes and parking areas shall be kept clear at all times, and all snow shall be removed from these areas to ensure access by fire trucks and other public safety vehicles. Fire lanes shall be posted as such; vehicles parked in such fire lanes shall be towed at the owner's expense. All signage shall be maintained in good order.
32. The Applicant shall comply with all local regulations and bylaws, except for those which are waived in accordance with the Exceptions granted in Section III above.
33. The Board has considered the recommendations of the boards and committees of the Town of Sudbury regarding the Flood Plain Overlay District, the Public Way Access Permit Bylaw, the Scenic Road Bylaw and the Earth Removal Bylaw, and finds that reasonable conditions relative to these regulations have been incorporated herein.
34. Copies of all plans or documents submitted to other Town departments or Boards as required by this Permit, including the Building Inspector, Conservation Commission and Town Engineer, shall be submitted to the Board.
35. If any provision of this Permit or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of this Permit (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.
36. The terms, provisions and conditions of this Permit shall burden and benefit the successors and assigns of the Town and the Applicant with the same effect as if mentioned in each instance where the Town or the Applicant is named or referred to.
37. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant, including, but not limited to, any Condominium Association created relative to the Project.

V. Construction Details

1. Detailed plans of the following utilities and services shall be prepared in accordance with all applicable regulations and requirements and shall be submitted for review and approval of the listed authorities prior to endorsement of the Plan:
 - ◆ Water mains -Water District Superintendent
 - ◆ Fire hydrant locations – Water District Superintendent and Fire Chief
 - ◆ Fire alarm cable and boxes – Fire Chief
 - ◆ Primary and secondary electrical cables including distributions boxes and transformers – Wiring Inspector
 - ◆ Telephone cables and Street lighting – Wiring Inspector
2. The roadway for the Project as shown on the Plan shall be constructed to the specifications of the typical cross-section found in the Regulations Governing the Subdivision of Land in Sudbury, MA, except where expressly waived above in Section

III.

3. All utilities serving this development shall be installed underground, including any extensions from existing lines or poles external to the subject property. All existing overhead utilities and poles located on the premises shall be removed and replaced with underground service.
4. Building plans shall conform to the Massachusetts Building Code.
5. Town water shall be extended to serve the development at the expense of the Applicant. Installation of water mains and hydrants shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief. No drinking water wells shall be permitted on the Property.
6. Board of Health approval pursuant to Title V requirements shall be obtained for construction of the wastewater disposal system. Prior to the issuance of any certificate of occupancy, the Applicant shall demonstrate to the satisfaction of the Board or its designee (which shall be the DEP-CRO and/or the Sudbury Board of Health), that there is a maintenance contract for the Project's wastewater disposal system for the initial five-(5) year operating period. The Condominium Association shall provide proof of the maintenance contract for operating periods beyond year five, as required by DEP, or if DEP does not establish a time period, then every five (5) years.
7. The stormwater management plan shall receive final approval by the Director of Public Works, and shall be constructed as shown on the Plan.
8. All retaining walls greater than four (4) feet in height shall be designed by a structural engineer prior to construction.
9. All retaining walls facing the public right of way shall be faced with appropriate materials as Old County Road is a Scenic Road. Design and materials of the walls visible from the public way shall be shown on the Landscape Plan, and approved by the Board.
10. The Applicant shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.0 et. seq).
11. Prior to the issuance of a building permit and construction, the Applicant shall prepare a set of Final Detailed Design Site Plans, including confirmation from the Engineer of Record that the final working drawings and specifications have been prepared in accordance with standard engineering practices and fully incorporate all requirements of the Conditions of Approval as set forth herein.
12. The construction process shall conform to requirements of the Construction Phasing Plan dated July 18, 2006, the Construction Schedule, which shall include installation of landscaping as approved by the Board, and all applicable local, state and federal laws and regulations regarding noise, vibration, dust and sedimentation, use and interference with town roads.
13. If a household or households requiring handicap access modifications is selected in the lottery for the initial sales of the ten (10) Affordable Units, the Applicant shall make such reasonable modifications at the Applicant's expense.

