

ZBA Meeting
July 10, 2007
Flynn Building

Present: Steve Richmond, Jeff Klofft, Nancy Rubenstein, Beth Taylor, Jonas McCray, Jody Kablack, Russ Tanner

Meeting was called to order at 7:35 am by the Chairman.

The subject of the meeting was a vote on the Sudbury Village Comprehensive Permit decision. The Board had reviewed several drafts of the decision, and had no further comment on the final draft.

A motion was made, seconded and voted unanimously to approve the application in the words of the decision dated July 10, 2007.

There being no further business, the meeting was adjourned at 7:45 am.

Minutes taken by J. Kablack

NOTICE OF DECISION
COMPREHENSIVE PERMIT
TD SUDBURY VILLAGE LLC
SUDBURY VILLAGE
275, 289, 295, 303 BOSTON POST ROAD
SUDBURY, MA
ZONING BOARD OF APPEALS CASE NUMBER 06-37
July 10, 2007

I. Background

The Sudbury Zoning Board of Appeals (the "Board") received an application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23 and the regulations promulgated thereunder, as amended from time to time, from TD Sudbury Village LLC/Russell Tanner, Manager (the "Applicant") on July 5, 2006 to construct a 66 unit condominium development (which was subsequently revised by the Applicant to 73 condominium units) including nineteen (19) Affordable Units, on approximately 11.9 acres of land located on four parcels at 275, 289, 295 and 303 Boston Post Road. Said Property is within an A-Residential Zoning District, and is identified as parcels 065, 064, 062 and 061 on Town Assessor's Map K-09 (the "Property"). The Property is currently owned by several different parties: Castera Bazile and Rosalbo Dimonda (275 Boston Post Road), Harold A. Goodale Jr.

and Karen Goodale (289 Boston Post Road), Kimberly F. Kreisel (295 Boston Post Road) and Albert S. and Andrea M. Feinberg (303 Boston Post Road).

The application was 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 substantially modified the application during the hearing process, adding an additional parcel of land, adding new units, and reconfiguring the design and layout of the units and infrastructure. To address these changes, the Applicant reapplied to MassHousing (the "Project Administrator") for an amended Project Eligibility letter and resubmitted its application.

The Applicant submitted evidence establishing that it is a qualified Applicant eligible 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 executed Purchase and Sale Agreements to purchase the parcels comprising the Property.

The Board convened the public hearing on this application on September 18, 2006. The public hearing was continued with the consent of the Applicant to November 28, 2006, January 16, 2007, February 6, 2007, March 28, 2007, May 2, 2007, May 30, 2007 and June 19, 2007. Work sessions between the Applicant, Board members and staff were noticed and held on February 20, 2007, March 2, 2007 and March 23, 2007. The hearing was closed on June 19, 2007. Sitting as members of the Board and present throughout the hearing (or members who missed no more than one hearing and reviewed the audio tape of the hearing) were Stephen M. Richmond, Chairman, Jeffrey P. Klofft, Clerk, Elizabeth A. Taylor, Nancy G. Rubenstein and Jonas D.L. McCray, Alternate.

The Board has considered the recommendations of the boards and committees of the Town of Sudbury regarding the Sudbury Bylaws, including but not limited to the Sudbury Wetlands Administration Bylaw, Design Review, Demolition Delay Bylaw, and the Earth Removal Bylaw, and finds that reasonable conditions relative to these regulations have been incorporated herein.

In reviewing the application of TD Sudbury Village 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 Project 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 November 21, 2005, as amended by an amendment to the original Project Eligibility Letter dated March 22, 2007.

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 Sudbury Village Townhomes, subject to all of the following terms and conditions, which are binding upon the Applicant as conditions of this Permit.

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 Meridian Associates, Inc. entitled "Sudbury Village, Site Plans for Comprehensive Permit and Notice of Intent, 275, 289, 295 and 303 Boston Post Road, Sudbury, Massachusetts", dated March 9, 2007, Revised May 1, 2007 (with exceptions to specific plan sheets noted below), consisting of 12 sheets:
 - ◆ Cover Sheet;
 - ◆ Record Conditions Plan of Land, Sheet 2 of 10 (dated May 27, 2005, last revised May 1, 2007);
 - ◆ Layout and Materials Plan, Sheet 3 of 10, last revised May 21, 2007;
 - ◆ Grading, Drainage and Utility Plan, Sheet 4 of 10, last revised May 21, 2007;
 - ◆ Landscape and Lighting Plan, Sheet 5 of 10;
 - ◆ Site Details, Sheets 6-8 of 10;
 - ◆ Notes and Schedules, Sheet 9 of 10;
 - ◆ Typical Planting Details, Sheet 10 of 10, last revised May 21, 2007;
 - ◆ Boston Post Road Walkway, Sheet 1 of 1, dated April 26, 2007, last revised May 21, 2007;
 - ◆ Conservation Restriction Plan, Sheet 1 of 1, dated April 18, 2007, revised May 1, 2007.
2. Architectural Plans prepared by Linea 5, Inc. entitled "Comprehensive Permit Application Schematic Architectural Plans for Sudbury Village Townhomes" dated May 1, 2007 consisting of 11 sheets.
3. Letter dated January 8, 2007 from Russell Tanner with copies of Subsurface Sewage Disposal System Preliminary Design Report dated January 5, 2007.
4. Stormwater Management Report, Sudbury Village prepared by Meridian Associates, Inc. dated March 9, 2007, and supplemental stormwater calculations included in a memo from Meridian Associates, Inc. dated April 20, 2007.
5. Sudbury Village Construction and Finish Standards Summary prepared May 24, 2007.
6. Renovation Construction and Finish Standards revised March 22, 2007.

Items 1 through 6 above constitute the “Permit Plan”, and as the same may be revised, modified and/or supplemented in accordance with the provisions of this Permit and is stamped by a registered professional engineer, (including, without limitation, with the approval of the Board where herein required), all such revisions, modifications and supplements having a result substantially similar to the Permit Plan constitute the “Endorsement Plan”. The development described or depicted in this Permit and the Permit Plan is referred to herein as the “Project”.

7. Letter dated June 29, 2006 from Russell Tanner with application package consisting of Sections 1 through 10
8. Traffic Impact Assessment prepared by Abend Associates dated July 21, 2006
9. Letter dated July 18, 2006 from Russell Tanner to the Board confirming commencement of the public hearing on September 18, 2006
10. Notice of Disclosure dated July 27, 2006 from Planning Director, Jody Kablack
11. Letter dated July 27, 2006 from Town Engineer, I. William Place to the Board
12. Letter dated August 24, 2006 from Frank Riepe, Chairman, Design Review Board to the Board
13. Letter dated September 8, 2006 from Town Engineer, I. William Place to the Board
14. Letter dated September 11, 2006 from Robert Leupold, Health Director to the Board
15. Letter dated September 12, 2006 from Lt. Richard Glavin, Sudbury Police Dept. to the Board
16. Memo dated September 14, 2006 from Planning Director, Jody Kablack (compilation of comments from several town officials attending Sept. 12th staff meeting) to the Board
17. Notice of Disclosure dated September 18, 2006 from Stephen M. Richmond, ZBA Chair
18. Letter dated October 19, 2006 from Russell Tanner to the Board enclosing appraisal and certificates of organization
19. Letter dated November 8, 2007 from Josh Davis to the Board
20. Letter dated November 21, 2006 from Russell Tanner to the Board with revised preliminary alternative site plan
21. Option Agreement for 295 Boston Post Road between Kreisel and TD Sudbury Village LLC dated Nov. 21, 2006
22. Memo dated November 23, 2006 from Michael Abend, Abend Associates
23. Alternative site plan submitted by Jeff Richards at November 28th hearing
24. Memo dated December 5, 2006 from Community Housing Specialist, Beth Rust to the Board
25. Letter dated December 6, 2006 from MDM Transportation Consultants with proposal for services
26. Memo dated December 13, 2006 from the Design Review Board to the Board
27. Letter dated December 21, 2006 from Russell Tanner to MassHousing re: Project Eligibility Modification
28. Letter dated December 21, 2006 from Russell Tanner to Selectmen re: Modification to Project Eligibility letter
29. Letter dated December 21, 2006 from Russell Tanner to MassHousing re: alternative plan
30. Letter dated December 26, 2006 from Russell Tanner to ZBA enclosing correspondence to MassHousing, copies of alternative plans, and copy of Option Agreement for 295 Boston Post Road
31. Memo (undated) from Design Review Board to the Board

32. Letter dated January 8, 2007 from Russell Tanner to the Board with copies of revised appraisal report dated January 5, 2007
33. Letter dated January 8, 2007 from Russell Tanner to the Board enclosing Subsurface Sewage Disposal System Preliminary Design Report
34. Letter dated January 8, 2007 from Russell Tanner to the Board with copies of updated schematic plan dated January 5, 2007
35. Email dated January 8, 2007 from Russell Tanner to the Board re: Child Care Center capacity
36. Letter dated January 8, 2007 from MassHousing to the Selectmen to re: modification of Project Eligibility application
37. Memo dated January 8, 2007 from Conservation Coordinator to the Board
38. Memo dated January 10, 2007 from Community Housing Specialist, Beth Rust to the Board with meeting notes on affordable component of development
39. Memo (undated) from Board of Health Director, Robert Leupold to the Board
40. Letter dated January 11, 2007 from Design Review Board to the Board
41. Memo dated January 11, 2007 from Russell Tanner to the Community Housing Specialist with Updated Unit Schedules
42. Memo dated January 12, 2007 from Planning Director, Jody Kablack to the Board
43. Proposed Schedule of Permit Review Steps (submitted by Applicant at 1/16/07 hearing)
44. Photograph of back wooded area (submitted by Applicant at 1/16/07 hearing)
45. Sketch of community aspect of development (submitted by Applicant at 1/16/07 hearing)
46. Email dated January 23, 2007 from Conservation Coordinator, Deborah Dineen to the Board
47. MDM Transportation Consultants Peer Review Comments dated January 24, 2007
48. Letter from ZBA to Selectmen dated January 26, 2007
49. Letter from Planning Board to Selectmen dated January 26, 2007
50. Follow-Up Traffic Counts from Abend Associates dated January 30, 2007
51. Letter dated January 31, 2007 from the Planning Board to the Board
52. Letter dated February 1, 2007 from Tanner Development to MassHousing re: Notice of Change in Composition of Applicant
53. Letter dated February 2, 2007 from Selectmen to MassHousing
54. Letter dated February 2, 2007 from Town Manager, Maureen Valente to the Board
55. Memo dated February 6, 2007 from Planning Director, Jody Kablack, to the Board
56. Letter dated February 9, 2007 from Russell Tanner to MassHousing re: Modification to Project Eligibility Letter
57. Letter dated February 13, 2007 from Millbrook II Condominium Trust to the Board
58. Work session notes of February 20, 2007
59. Memo dated February 26, 2007 from the Community Housing Committee to the Board
60. Letter dated March 19, 2007 from Design Review Board to the Board
61. Letter dated March 22, 2007 from Russell Tanner to the Board with updated project materials consisting of preliminary engineering plans dated March 9, 2007, revised preliminary architectural plans dated March 19, 2007, amended Site Approval letter from MassHousing dated March 22, 2007, Updated Schedule of Units & Summary of Unit Types, Updated list of Zoning Exceptions, Fiscal Impact Analysis, letter from Tanner Development regarding town master plan, Stormwater Management Report
62. Letter dated March 15, 2007 from Sudbury Housing Authority to the Board

63. Work session notes of March 23, 2007
64. Memo dated March 23, 2007 from Abend Associates
65. Letter dated March 26, 2007 from Fire Chief, Kenneth MacLean to the Planning Board
66. Memo dated March 27, 2007 from Lt. Richard Glavin, Sudbury Police Dept. to the Planning Board
67. Letter dated March 28, 2007 from Russell Tanner with Amended Fiscal Impact Analysis (submitted at 3/28/07 hearing)
68. Unit sheet identifying Affordable Units and revised unit schedule (submitted by Applicant at 3/28/07 hearing)
69. Letter dated April 3, 2007 from Town Engineer, I. William Place to the Board
70. Revised Volume Calculations dated April 5, 2007 (submitted by Applicant at 5/2/07 hearing)
71. Letter dated April 20, 2007 from Meridian Associates (submitted by Applicant at 5/2/07 hearing)
72. Schedule of Unit types dated April 25, 2007 (submitted by Applicant at 5/2/07 hearing)
73. From Meridian Associates (undated) – Requested Exceptions from Requirements of Wetlands Administration Bylaw & Regulations (submitted by Applicant at 5/2/07 hearing)
74. Letter dated May 1, 2007 from Jeff Richards, Meridian Associates, to the Board including Summary Narrative and conceptual Irrigation Plan from Philip Reidy, Rainwater Recovery, Inc., and revised plans (12 sheets) dated May 1, 2007 (submitted at 5/2/07 hearing)
75. Memo dated May 2, 2007 from Conservation Coordinator, Deborah Dineen to the Board
76. Memo dated May 2, 2007 from Planning Director, Jody Kablack to the Board
77. Amended requested exceptions from requirements of Sudbury Bylaws, dated revised May 2007, received on May 30, 2007
78. Memo dated May 23, 2007 from Bill Place, Director of Public Works to Jody Kablack, Planning Director
79. Order of Conditions from Sudbury Conservation Commission dated May 14, 2007
80. Memo dated May 18, 2007 from Jody Kablack, Planning Director, to the Town Manager re: waiver of building permit fees
81. Letter dated May 23, 2007 from Russell Tanner, Tanner Development LLC to the Board, including May 21, 2007 correspondence from Meridian Associates and revised plans as referenced herein; May 18, 2007 correspondence from Meridian Associates regarding reserve area grading
82. Sudbury Village Construction and Finish Standards Summary submitted by the Applicant dated May 24, 2007
83. Proposed Construction Phasing Schedule dated May 23, 2007 submitted by the Applicant