VI. Lighting

1. Lighting within the development is approved as shown on the Plan, consisting of nine

post lights dispersed around the development; three path lights along the open space above the drainage field; twelve post lights installed in front of each side entrance "C" unit; lighting affixed to each unit at the garage and front door; and ground lights illuminating the front entrance sign.

2. The entrance sign shall not be illuminated between the hours of 11:00 P.M. to 6:00 A.M.
3. All exterior lighting shall be arranged to prevent glare and light spilling over to neighboring properties or any public way. There shall be no building flood lighting. Ground lighting along the roadways in the development shall be limited to 75 watts or less of incandescent lighting per fixture.
4. The Applicant shall install shields on all lights if the Board determines that such lighting produces glare onto abutting properties.
5. The Condominium Association documents shall contain a provision prohibiting light spilling over to neighboring properties and onto the abutting Open Space.
6. The Board or their representative shall inspect the Property prior to release of the performance bond for the development (or anytime prior) to certify that lighting meets the intent of these provisions. If, in the opinion of the Board, the lighting is not shielded from the adjoining properties, the Applicant shall forthwith rectify such complaint to the satisfaction of the Board.

VII. Landscaping/Screening

1. A final Landscape Plan shall be submitted for the review, approval and endorsement of the Board, and shall substantially comply with the original Plan. The final plan shall include all proposed signage (entrance sign, temporary marketing, directional, directory signs), indicating the proposed locations, dimensions and schematics, proposed lighting, surface materials of internal walkways, location of irrigation well, wall construction, school bus waiting area, etc. The final Landscape Plan shall be required to be approved prior to issuance of building permits.
2. Landscaping and screening around the development shall be installed as substantially shown on the Plan reviewed by the Board during the public hearing. The Applicant shall maintain the landscaping within the common areas in perpetuity. Any dead vegetation shall be removed immediately and replaced in accordance with the specifications on said plan.
3. Landscaping installed behind units 1-12 is proposed to function as stormwater control. This landscaping shall be required to be continually maintained, and shall not be altered by the unit owners. Any changes to the Landscape Plan affecting land within one hundred (100) feet of a wetland resource shall require approval of the Conservation Commission. This requirement shall be contained in the Condominium Association bylaws. Any dead vegetation shall be removed immediately and replaced in accordance with the specifications on said plan.
4. The Board shall inspect the site prior to the time of substantial completion of the project to determine if additional screening vegetation is necessary along abutting property lines and along Old County Road. If, in the opinion of the Board, additional screening is required, the Applicant shall forthwith rectify such complaint with the planting of additional vegetation.

5. All landscaping required by this Permit shall be secured for a period of two (2) years by the performance bond in an amount allocated to landscaping not to exceed \$50,000.00 (Fifty Thousand Dollars). The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period. Verification of the dates of planting must be submitted to the Board.

VIII. Legal Requirements

1. The Applicant has proposed, and the Board hereby requires, that the following common facilities and services of the Project, to the extent located on the Property, shall be and shall remain forever private, and that the Town of Sudbury shall not have, now or ever, any legal responsibility for operation or maintenance of same. The Applicant shall not be responsible for the maintenance of any off-site improvements required to be constructed by this Permit:
 - a. All roadways, walkways and parking areas;
 - b. Stormwater management system, including the maintenance of catch basins and detention basins and the like;
 - c. Snow plowing;
 - d. Landscaping and landscape maintenance;
 - e. Trash removal;
 - f. Street lighting;
 - g. Wastewater disposal system;
 - h. Water system for both domestic use and fire protection, including hydrants.
2. The common facilities shall be maintained in perpetuity by the Condominium Association. The roadway within the Project shall not be dedicated to or accepted by the Town.
3. The Applicant shall establish a Condominium Association to maintain and repair all common areas and facilities, including the stormwater management system, the wastewater disposal system, landscaping, and other improvements within the subject property and each owner shall be a member thereof. Such documents shall set forth the obligations of the Condominium Association for the operation and maintenance of all such common areas and improvements and shall reference the affordability requirements upon which the Comprehensive Permit is conditioned. Prior to the issuance of any certificate of occupancy, the Applicant shall provide documents establishing such Condominium Association to the Board for approval by Town Counsel as to form and for verification that such documents are in conformance with this Permit and shall certify to Town Counsel that same are in compliance with M.G.L. c.183A. The Condominium Association shall adopt rules and regulations and a copy shall be provided to the Board.
4. The Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the common facilities and services until the transfer of the last dwelling unit, to the extent that such installation, operation and maintenance is a condition required in this Permit. Upon the recording of the Master Deed, the installation, operation and maintenance obligations shall be joint and several with the Condominium Association until the transfer of the last dwelling unit. Thereafter, such operation and maintenance shall be the responsibility of the Condominium Association. In the event that a