III. Exceptions

The Board hereby grants exceptions to the following local bylaws, 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, Section 2230 to allow for the construction of multi-family dwellings, which is not an allowed use.
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 2600, Dimensional requirements to waive the required yard setbacks as follows:
 - a) The front setback of the existing house located at 303 Boston Post Road from 40 feet to 30 feet. The house is existing and no new construction on this structure will further violate this setback.
 - b) Side yard setbacks along the western Property boundary for the construction of units 64-66 and a 3 car garage from 20 feet to no less than 10 feet.
 - c) Height requirements for units 1-13 from a maximum height of 35 feet to an average height of no greater than 40 feet.
 - d) Height requirements for units 64-66 from a maximum height of 35 feet to an average height of no greater than 36 feet.
 - e) Height requirements for units 17-25, units 34-38 and units 58-63 from a maximum height of 35 feet to an average height of no greater than 38 feet.
5. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3280, Signs and Advertising Devices, to permit the size of the Project's entrance sign to be increased from 10 sq. ft. to no more than 15 sq. ft. The Board approves the larger sign due to the Project's location on Boston Post Road and the need for better visibility of the driveway. No other requirements of Section 3200 are waived.
6. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3254, Construction Signs, to allow the erection of two (2) construction signs, one which will be no greater than thirty (30) sq. ft. in area to be placed at the secondary construction access located at the driveway to 303 Boston Post Road, and a second sign which will be no greater than thirty two (32) sq. ft. in area to be erected at the main construction entrance. No other requirements of Section 3200 are waived.
7. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3310 to permit all units in the Project to access Boston Post Road via one common driveway. The Board has duly considered the width and construction of the roadways in the Project for safe and adequate access, and the proposed roadway has received the approval of the Fire Chief.
8. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3145 which requires the width of interior driveways to be a minimum of 20 feet wide for 2 way circulation. The main roadway in this Project shall be 24 feet wide, with other interior roads constructed between 18 and 22 feet wide, as shown on the Permit Plan. The Fire Chief has approved the roadway widths.
9. Sudbury Bylaws, Article XXVII, In-ground Irrigation Systems, sections 6 and 8 to permit the installation of an irrigation well within the Project 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 Project contains many native

species which will not require significant irrigation. In addition, the Applicant has agreed to install a rainwater harvesting system with a 16,000 gallon capacity which shall perform as the main source of irrigation water for portions of the site. The irrigation well shall be utilized as a back-up system for irrigation.

10. Sudbury Bylaws, Article XXVIII, Demolition Delay, to waive the requirements of this bylaw to obtain a demolition permit from the Building Inspector prior to demolishing the houses at 275 and 289 Boston Post Road. Both of these homes are within 200 feet of the King Philip Historic District, however neither has been deemed historically significant by the Sudbury Historical Commission.
11. Sudbury Bylaws, Article V(A), Earth Removal, to waive the requirement to obtain an Earth Removal Permit from the Earth Removal Board for up to 50,000 cubic feet of earth, subject to conditions contained herein, and to require no further permit under this bylaw.
12. Sudbury Bylaws, Article XXII, Wetlands Administration, section 2, to waive the filing of a Notice of Intent under the bylaw, so as to allow filing only under the State Wetlands Protection Act.
13. Sudbury Wetlands Administration Regulations, section 7.6.3, to allow hydraulic calculations to be designed to the requirements of the Massachusetts DEP Stormwater Management Policy, or Massachusetts Smart Growth Toolkit, where applicable.
14. Sudbury Wetlands Administration Regulations, section 7.10.1, to declare the area of the wastewater treatment plan and related disposal reserve area to be exempt activities in the Riverfront Area, in compliance with the State Wetlands Protection Act.

IV. General Conditions

This Permit is granted subject to the following conditions:

1. The Applicant shall submit proof of ownership of all parcels comprising the Property prior to issuance of a building permit. The Property shall be owned by a single entity, or shall be subject in its entirety to the provisions of MGL c. 183A (the “Condominium Statute”).
2. 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 shall constitute a transfer or assignment.
3. This Permit shall become void if the Applicant does not commence with the Project as

approved herein within two (2) years of the filing of this Permit with the Town Clerk. Commencement of the Project shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under the building permit. The Board may grant extensions for good cause.

4. This Permit approves the construction of the Project, consisting of seventy three (73) units of attached residential housing in twenty two (22) buildings, with associated accessory structures, facilities, infrastructure and landscaping, all as shown on the Permit Plan, as modified by this Permit. Unit sizes and mix of units, including the number of bedrooms and garages, shall be substantially consistent with the Permit Plan.
5. Nineteen (19) units shall be reserved in perpetuity for purchase and occupancy by low or moderate income households earning no more than eighty percent (80%) 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"). Two (2) of the Affordable Units shall be one bedroom units, eleven (11) of the Affordable Units shall be two (2) bedroom units, and six (6) of the Affordable Units shall be three (3) bedroom units. Each Affordable Unit shall be sold for no more than the Maximum Initial Sales Price established in the Regulatory Agreement. The Affordable Units shall be Units 5, 9, 12, 15, 21, 26, 30, 36, 40, 43, 46, 47, 51, 52, 55, 65, 67, 70 and 73 as shown on the Permit Plan.
6. Any material changes to the Project must be reviewed and approved by the Board in accordance with 760 CMR 31.03.
7. No construction activities for the Project shall commence on the Property until the Permit Plan has been revised according to this Permit, the Endorsement 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 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.
8. All construction of the Project, including landscaping, the construction of walkways and all improvements external to the Property and as described in Section IV, Condition 20, shall be completed within five (5) years from the date of issuance of the building permit, unless otherwise noted herein, and a request is filed with, and approved by, the Board extending such time for good cause.
9. Building permits for the Project shall not be issued until the Endorsement Plan indicating final design of stormwater systems, grading and roadways have been submitted for review and approval of the Board for consistency with the Permit Plan and this Decision.

10. Building permits for the Project shall not be issued until final building plans have been submitted and approved by the Building Inspector.
11. Building permits for the Project shall not be issued until final approval by DEP for the wastewater management system has been received and submitted to the Board.
12. The Applicant shall comply with all conditions (both General Conditions and Special Conditions) of the Order of Conditions for the Project issued by the Sudbury Conservation Commission, as the same may be amended or otherwise modified from time to time, and those conditions are incorporated into and made a part of this Permit.
13. The homes at 295 and 303 Boston Post Road shall be preserved and renovated, and not demolished nor substantially altered from the submitted plans.
14. The Applicant shall be permitted to remove no more than 50,000 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, without further review by the Board. 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. Trucks shall not use residential side streets. 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 Permit Plan. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.
15. 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 structures.
16. 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. Trucks shall avoid using residential side

streets. Appropriate measures shall be taken to keep dust and noise of demolition to a minimum.

17. The Applicant shall be permitted to locate two (2) construction trailers on the Property for no more than 3 years from commencement of construction, and one (1) sales trailer for no longer than two (2) years after the first occupancy permit is issued. The trailer locations shall be located in an already disturbed area, shall not require the need to remove any vegetation, shall not be located within fifty (50) feet of any Property line and shall not obstruct sight distance entering or exiting the Property. No further approval shall be necessary. Any extensions of these dates shall be made in writing to the Board for its review and approval.
18. Addresses for the dwellings shall be Boston Post Road, or in the alternative, addresses on a private road if such arrangement is approved by the Director of Public Works and the Fire Chief, and shall be issued by the Town Engineer/Director of Public Works. All mailboxes shall be located within the Project as shown on the Permit Plan.
19. Any material changes to the architectural plans shall require review by the Design Review Board, and the Applicant shall consider recommendations of the Design Review Board prior to finalizing its plans. The Board shall review final, stamped architectural plans, including comments by the Design Review Board, for consistency with this Permit prior to issuance of building permits.
20. A walkway shall be constructed, at the Applicant's sole expense, in accordance with Town and Mass. Highway Dept. specifications and approvals, and the Permit Plan, along the south side of Boston Post Road from the Project's main entrance westward to the current terminus of the walkway on the south side of Boston Post Road at or near 351 Boston Post Road. The walkway is to be an asphalt walkway with narrow grass strip and no curb, similar to that constructed by the Town on the north side of Boston Post Road, and as generally shown on the "Bituminous Concrete Walkway" detail on Plan sheet 7 of 9 and on the plan labeled "Boston Post Road Walkway" dated May 21, 2007. Construction of the walkway shall be completed prior to issuance of the twentieth (20th) occupancy permit for the Project. All approvals, including but not limited to Mass. Highway Department and the Sudbury Conservation Commission, shall be the sole responsibility and expense of the Applicant, except that the Town of Sudbury agrees to be the applicant for the Notice of Intent to the Conservation Commission, provided that all engineering and related design shall be completed by the Applicant. The Town shall be responsible for obtaining any required easements for the walkway construction. If the Applicant is unsuccessful in obtaining Mass. Highway Dept. approval, Sudbury Conservation Commission approval, or other necessary approvals and permits, or the Town is unsuccessful in obtaining necessary easements for the walkway, a contribution to the Town's walkway fund shall be made by the Applicant prior to issuance of the twentieth (20th) occupancy permit in an amount commensurate with the typical cost of construction of the walkway, to be determined by the Director of Public Works, minus amounts the Applicant has reasonably spent on design, engineering and fees in its attempts to obtain such approvals and permits and/or to

construct any portion of the walkway which did receive necessary approvals and permits.

21. The Applicant shall contribute Fifty Thousand and 00/100 Dollars (\$50,000.00) to the Town as a means of reducing the impacts of this Project on traffic flow and safety on Boston Post Road. These funds shall be applied towards (a) the Town's efforts to complete a corridor study of Route 20 in order to plan for potential signalization and improvement of specific intersections, and (b) a contribution to the installation of a traffic signal at the intersection of Landham Road. These impacts and recommendations have been identified by the Town's traffic consultant in its report to the Board dated January 24, 2007. In addition, the MassHousing Site Eligibility letter dated March 22, 2007 states that a substantial contribution to the installation of a traffic signal at the intersection of Landham Road would be one appropriate means of mitigating traffic safety concerns. This payment shall be submitted in full to the Town prior to the issuance of the initial building permit.
22. The guardrail currently existing along the frontage of the Property on Boston Post Road shall be removed provided that the Mass. Highway Department approves such removal.
23. Approval from Mass. Highway Department for the new curb cut is required.
24. The existing driveways serving the four single family residences shall be abandoned prior to granting of the final occupancy permits in the Project, or as soon as practical. All units in the Project shall utilize the main access driveway upon completion of the Project. The two proposed emergency accesses shall be gated or otherwise blocked to prohibit use except during an emergency.
25. Construction access to the site shall only be from either the Feinberg driveway, or the new main access point. No more than two construction accesses shall be developed.
26. Emergency accesses shall be kept clear of snow, ice and vegetation at all times.
27. Compliance with the limited dividend requirements under M.G.L. c. 40B shall be determined by the subsidizing agency in accordance with the rules of the applicable housing subsidy program. The Board shall have the right to review such determination for accuracy using the same standards as the subsidizing agency. The Board shall be permitted to independently enforce the Applicant's limited dividend obligations in the event the final determination shows noncompliance and the Monitoring Agent fails to pursue compliance in a timely manner. In such event and in order to facilitate the Board's rights, the Applicant shall permit the Board, or its duly authorized representatives, to examine the Applicant's records during normal business hours and shall, upon the Board's request, explain the methods of keeping the records. The Applicant shall pay the Town the sum of Three Thousand and 00/100 Dollars (\$3,000.00) as a deposit to cover the costs of the Board's accuracy review of the subsidizing agency's determination. Said amount shall be paid prior to the issuance of the final occupancy permit for the Project. To the extent the cost of such review

exceeds Three Thousand and 00/100 Dollars (\$3,000.00), the Applicant agrees to pay the reasonable costs in excess. To the extent the cost of such review is less than Three Thousand and 00/100 Dollars (\$3,000.00), the Applicant shall receive back the excess not used for this purpose.