management company is engaged, the Applicant or the Condominium Association shall provide the Board with a copy of the contract.

5. Condominium documents, including a realistic Condominium Fee budget based upon comparable developments that have been occupied for at least two (2) years, shall be subject to the review and approval of the Board. The Applicant shall submit copies of this document for review to Town Counsel, the Director of Planning and Community Development, and the abutter residing at 101 River Road at least ninety (90) days prior to the issuance of the first occupancy permit, and comments from this review shall be submitted to the Board. These documents shall pro-rate the maintenance fees for the Affordable Units according to the projected restricted sale price of each Affordable Unit at the time of the recording of the Master Deed in accordance with G.L. c. 183A. This requirement is intended to ensure that the Affordable Units will pay such maintenance fees only in proportion to the sales value of those units. The Board reserves the right to approve the Condominium Fee (including normal Capital Reserve requirements) for all the units in the development. The treatment of the resale of the Affordable Units which have been the subject of Approved Capital Improvements shall be included in the condominium documents and the Deed Rider for each Affordable Unit. A copy of the documents and the estimated Condominium Fee budget shall be forwarded to the Board for its information.
6. The Affordable Units shall constitute a percentage (beneficial) interest in the condominium that shall be in proportion to the initial price of the Affordable Units to the sum of the initial prices of the affordable and market-rate units.
7. The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.
8. The condominium documents shall provide that:
 - a. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this Permit without Board approval.
 - b. Conditions set forth in the Permit concerning condominium governance must be set forth in the documents; in the event of any conflict between the condominium document and the Permit, the terms of the Permit shall control.
 - c. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
 - d. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
 - e. To the extent permitted by law, upon turnover of the Condominium Association by the Applicant to the unit owners, at least 25% of the trustees of the Condominium Association shall be owners of Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
 - f. The Master Deed shall provide that in the event of condemnation or casualty, proceeds above the resale price of the Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing in the event that the unit is not rebuilt or is rebuilt and there are excess monies available.
9. The Applicant shall assure that the proper covenants are included in the Condominium Association's documents as well as the deeds to each of the units to address the following:
 - a. There shall be no additions beyond the building envelopes shown on the Plan.