28. Automatic fire protection sprinkler systems shall be designed in accordance with the applicable provisions of NFPA, and shall be installed in each new unit. The installation of the fire protection systems shall comply with the provisions of 780 CMR 906.0. The systems shall be installed so as to be jointly maintained by the condominium association, and not by individual homeowners. Existing units being renovated at 295 and 303 Boston Post Road shall not be required to comply with this provision so long as such action is consistent with Building Code requirements.
29. Landscaping shall be installed at the Property substantially in accordance with the Endorsement Plan and in a timely manner for each phase of the Project.
30. Stones from the existing stone walls in the interior of the Property shall be preserved and used to construct new walls to the extent reasonably practical as shown on the Permit Plan.
31. Sight distance at the intersection of the Project entrance and Boston Post 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 Project 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 reasonable improvements by the Applicant as necessary to satisfy the design specifications consistent with the Permit Plan. Significant improvements and/or changes off-site are not contemplated hereunder.
32. The Project shall contain twenty one (21) visitor parking spaces, as shown on the Permit Plan, and shall include handicapped spaces as required by 521 CMR 23.2.1, if required. Each unit shall be provided with at least 2 parking spaces for personal use (which shall include the tandem space behind an interior parking garage as shown on the Permit Plan).
33. 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.
34. The Applicant shall not expand the paved sections of the Project beyond that which is depicted on the Permit Plan.
35. 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.

36. There shall be no on-street parking, except where designated in the vicinity of the mail box and at the visitor spaces shown on the Permit Plan.
37. The Applicant shall notify the Department of Transportation and Energy pursuant to M.G.L. c. 40, s. 54A regarding the Project adjacent to an MBTA railroad corridor prior to the issuance of building permits.
38. 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.
39. 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 Director of Public Works/Town Engineer, shall be submitted to the Board.
40. 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.
41. 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.
42. 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 Permit Plan shall be constructed to the specifications of the cross-section as shown on the Permit Plan. This cross section shall comply with typical Town standards for roadway construction, except for pavement width (which shall vary between 18 and 24 feet wide) and depth of pavement (which shall be approved at three inches (3") total depth). Final plans and profiles of all

roadways shall be submitted for review and approval of the Board prior to Plan endorsement.

3. Final design of the stormwater management system, including final stormwater calculations, shall be submitted for review and approval of the Board and the Director of Public Works prior to Plan endorsement. The stormwater management system shall comply with DEP Stormwater Management Guidelines, and shall incorporate all conditions listed in the Director of Public Works memo dated April 3, 2007. Significant deviations from the preliminary design or construction, at the opinion of the Board, shall require the consent of the Board and/or a modification to the Permit.
4. Soil testing for the primary leach field has not been conducted in the area under the existing house at 289 Boston Post Road. Prior to the issuance of any occupancy permits, the Applicant shall conduct soil testing of such area in the presence of a representative of the Sudbury Board of Health, and shall provide the Board of Health with a copy of the testing and evidence that the Applicant has complied with Department of Environmental Protection (DEP) requirements relating thereto, including, if necessary, replacement of unsuitable soil with suitable soil.
5. Final design and approval of the wastewater disposal system and treatment plant shall be obtained from DEP and submitted to the Board prior to the issuance of building permits. In accordance with the DEP approval, any conditions requiring incorporation into the condominium documents or budget shall be added thereto. The wastewater disposal system and treatment plant shall be constructed, installed, operated and maintained in accordance with all applicable State and Federal laws, rules and regulations. At the Board's request, copies of submissions to State or Federal agencies in connection with the system shall be submitted to the Board.
6. Copies of all soil test results, groundwater mounding analyses, leaching field design plans and plans for the sewage treatment plant and associated wastewater infrastructure shall be submitted to the Board of Health prior to issuance of building permits.
7. Operation and maintenance manuals for the sewage treatment plant, including emergency spill response plans, shall be submitted to the Board of Health prior to issuance of building permits.
8. Prior to the issuance of occupancy permits, the construction of the sewage treatment plan shall be certified by the design engineer and manufacturer representative, including preliminary testing of the system, as required by DEP.
9. All utilities serving this Project 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. A notation that all utilities shall be installed underground shall be added to the Notes Sheet of the Endorsement Plan.

10. Town water shall be extended to serve the Project at the sole 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.
11. All retaining walls greater than four (4) feet in height shall be designed by a structural engineer prior to construction.
12. All stone walls facing the public right of way shall be faced with appropriate materials as the site is directly across the street from a local historic district. Design and materials of the walls visible from the public way shall be shown on the Endorsement Plan, and approved by the Board.
13. The base of all emergency accesses shall be constructed to the typical roadway standards in the Project. Surface treatment of these areas, and proposed gates or other mechanisms to block through traffic, shall be shown in details on the Endorsement Plan and be subject to approval of the Board. All gates shall be fitted with a Knox Box brand padlock for access by Sudbury Public Safety Departments.
14. If a household or households requiring modifications for disabled living is selected in the lottery for the initial sales of the nineteen (19) Affordable Units, the Applicant shall make such reasonable modifications at the Applicant's expense, in accordance with M.G.L. c. 151B.
15. Home inspections on the existing homes at 295 and 303 Boston Post Road proposed for renovation shall be performed at the Applicant's expense prior to issuance of building permits. The Town reserves the right to final approval of an inspector. All applicable testing shall be conducted and documented pursuant to local, state and federal regulations. Any deficient items identified in the home inspection, as necessary to achieve a good and sound condition or that are not incorporated into the Renovation Construction and Finish Standards dated revised March 22, 2007, shall be corrected at the expense of the Applicant.
16. The seventeen (17) new construction Affordable Units shall have the same exterior amenities and design as the new construction market-rate units, including deck and patio design and construction.
17. The seventeen (17) new construction Affordable Units shall be constructed in accordance with and as specified in the Construction and Finish Standards Summary dated May 24, 2007. All Affordable Units must include air conditioning. Appliances, cabinets, and counter tops may differ but must meet reasonable quality standards as described in the above-referenced document.
18. The two (2) existing construction Affordable Units shall be constructed in accordance with and as specified in the Renovation Construction and Finish Standards dated May 24, 2007.

19. Building plans shall conform to the Massachusetts Building Code.
20. 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).
21. The Applicant shall install a rainwater harvesting system with a 16,000 gallon capacity which shall perform as the main source of irrigation water for portions of the site as described in the Order of Conditions from the Conservation Commission. The irrigation well shall be utilized as a back-up system for irrigation in those identified portions of the site. The rainwater harvesting system shall be operational in a timely manner for each applicable phase of the project.
22. The Applicant shall prepare a set of final stamped Plans for endorsement, including confirmation from the Engineer of Record that the final working drawings and specifications have been prepared in accordance with standard engineering practices, are in substantial compliance with the Permit Plan and fully discuss where deviations occur, and fully incorporate all applicable requirements of the Conditions of Approval as set forth herein. The Board shall distribute the final Plan for review, and shall endorse the Endorsement Plan at a scheduled meeting of the Board.

VI. Lighting

1. Exterior lighting within the Project, to be controlled by the condominium association, shall generally consist of three (3) twelve foot (12') high pole lights to illuminate the community greenspaces, several six foot (6') pole lights scattered around the Project to increase visibility when walking at night, and external illumination of the front entrance sign. In addition, all units shall have individually controlled front wall lights or porch lights, and several units may have front pole lights. A final Lighting Plan in general conformance with these standards shall be submitted for review and approval of the Board prior to issuance of building permits. The Lighting Plan shall indicate type of lights, number, stock numbers and location of all lighting proposed.
2. All exterior lighting shall be designed and installed 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 Project shall be limited to 150 watts or less of incandescent lighting per fixture, or equivalent.
3. The Condominium Documents (hereinafter defined) shall contain a provision prohibiting light spilling over to neighboring properties and onto the abutting Open Space.
4. The Board or its representative shall inspect the Property prior to release of the performance bond for the Project (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 Permit Plan. The Endorsement Plan shall include all proposed signage (entrance sign, temporary marketing signage, directional signs, directory signs), indicating the proposed locations, dimensions and schematics; proposed lighting; detail of stone wall construction; school bus waiting area, etc. The final Landscape Plan shall be required to be endorsed and approved prior to issuance of building permits.
2. Landscaping and screening around the Project shall be installed as substantially shown on the Endorsement Plan. The Applicant shall maintain the landscaping within the common areas and shall ensure that the Condominium Documents (hereinafter defined) provide for such maintenance in perpetuity. Any dead vegetation shall be removed immediately and replaced in accordance with the specifications on the Endorsement Plan.
3. Trees proposed for preservation, as shown on the Permit Plan, shall be flagged and appropriately protected, and the Director of Planning and Community Development shall be called to inspect the Property to determine compliance with this condition, prior to commencement of any construction activity on the Property.
4. All vegetation proposed within any areas used for stormwater or wastewater management shall be of a type that minimizes damage to these systems caused by root growth.
5. 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 Boston Post Road. If, in the opinion of the Board, additional screening is required to fill any obvious gaps in screening of abutting residential properties, the Applicant shall forthwith rectify such complaint with the planting of additional vegetation.
6. All landscaping required by this Permit shall be secured for a period of one (1) year after issuance of the final occupancy permit for the Project by a performance bond in an amount allocated to landscaping not to exceed Fifty Thousand and 00/100 Dollars (\$50,000.00). The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period.

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 shall not have, now or ever, any legal

responsibility for operation or maintenance of same.

- a. All roadways, walkways and parking areas;
- b. Stormwater management system, including the maintenance of catch basins, swales, detention basins and the like;
- c. Snow plowing;
- d. Landscaping and landscape maintenance;
- e. Trash removal;
- f. Street lighting;
- g. Wastewater treatment plant and disposal system;
- h. Water system for both domestic use and fire protection, including hydrants.

The Applicant shall not be responsible for the maintenance of any off-site improvements required to be constructed by this Permit.

2. As used herein, "Condominium Documents" shall mean such documents (a) as the Condominium Statute requires to establish a lawful condominium in the Commonwealth of Massachusetts, (b) as are approved by the Project Administrator and (c) as have been reviewed by the Town's legal counsel. Prior to the issuance of any certificate of occupancy, the Applicant shall provide documentation verifying that the Condominium Documents are in conformance with this Permit and M.G.L. c. 183A to the Town.
3. The common facilities shall be maintained in perpetuity by the association of unit owners established pursuant to the Condominium Documents (the "Condominium Association"). The roadway within the Project shall not be dedicated to or accepted by the Town.
4. The Applicant shall cause the Condominium Documents to provide that the Condominium Association shall maintain and repair all common areas and facilities, including but not limited to the stormwater management systems, the wastewater disposal system and treatment plant, landscaping, roadways and other improvements within the Property and each owner shall be a member thereof. The Condominium Documents shall reference the affordability requirements upon which the Permit is conditioned. The Condominium Association shall adopt rules and regulations and a copy shall be provided to the Board.
5. 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, at the Board's request, provide the Board with a copy of the contract.
6. Condominium Documents, including a realistic condominium budget based upon comparable developments with sewage treatment plants that have been occupied for at

least two (2) years, shall be subject to the review of the Board. The Applicant shall submit copies of the Condominium Documents for review to Town Counsel and the Director of Planning and Community Development at least ninety (90) days prior to the issuance of the first occupancy permit, except that the condominium budget shall be submitted at the time of preparation of the Lottery Plan, whichever is earlier, and comments from this review shall be submitted to the Board. These documents shall prorate 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 review the condominium budget (including Capital Reserve requirements) for all the units in the Project.

7. 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.
8. The Association and purchasers of all units shall be forever bound by all conditions and restrictions contained herein.
9. 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 which are inconsistent with the provisions of this Permit, the Deed Rider or the Regulatory Agreement without Board approval.
 - b. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
 - c. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
 - d. 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.
 - e. 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.
10. 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 Endorsement Plan.
 - b. There shall be no conversion of garages or interior space into additional bedrooms. The total number of bedrooms in the Project shall be limited to no more than 168.
 - c. No disposal of yard and landscaping waste shall be permitted in the surrounding

wooded areas on the site.

- d. Trash barrels shall be stored inside the garages except on collection day.
 - e. Water conservation measures shall be implemented for the care and maintenance of the landscaped areas.
 - f. The bus waiting area shall be kept clear of snow and ice at all times.
 - g. Emergency accesses shall be kept clear of snow, ice and vegetation 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 Project 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. There shall be a provision prohibiting light spilling over to neighboring properties and the abutting Open Space.
 - m. 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.
 - n. 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 be responsible for all reasonable expenses associated therewith, as detailed in Condition X.8.
 - o. Any financial conditions for operation and/or long term maintenance/replacement of the wastewater treatment plan required by DEP shall be incorporated into the Association documents.
 - p. Unit owners shall submit to the Condominium Association copies of all applications for building permits.
 - q. Units that abut Boston Post Road shall be prohibited from displaying fences, play structures or other outdoor amenities over four (4) feet high that are visible from Boston Post Road, except as currently exist or as shown on the Endorsement Plan.
11. All necessary easements shall be granted by the Applicant where required by public utility companies or the Town of Sudbury for purposes of providing utilities to the Project or as otherwise expressly contemplated by this Permit. Evidence of recordation of all easements shall be submitted to the Board prior to occupancy.
 12. If reasonably requested, the Applicant shall grant to the Town of Sudbury a ten (10) foot wide walkway easement along the frontage of the Property. The Applicant shall only be responsible for constructing a walkway from the main driveway westward pursuant to condition IV.20. A walkway along the eastern portion of the frontage, from the entrance driveway to the eastern property line, shall be reserved for future potential construction by the Town prior to issuance of occupancy permits.
 13. The Applicant has agreed to grant a Conservation Restriction to the Town of Sudbury

over that portion of the Property shown on the Plan as “Proposed Area for Conservation Restriction”. The Conservation Restriction area shall be surveyed, and a calculation of its area shall be included on the Endorsement Plan. Such restriction shall be recorded at the Middlesex South District Registry of Deeds prior to issuance of occupancy permits for the Project, or such earlier time as may be required by the Conservation Commission.