- b. Garages shall not be converted for habitable use.
 - c. There shall be no conversion of interior space into additional bedrooms.
 - d. No disposal of yard and landscaping waste shall be permitted in the surrounding wooded areas on the site.
 - e. Trash barrels shall be stored inside the garages except on collection day.
 - f. Water conservation measures shall be implemented for the care and maintenance of the landscaped areas.
 - g. The bus waiting area shall be kept clear of snow and ice at all times.
 - h. There shall be a prohibition on the enclosing of decks/patios.
 - i. There shall be a prohibition on the addition of sheds or other outdoor enclosures.
 - j. Resident parking in the designated guest spaces in the development shall be for temporary use only.
 - k. Restrictions on home-based businesses shall be no greater than that provided under the Sudbury Zoning Bylaw.
 - l. The owners of the units shall be notified of the requirement to retain and maintain vegetation in the rear of units 1-12.
 - m. There shall be a provision prohibiting light spilling over to neighboring properties and the abutting Open Space.
 - n. There shall be a prohibition on the installation of sink garbage disposal units.
 - o. All fire lanes and parking areas shall be kept clear at all times, and all snow shall be removed from these areas to ensure access by fire trucks and other public safety vehicles. Fire lanes shall be posted as such; vehicles parked in such fire lanes shall be towed at the owner's expense. All signage shall be maintained in good order.
 - p. Operation and maintenance of the stormwater management and wastewater disposal systems shall be the responsibility of the Condominium Association, and if required to be maintained or repaired by the Town of Sudbury, the Association will responsible for all reasonable expenses associated therewith, as detailed in condition X.7.
 - q. Unit owners shall submit to the Condominium Association copies of all applications for building permits.
10. All necessary easements shall be granted by the Applicant where required by public utility companies or the Town of Sudbury. Evidence of recordation of all easements shall be submitted to the Board prior to occupancy.
11. Evidence of financing approval and MassHousing Final Approval shall be submitted to the Board prior to the issuance of building permits.
12. A performance bond shall be required by the Board to ensure proper functioning of the roadway and drainage system; proper installation of screening, landscaping, and walkways; and compliance with all other conditions required by this Permit that are not fully completed prior to issuance of the first occupancy permit for the Project. A cost estimate for the bond shall be determined by the Director of Public Works at the then current bonding rates established by the Town. The performance bond shall be submitted to the Board prior to the issuance of Certificates of Occupancy for any unit in the development. The type and form of such performance bond shall be submitted for review by Town Counsel prior to being accepted by the Board. The performance bond shall not

- be released below \$50,000 (Fifty Thousand Dollars) until the development is complete, all conditions of this Permit have been fulfilled, the Chapter 40B-required Limited Dividend Cost Certification documents for the Project have been verified by an independent Certified Public Accountant and accepted by the Monitoring Agent/Project Administrator, and an as-built plan indicating conformance with the approved Plan and prepared in accordance with Town requirements is submitted to the Board and approved.
13. This Permit shall be recorded at the Middlesex South Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of records and existing mortgages which shall be discharged prior to issuance of a building permit. Recording information shall be submitted to the Board prior to the issuance of building permits, and a title opinion to this effect shall be provided at the same time to the Board by Counsel for the Applicant.
 14. If at any time during construction, the Conservation Agent, Director of Planning and Community Development, Building Inspector, Director of Public Works or the Board determines that a violation of the approved Plan or this Permit has occurred, the Town, through the Building Inspector or the Board, shall notify the Applicant by certified mail and the Applicant shall be given 30 days (or lesser time period if in the sole opinion of the Town that said violation creates an emergency condition) to rectify said violation or construction activities shall be ordered to cease until the violation is corrected.

IX. Affordability Requirements

1. Twenty five percent (25%) of the total units in this development shall be available in perpetuity for purchase and occupancy by households whose income is no more than 80% of the Median Family Income for the Boston-Cambridge-Quincy, MA-NH HMFA, adjusted for household size and as determined by the United States Department of Housing and Urban Development. Applicants must satisfy all other applicable eligibility requirements including but not limited to First Time Home Buyer status and maximum asset level requirements. These Affordable Units shall be indistinguishable on the exterior from the market value units in the project. Before any unit is sold, the Applicant shall submit to the Board the proposed form of Deed Rider to be attached to and recorded with the Deed for each and every affordable unit in the project at the time of each sale and resale, which Deed Rider shall restrict each such unit in accordance with this requirement in perpetuity in accordance with the requirements of M.G.L. Chapter 184, sections 31-33. Each Deed Rider for the Affordable Units in the Project shall set forth the period of affordability to be in perpetuity.
2. The Applicant has agreed to provide one additional unit (the 37th unit and the 10th Affordable Unit) to be sold as an Affordable Unit in the development. The Town agrees to subsidize this additional unit in the amount of \$100,000.00, (One Hundred Thousand Dollars) which amount shall be paid to the Applicant at the time of sale of the unit to an eligible household.
3. The standard Massachusetts Housing Finance Agency Regulatory Agreement for either Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or for the Housing Starts Program, between the Applicant, the Town of Sudbury, and MassHousing, as Project Administrator, shall be executed prior to

the issuance of the initial Building Permit. This Regulatory Agreement shall set forth the terms and agreements relative to the sale and resale of the Affordable Units in the development. The Regulatory Agreement shall be submitted for review and approval of Town Counsel and the Director of Planning and Community Development prior to its execution by the Town of Sudbury. A copy of the document shall be forwarded to the Board for its information.

4. Each affordable unit shall be sold for no more than the Maximum Initial Sales Price established in the Regulatory Agreement. The maximum initial sales price for the Affordable Units shall be set at a price no greater than "that which can be afforded" (including principal and interest payments based upon a zero points, 30 year fixed interest rate amortizing mortgage loan, realistic condominium fees that accurately project the anticipated costs of operating and maintaining the Project, property insurance, real estate taxes, and private mortgage insurance) by households earning no more than seventy percent (70%) of the applicable Median Family Income, adjusted for household size. The Maximum Resale Price shall be established in accordance with the terms of the approved Deed Rider. The form of Deed Rider to be used is the so-called Universal Deed Rider, which Deed Rider has been approved by Fannie Mae and is designed to preserve the Chapter 40B Affordability Requirement in the instance of a foreclosure by a lender.
5. The standard MassHousing Monitoring Agreement for Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or the Housing Starts Program, between the Applicant, the Town of Sudbury, MassHousing, as Project Administrator, and the designated Monitoring Agent shall be executed prior to the issuance of any occupancy permits in this development. The Monitoring Agreement designates the entity that monitors the affordable units, and sets forth the responsibilities for monitoring the sale and resale of the affordable units, including income eligibility of prospective buyers, requirement for submittal of annual compliance reports to the Town of Sudbury, and requirement for an accounting of the project costs and revenues after completion to determine if profits are within the limited liability requirement. The Monitoring Agreement shall be submitted for review and approval of Town Counsel and the Director of Planning and Community Development prior to its execution by the relevant parties and prior to occupancy of any unit. A copy of the document shall be forwarded to the Board for its information. The Town of Sudbury has stated its desire to be the Monitoring Agent for this development, subject to MassHousing and/or DHCD approval. If the Town of Sudbury is not approved as the Monitoring Agent, the Board shall select an alternative Monitoring Agent.
6. The Applicant shall bear all expenses associated with services provided by the Monitoring Agent for the cost certification monitoring and monitoring the initial sale of each of the ten (10) Affordable Units.
7. As a "Limited Dividend Organization," the Applicant's profit shall not exceed twenty percent (20%) of its approved development costs in the Project. Any profit in excess of such amount shall be paid to the Town, in a form that will allow the Town to use such funds to facilitate the development of affordable housing. Review of the Applicant's limited dividend obligations shall be conducted in accordance with a Regulatory Agreement approved by the Board. The Applicant shall provide to the Monitoring Agent a full certification of total development costs and total revenues, including revenues and

expenses associated with upgrades and/or options, on a federal income tax basis prepared and certified by a certified public accountant acceptable to the Monitoring, to enable the Monitoring Agent to make its own determination as to whether the Applicant has complied with the Regulatory Agreement. The Applicant shall provide a copy of the deed and HUD settlement statement for the sale of each unit of the Project. In order to facilitate the Monitoring Agent's rights, the Applicant shall permit the Monitoring Agent, or its duly authorized representatives, to examine or audit the Applicant's records during normal business hours and shall, upon the Monitoring Agent's request, explain the methods of keeping the records. For cost certification purposes, General Conditions, Builder's General Overhead, and Builders Profit as well as any other work done by or materials purchased from related parties must have pricing consistent with normally accepted industry standards.