14. 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 Project. The type and form of such performance bond shall be submitted for review by Town Counsel prior to being accepted by the Board.
15. The performance bond shall not be released below Fifty Thousand and 00/100 Dollars (\$50,000.00) until the construction of the Project is complete, all conditions of this Permit have been fulfilled, the subsidizing agency shall have determined that the limited dividend requirement has been satisfied, and an as-built plan indicating conformance with the approved Plan and prepared in accordance with standard Town requirements is submitted to the Board and approved. The Board may waive the requirement for a bond to satisfy the limited dividend compliance if a bond in an amount of no less than Fifty Thousand and 00/100 Dollars (\$50,000.00) is required by the Project Administrator to secure the Town’s interest. The amount of any performance bond above the Fifty Thousand Dollars (\$50,000.00) limit shall be reduced commensurate with work completed, inspected and approved by the DPW Director and the Board.
16. Evidence of financing approval and MassHousing Final Approval shall be submitted to the Board prior to the issuance of building permits.
17. 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.
18. 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 Project 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 73rd unit and the 19th Affordable Unit) to be sold as an Affordable Unit in the Project. The Town agrees to subsidize this additional unit in the amount of One Hundred Twenty Five Thousand and 00/100 Dollars (\$125,000.00), which amount shall be paid to the Applicant at the time of sale of the unit to an eligible household and shall be in addition to the purchase price received from such eligible household. This unit shall be unit number 51.
3. The standard Massachusetts Housing Finance Agency Regulatory Agreement (the “Regulatory Agreement”) for either Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or for the Housing Starts Program, 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 Project. The Regulatory Agreement shall be submitted for review by Town Counsel and the Director of Planning and Community Development prior to its execution. 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 sales price established in the Regulatory Agreement and the Deed Rider. Unless otherwise required by the Project Administrator, the form of Deed Rider to be used shall be the 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 Service Agreements for Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or the Housing Starts Program, shall be executed prior to the issuance of any occupancy permits in this Project. The Monitoring Agreements designate the entities that monitor the Affordable Units, and set forth the responsibilities for monitoring the sale and resale of the Affordable Units, including income eligibility of prospective buyers, requirements for

submission 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 Agreements shall be submitted for review by Town Counsel and the Director of Planning and Community Development prior to their execution by the relevant parties and prior to occupancy of any unit. A copy of the documents shall be forwarded to the Board for its information. The Town of Sudbury Housing Trust has stated its desire to be the Monitoring Agent for affordability for this Project, subject to MassHousing and/or DHCD approval.

6. The Applicant shall bear all expenses associated with services provided by the Monitoring Agents for the cost certification monitoring and monitoring the initial sale of each of the nineteen (19) Affordable Units in accordance with the Monitoring Agreements.
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 as determined by the Subsidizing Agency 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 the Regulatory Agreement executed by the subsidizing agency. Revenues and costs related to upgrades/options must be accounted for in the cost certification.
8. To the maximum extent permitted by law, and applicable regulation, local preference for the purchase of thirteen (13) of the Affordable 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. A Lottery Agent shall conduct a lottery to solicit interest for the purchase of these units. The lottery must conform to the lottery procedures of the Project Administrator then in effect. Unless the Project Administrator's procedures differ, the 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 and all governmental employees noted above shall receive notice of the lottery and the availability of Affordable Units. The Town of Sudbury Housing Trust has stated its desire to be the Lottery Agent for this Project.
9. The Applicant shall submit a marketing plan to the Board for Affordable Units in the Project. 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 and

permitted by the Project Administrator, 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 and sales prices for the Affordable Units, consistent with the requirements of the Project Administrator. 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 unless the Project Administrator determines otherwise. An explanation of all assumptions used to calculate the affordable sales prices, including a realistic condominium budget as required in Condition VIII.6 shall be required.
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, three persons for two bedroom units, and two persons for one bedroom units, unless the Project Administrator requires that a different household size be used.
12. The affordability requirement of this Permit shall be senior to any mortgage liens on the Affordable Units. Unless the Project Administrator determines otherwise, the Applicant shall be required to use the Universal Deed Rider consistent with this requirement.
13. Two (2) Affordable Units in this Project shall be offered for purchase to the Sudbury Housing Authority (SHA) as rental units, at the approved Affordable Unit sales price, subject to the approval of the Project Administrator. The SHA-purchased units shall not be located in the same phase of the Project. The SHA shall notify the Applicant in writing of its intention to purchase the units within three months of the date of filing this Permit with the Town Clerk, and if the SHA intends to purchase the units, the SHA shall enter into a purchase and sale agreement calling for a closing upon issuance of an occupancy permit for such units. In the event that the SHA does not elect to purchase the units or fails to purchase the units pursuant to the purchase and sale agreement, the Applicant shall have no further obligation to convey the units to the SHA.
14. Applicant shall construct and receive a Certificate of Occupancy for one Affordable Unit for every three (3) market rate units. Prior to issuance of any Certificate of Occupancy for the final four (4) market rate units, the Applicant shall have received a Certificate of Occupancy for the final (nineteenth) Affordable Unit.
15. 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.
16. Except for any unit(s) owned by the Sudbury Housing Authority, 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 and in accordance with the terms of the Deed Rider.

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 upon the establishment of the condominium, the Condominium Association created for the Project shall be responsible for maintaining the stormwater management structures and drainage system in the Project in accordance with the Operation and Maintenance Plan submitted.
5. Snow removal, maintenance of roads and walks, storm drainage, wastewater treatment and disposal, lighting, utilities, irrigation and fire protection shall be maintained by the Applicant, and upon the establishment of the condominium, the Condominium Association created for the Project. The Town of Sudbury does not accept responsibility for any infrastructure improvements or maintenance in this Project.
6. The wastewater treatment facility in this Project shall comply with the provisions of any Department of Environmental Protection permit granted for its construction.
7. Fees for all permits and inspections by Town departments shall be paid by the Applicant directly to the issuing or inspection entity.
8. In the event of any failure to comply with the requirement to maintain the stormwater management and/or wastewater disposal systems in the Project 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 Project 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 Endorsement Plan until the following conditions have been complied with to the satisfaction of the Board:

1. Signature blocks for the Zoning Board of Appeals (5 members), 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 final Plan sheets.
2. A detail of each proposed type of retaining wall shall be added to the final Plan. If the retaining walls are all of a similar type, the labeling shall be revised to be consistent.
3. Final approval from the DPW Director on the stormwater management plan has been submitted. The Board reserves the right to conduct a peer review of the drainage analysis for consistency with the DEP Stormwater Management Guidelines at the Applicant's cost prior to endorsement of the Endorsement Plan as described in Condition V.3.
4. Final approval from the DPW Director of the Plan and Profile of the roadways in the Project as required in Condition V.2.
5. The limits of disturbance around the site shall be properly staked and marked, and all trees proposed for preservation shall be flagged, and the Director of Planning and Community Development called for an inspection as required by Conditions IV.7 and VII.3.
6. A notation that all utilities shall be installed underground shall be added to the Notes Sheet of the Endorsement Plan.