8. To the maximum extent permitted by law, local preference for the purchase of seven (7) units shall be given to residents of the Town of Sudbury satisfying all applicable eligibility requirements. For the purpose of this condition, and subject to any legal requirements, "residents of the Town of Sudbury" shall include but not be limited to the following: current Sudbury residents; the children and parents of current Sudbury residents; former Sudbury residents; Town of Sudbury/Sudbury Public School employees; Sudbury Water District employees; Lincoln Sudbury Regional High School District employees; Sudbury Housing Authority employees; and families who have children currently participating in the METCO program of the Sudbury Public Schools or the Lincoln Sudbury Regional High School. The Monitoring Agent, in conjunction with the Town of Sudbury, shall conduct a lottery to solicit interest for the purchase of these units. Such lottery shall be advertised in a newspaper of local circulation in the Town of Sudbury for at least 3 weeks prior to the deadline to submit applications for the lottery. All governmental employees noted above shall receive notice of the lottery and the availability of affordable units. The selection of the entity that will serve as Lottery Agent shall be subject to the approval of the Board.
9. The Applicant shall submit a marketing plan to the Board for Affordable Units in the development. The marketing plan shall comply with all Fair Housing Laws. Said plan shall contain, to the extent legally allowable, a strategy for marketing units under the "local preference" described in Condition IX.8 above. To the extent legally allowable, a pre-marketing campaign directed at Sudbury residents shall be undertaken for a 2 month period prior to marketing units to the general public. The marketing plan shall further demonstrate a strategy for occupying all constructed units within a finite time period.
10. The Applicant, in conjunction with the Monitoring Agent, shall submit a detailed procedure to the Board for determining income eligibility for the affordable units, consistent with other state affordable housing programs. Items such as income level for eligibility, maximum household income based on household size, method of reviewing income, and determining asset limits for eligibility shall be included.
11. The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Initial Price shall be four persons for three bedroom units, and three persons for two bedroom units, unless the subsidizing agency or other public agency requires that a smaller household size be used.
12. The affordability requirement of this Comprehensive Permit shall be senior to any

- mortgage liens on the affordable units. The Applicant shall be required to use a Deed Rider consistent with this requirement.
13. The ten (10) affordable units shall have the same exterior amenities and design as the market-rate units.
 14. The ten (10) affordable units shall have the same flooring and trim package as the market-rate units. Affordable units must include air conditioning. Appliances, cabinets, and counter tops may differ but must meet reasonable quality standards. The Affordable Units must be built in accordance with the General Specifications submitted by the Applicant dated July 18, 2006.
 15. Two (2) affordable units in this development shall be offered for purchase to the Sudbury Housing Authority as rental units, at the approved Affordable Unit sales price, subject to the approval of the Project Administrator. The Sudbury Housing Authority (SHA) shall notify the Applicant in writing of its intention to purchase the units within three months of the date on which the comprehensive permit becomes final, and shall close on the units within the time period established in the Purchase and Sale Agreement. In the event that the Sudbury Housing Authority does not comply with the above, the Applicant shall not be obligated to convey the units to the Sudbury Housing Authority.
 16. At least three (3) Affordable Units must be fully constructed prior to the issuance of an Occupancy Permit for the tenth market unit. At least six (6) Affordable Units must be fully constructed prior to the issuance of an Occupancy Permit for the twentieth market unit. The remaining four (4) Affordable Units must be fully constructed at the time of the request for the final Occupancy Permit of the market units.
 17. No buyer-selected upgrades to Affordable Units shall be allowed. All Affordable Units shall be resold pursuant to the conditions of the Regulatory Agreement and Deed Rider.
 18. The Affordable Units shall be owner-occupied, except for bona fide temporary absences, during which rental may be permitted to qualified households upon approval of the Monitoring Agent, except for any unit (s) owned by the Sudbury Housing Authority.

X. Maintenance/Inspections

1. Enforcement of the conditions of this decision shall be by the Building Inspector or the Board.
2. A construction schedule shall be submitted to the Board, Director of Planning and Community Development, Town Engineer and Building Inspector prior to the issuance of building permits in order to facilitate inspections. Such schedule shall be revised quarterly to reflect work completed and changes in construction timing.
3. The Applicant shall notify the relevant town departments of installation of utilities and infrastructure for inspections prior to backfilling.
4. The Applicant and the Condominium Association created for the development shall be responsible for maintaining the stormwater management structures and drainage system in the development in accordance with the Operation and Maintenance Plan submitted.
5. Snow removal, maintenance of roads and walks, storm drainage, lighting, utilities, irrigation and fire protection shall be maintained by the Applicant and the Condominium

Association created for the development. The Town of Sudbury does not accept responsibility for any infrastructure improvements or maintenance in this development.

6. Fees for all inspections by Town departments shall be paid by the Applicant directly to the inspection entity.
7. In the event of any failure to comply with the requirement to maintain the stormwater management and wastewater disposal systems in the development in accordance with engineering or manufacturing guidelines for operation and maintenance or in any manner which fails to safeguard public health and safety, or in the event the Applicant, its successors, or agent fails to properly maintain the Project roadway for safe and adequate emergency vehicle access/egress as determined by the Sudbury Fire Department, Police Department or Department of Public Works, the Town of Sudbury, acting through its Department of Public Works, may, but is not required to, notify the Applicant or the Condominium Association, as appropriate, of the need to remedy said violation and specifying the work which needs to be done and providing for a 30 day time period in which to complete the work. In the event said work is not completed in a satisfactory manner within 30 days, the Town may enter upon the property and remedy said defect as set forth in this notice. The Condominium Association shall be responsible to the Town for the cost of affecting the required repairs. If not paid within 30 days of billing by the town, said costs shall constitute a lien upon the premises and shall incur interest at the rate of 18% per annum, plus the costs of collection including reasonable attorney's fees. Notice of this lien shall be recorded by the Town in the Middlesex County South District Registry of Deeds, which notice shall indicate the identity of the property owner, the amount of the unpaid assessments, the property burdened and a reference to the Book and Page in the Middlesex County South District Registry of Deeds where the Declaration is recorded. These restrictions are intended to maintain the environmental stability of the development and shall run with the land upon which they are imposed and shall, pursuant to the provisions of General Laws Chapter 184, Section 32, not expire hereunder. The Master Deed shall include a provision for the placement of municipal liens on the Property to secure payment should the Town of Sudbury be required to maintain or repair any portion of the stormwater management or wastewater disposal system.

XI. Plan Endorsement

The Board shall not endorse the Plan until the following conditions have been complied with to the satisfaction of the Board:

1. A notation shall be placed on the Plan that all utilities shall be installed underground.
2. Signature blocks for the Zoning Board of Appeals, Town Clerk, Sudbury Water District, Fire Chief, Building Inspector, Director of Planning and Community Development and Director of Public Works shall be added to all Plan sheets.
3. The location of the construction and sales trailers shall be shown on the Plan in compliance with condition IV.13.
4. A detail of a wooden guardrail (posts and rail) is added to the Plan.
5. The irrigation well is shown on the Plan.

6. A detail sketch showing the front entrance to the development, including the stone walls, entrance sign and landscaping is submitted.
7. Final approval from the DPW Director on the stormwater management plan has been submitted.
8. The temporary sign and its location is shown on a plan and approved.
9. The limits of disturbance around the site shall be properly staked and marked, and the Director of Planning and Community Development called for an inspection.
10. A request to lower the speed limit on Old County Road has been submitted to the Sudbury Police Department and the Board of Selectmen.

XII. Building Permits

Building Permits shall not be issued until the following conditions have been complied with to the satisfaction of the Board, as well as any other conditions listed above which require action prior to the issuance of Building Permits:

1. The Plan has been endorsed by the Board, the Town Clerk and all Town Officials listed in Section V above.
2. Confirmation that the final working drawings and specifications have been prepared in accordance with standard engineering practices and fully incorporate all requirements of the Conditions of Approval.
3. Receipt of evidence of recording of this Permit with the Middlesex South Registry of Deeds.
4. Board of Health approval for construction of the wastewater disposal system.
5. Final architectural plans stamped by a registered architect have been submitted and approved by the Board.
6. Final landscape plan incorporating all the requirements listed in Condition VII.1 has been submitted and approved by the Board.
7. A construction schedule as required by Condition X.2 is submitted.
8. All permit fees normally required for building permits and other Town permits have been paid to the Town.
9. Evidence of financing approval and MassHousing Final Approval has been submitted to the Board.
10. The Regulatory Agreement, including an approved form of Deed Rider, has been executed.
11. Traffic mitigation contribution has been submitted.
12. Receipt of a title opinion indicating compliance with Condition VIII.10 above.