7. A notation that Mass. Highway Dept. approval is required for work within the public right-of-way shall be added to the Notes Sheet of the Endorsement Plan.
8. Base and surface treatment of the “Central Plaza” shall be detailed on the Endorsement Plan.
9. Base and surface treatment of the emergency accesses and gates shall be detailed on the Endorsement Plan.
10. Final Plans are submitted, reviewed and approved by the Board for consistency with this Decision, and confirmation from the Engineer of Record that the Endorsement Plan and specifications have been prepared in accordance with standard engineering practices, comply substantially with the Permit Plan and fully incorporate all requirements of this Decision.
11. The Conservation Restriction Area has been surveyed and its area calculated and shown on the Endorsement Plan as required by Condition VIII.13.

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 final Plan has been endorsed by the Board, the Town Clerk and all Town Officials listed in Condition XI.1.
2. The limits of disturbance have been identified and the Director of Planning and Community Development has completed an inspection as required in Conditions IV.7 and VII.3.
3. Receipt of evidence of recording of this Permit with the Middlesex South Registry of Deeds.
4. DEP approval for construction of the wastewater disposal system as required by Condition IV.11.
5. Copies of design requirements and Operation and Maintenance Plan for the wastewater disposal system have been submitted to the Board of Health, as required by Conditions V.6 and 7.
6. Final architectural plans stamped by a registered architect have been submitted and approved by the Board.
7. Final landscape plan incorporating all the requirements listed in Condition VII.1 has been submitted and approved by the Board.

8. Final lighting plan as required by Condition VI.1 has been submitted and approved by the Board.
9. A current construction schedule as required by Condition X.2 is submitted.
10. A current phasing schedule is submitted.
11. All permit fees normally required for building permits and other Town permits have been paid to the Town.
12. Evidence of financing approval and MassHousing Final Approval has been submitted to the Board as required by Condition VIII.16.
13. Approval from Mass. Highway Dept. has been obtained for the curb cut as required by Condition IV 23.
14. The Monitoring Agreements have been executed.
15. The Regulatory Agreement, including an approved form of Deed Rider, has been executed.
16. Traffic mitigation contribution has been submitted as required by Condition IV.21.
17. Receipt of a title opinion or a copy of a title insurance policy evidencing ownership and indicating compliance with Conditions IV.1 and VIII.17.
18. Prior to building permits for construction of units at 295 and 303 Boston Post Road, home inspection reports required in Condition V.15 have been submitted and deficiencies are shown as corrected in the building plans.

XIII. Occupancy

Occupancy of the units in this Project 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 Section VIII Conditions 1-10 have been submitted to the Board and approved by Town Counsel with respect to incorporating relevant conditions in this Decision.
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. A performance bond, as detailed in Condition VIII.14 has been submitted to and accepted by the Board.
4. Installation of the stormwater management system has been substantially completed or incomplete portions bonded to the satisfaction of the Director of Public Works.
5. Lottery Plan, including the proposed sales prices for the Affordable Units and the Fair Housing Marketing Plan, has been submitted and approved by the Board and the Monitoring Agent as required by Condition IX.9.
6. Sight distance has been certified by the Director of Public Works for the Project egress on Boston Post Road as required by Condition IV.31.
7. Copies of all easements granted and recorded for the Project have been submitted to the Board as required by Conditions VIII.11 and 12.
8. Prior to the 20th Occupancy Permit issued, off-site walkway construction has been completed to the satisfaction of the Director of Public Works as required by Condition IV.20, or this condition has been otherwise satisfied.
9. Receipt of a maintenance contract for the wastewater disposal system.
10. Soil test results at 289 Boston Post Road have been submitted, as required by Condition V.4.
11. Prior to the final Occupancy Permit issued, the review fee for limited dividend compliance of \$3,000.00 shall be paid to the Town as required in Condition IV.27.
12. A recorded copy of the Conservation Restriction has been received as required by Condition VIII.13, unless such time for submittal has been extended by the Conservation Commission.
13. Certification of the functioning of the sewage treatment plan by the design engineer has been submitted to the Board of Health as required by Condition V.8.

XIV. Release of the Performance Bond

No request to reduce funds from the Performance Bond below Fifty Thousand and 00/100 Dollars (\$50,000.00) 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 Project has been completed by the Project Administrator and subsequent local review pursuant to Condition IV.27 has occurred, or six (6) months after the final MassHousing review has passed, whichever is earlier, and if profits exceed twenty percent (20%), payment has been made to the Town. Such release of the performance bond may be made earlier than this date based on preliminary audits of the Project, or equivalent bonding by the Project Administrator to secure the Town's interests as described in Condition VIII.15, with the approval of the Board.
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.4.
5. Certification of adequate landscaping as described in Condition VII.5.
6. Any damage to public roads caused by this Project shall be repaired as required in Condition IV.33.

On Motion:

To approve the application of TD Sudbury Village LLC for a Comprehensive Permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of seventy three (73) condominium units, including nineteen (19) 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 Castera Bazile and Rosalbo Dimonda (275 Boston Post Road), Harold A. Goodale Jr. and Karen Goodale (289 Boston Post Road), Kimberly F. Kreisel (295 Boston Post Road) and Albert S. and Andrea M. Feinberg (303 Boston Post Road), consisting of 11.9 acres of land at 275, 289, 295 and 303 Boston Post Road in Sudbury (Assessor's Map K09, Parcels 065, 064, 062 and 061, subject to all of the conditions stated in the foregoing Permit decision:

Voted:

Date: July 10, 2007

Stephen Richmond, Chairman

Jeffrey P. Klofft

Elizabeth A. Taylor

Nancy G. Rubenstein

Jonas D.L. McCray, Alternate

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

July 10, 2007

On this 10th day of July, 2007, 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
Russ Tanner, Tanner Development
David Wallace, Attorney
Meridian Associates
Edward Marchant