XIII. Occupancy

Occupancy of the units in this development shall not occur until the following conditions of this approval have been complied with:

1. The Condominium Association documents, including a proposed budget, as required in Condition VIII.1-5 have been submitted and approved by Town Counsel.
2. Written procedures for determining eligibility for sale and resale of affordable units have been approved by the Board as required by Condition IX.10.
3. Receipt of the proposed form of Deed Rider to be attached to and recorded with the Deed for each affordable unit, as required by Condition IX.1.
4. Monitoring Agreement for the continued enforcement of the affordable units has been executed, as required by Condition IX.5.
5. A performance bond, as detailed in Condition VIII.9 has been submitted to and accepted by the Board.
6. Installation of the stormwater management system has been completed.
7. Lottery Plan, including the proposed sales prices for the Affordable Units, has been submitted and approved by the Board and the Monitoring Agent.
8. Submittal of a Fair Housing Marketing Plan
9. Sight distance has been certified by the Director of Public Works for the development egress and Old County Road as required by Condition IV.26.
10. All easements granted and recorded for the development have been submitted to the Board.
11. Contribution for the Military Training Field has been submitted, if applicable.
12. Off-site walkway construction has been completed to the satisfaction of the Director of Public Works.
13. Off-site drainage improvements have been completed to the satisfaction of the Director of Public Works.
14. Verification that contaminated soils on the property have been removed pursuant to the 21E report.
15. Receipt of a maintenance contract for the wastewater disposal system pursuant to Condition V.6.

XIV. Release of the Performance Bond

No request to reduce funds from the Performance Bond below \$50,000.00 (Fifty Thousand Dollars) shall be granted until the following conditions have been met:

1. As-built plans demonstrating the roadways, buildings, walkways and infrastructure have been constructed and installed in general conformance with the approved Plan are submitted to and approved by the Town Engineer.
2. A cost accounting determining the profits earned on the development has been completed and if profits exceed twenty percent (20%), payment has been made to the Town.
3. Receipt of all recorded documents, including but not limited to the Permit, Regulatory Agreement, and Monitoring Agreement.

4. Certification of lighting as described in Condition VI.6.
5. Certification of adequate landscaping as described in Condition VII.4. Verification of dates of landscaping installation have been submitted.

On Motion:

To approve the application of Old County Road LLC for a comprehensive permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of thirty seven (37) townhouse condominiums, including ten (10) units to be sold for occupancy by low or moderate income residents at established sales prices pursuant to the Department of Housing and Community Development's Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity and/or other applicable requirements, on land owned by Martin and Diane MacArthur consisting of 6.02 acres at 6 Old County Road in Sudbury (Assessor's Map K11, Parcels 022 and 202), subject to all of the conditions stated in the foregoing permit decision:

Voted:

Date: July 18, 2006

Stephen Richmond, Chairman

Jonathan G. Gossels

Jeffrey P. Klofft

Elizabeth A. Taylor

Constantine Athanas

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

July 18, 2006

On this _____ day of _____, 2006, before me, the undersigned notary public, personally appeared the above-named individuals, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the

preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, as members of the Sudbury Zoning Board of Appeals, a municipal board.

Jody A. Kablack, Notary Public
My commission expires January 22, 2010

cc: Town Clerk
Board of Health
DPW Director
Water District
Conservation Commission
Board of Selectmen
Building Inspector
Town Counsel
Fire Chief
Director of Planning and Community Development
Community Housing Committee
Ben Stevens, Trask Development
Joshua Fox, Attorney
Bruce Saluk & Associates
Edward Marchant, 40B Advisor
G. Michael Pierce, Attorney