

THE RESIDENCES AT SUDBURY COMMONS
29 Hudson Road
Case 07-17

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
JANUARY 14, 2008

The Board consisted of:

Jonathan G. Gossels, Acting Chairman
Elizabeth A. Taylor, Clerk
Jeffrey P. Klofft
Nancy G. Rubenstein
Stephen A. Garanin
Jonas D.L. McCray, Alternate

Also: Jody Kablack, Planning Director

For the Applicant:

Robert Engler, Development Consultant
Kevin Duffy, Steven Duffy, Duffy Properties
Paul Finger, Engineer

The hearing was reconvened by the Acting Chairman, Mr. Gossels. The Board was in receipt of the following:

- Construction schedule dated 1/14/08 prepared by the Applicant
- Memo from Paul Finger Associates to the Board dated 1/14/08 requesting waivers from two additional bylaw provisions (1) rear yard setback for the attached decks on buildings 4 and 5; and (2) extension of the existing inground irrigation system to cover an additional 12,000 s.f. of new lawn area
- Draft decision, version 2 dated 1/14/08

The Board reviewed the decision, making the following changes:

- a) Add "Landscape Architect" wherever the decision mentions the requirement for stamped plans.
- b) Add new documents submitted tonight to document list.
- c) Add 2 new waivers as requested by Paul Finger Associates.
- d) Condition IV.3 – allow 3 years to begin construction.
- e) Condition IV.18 – allow 2 trailers and up to 3 ground level storage containers not to exceed 25 feet in any dimension to be located only to the south of building 1.
- f) Conditions IV.24 and 25 – Revise condition to give final approval of the site traffic circulation to I. William Place, Public Works Department Director, including discretion over entrance and egress direction and one or two way circulation.

- g) Condition IV.35 – Remove the requirement to provide a lease for the existing wireless communications facility. Such lease was provided at the meeting.
- h) Condition V.12 – Town Counsel recommends the Board require a drainage easement over the existing drain pipe that traverses the property. The applicant agreed.
- i) Condition VI.2 – The condition as revised by the applicant is acceptable. The last sentence of this condition will be removed.
- j) Condition VIII.4 – Add the words “in accordance with the Operation and Maintenance Plan” after “stormwater management systems”.
- k) Condition VIII.9 – Agreed to create a Condominium Association with between 25% to 35% of the trustees as owners of the affordable units. Remove example from condition.
- l) Condition VIII.10 – Remove item “e”. Add no enlargement to decks/patios. Add new provision prohibiting snow removal into wetland areas.
- m) Condition IX.8 – Use \$2.875 million as the property value.
- n) Condition IX.10 – revised item “b” to require the Lottery Agent to appropriately advertise to all Local Preference pool candidates and to the Community Housing Office’s interest list.
- o) Condition X.2 – Add Conservation Coordinator to distribution list for construction schedule.
- p) Condition XII.6 – Require final landscape plan prior to Plan endorsement.
- q) All other tracked changes agreed upon.

Upon completion of the review of the draft decision, the Board voted to close the hearing. A motion was made, seconded and unanimously voted to approve the decision as drafted, with the amendments as discussed, and the Board signed a decision.

Jonathan G. Gossels, Acting Chairman

Elizabeth A. Taylor, Clerk

Jeffrey P. Klofft

Nancy G. Rubenstein

Stephen A. Garanin

Jonas D.L. McCray, Alternate

NOTICE OF DECISION

COMPREHENSIVE PERMIT
SOMERSET SUDBURY DEVELOPMENT LLC
THE RESIDENCES AT SUDBURY COMMONS
29 HUDSON ROAD
SUDBURY, MA
ZONING BOARD OF APPEALS CASE NUMBER 07-17
January 14, 2008

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 Somerset Sudbury Development LLC (the "Applicant") on January 29, 2007 to construct a 21 unit condominium development including six (6) Affordable Units, on approximately 2.77 acres of land located at 29 Hudson Road. Four of the units will be new construction units and the remaining seventeen units will be adaptive reuse units located in the three commercial properties currently located on the subject site. Said Property is within a Limited Business District, and is identified as Parcels 002 and 069 on Town Assessor's Map H09 (the "Property"). The Property is owned by Somerset Sudbury Development LLC.

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

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 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 an executed Purchase and Sale Agreement to purchase the Property.

The Board convened the public hearing on this application on March 7, 2007. The public hearing was continued with the consent of the Applicant on May 1, 2007, June 18, 2007, July 25, 2007, September 5, 2007, September 24, 2007, November 5, 2007, December 5, 2007 and January 14, 2008. Work sessions among the Applicant, Board members and staff were noticed and held on July 6, 2007, August 8, 2007, September 5, 2007, and November 15, 2007. A site walk of the Property was held on July 30, 2007. The hearing was closed on January 14, 2008. 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 Jonathan G. Gossels, Acting Chairman; Elizabeth A. Taylor, Clerk; Jeffrey P. Klofft; Nancy G. Rubenstein; Stephen A. Garani; 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, and Design Review, and finds that reasonable conditions relative to these regulations have been incorporated herein.

In reviewing the application of Somerset Sudbury Development 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 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, 2006.

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 Residences at Sudbury Commons, subject to all of the following terms and conditions, all of 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. Application for a Comprehensive Permit dated January 25, 2007, received January 29, 2007 submitted by Robert Engler, Consultant to Somerset Sudbury Development LLC
2. Comprehensive Permit Plans dated June 1, 2007 prepared by Paul Finger Associates, ESS Group, Inc. and Precision Land Surveying Inc. (unstamped), including
 - a) Sheet L-100, Layout and Materials Plan
 - b) Sheet L-101, Planting Plan
 - c) Sheet L-102, Lighting Plan
 - d) Sheet L-103, Details
 - e) Sheet C-100, Grading and Drainage
 - f) Sheet C-101, Utilities (septic, gas, electric, tel., CATV)
 - g) Sheets C-102 through 104, Details

3. Existing Conditions Plan prepared by Precision Land Surveying (unstamped) dated January 5, 2006
4. Architectural Plans prepared by Clinton Design Associates (unstamped) dated May 16, 2006, consisting of:
 - ♦ Sheet A1.1, Key Plan Bldg. 1, dated May 16, 2006;
 - ♦ Sheet A1.5, Elevations Bldg. 1, dated May 16, 2006;
 - ♦ Sheet A2.1, Floor Plans and Elevations Bldg. 2, dated May 16, 2006;
 - ♦ Sheet A3.1, New Floor Plans Bldg. 3, dated 5/31/07;
 - ♦ Sheet A3.2, Exterior Elevations Bldg. 3, dated 5/16/07;
 - ♦ Sheet A4.1, Floor Plans Bldgs. 4 and 5, dated 3/7/06;
 - ♦ Sheet A4.2, Exterior Elevations Bldgs. 4 and 5, dated 9/28/06; and
 - ♦ Sheet A-101, Garage Elevations, undated
5. Stormwater Management Report dated April 6, 2007 prepared by ESS Group, Inc.
6. Preliminary floor plans dated June 14, 2007 prepared by Clinton Associates
7. Building Specifications for Market Rate and Affordable Units, document dated May 31, 2007, submitted by Geoffrey Engler on June 19, 2007
8. Exterior Wall Envelope Construction and Renovation Specifications prepared by Clinton Design Associates dated August 22, 2007

Items 1 through 8 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 are stamped as required by a Registered Professional Engineer, [Landscape Architect](#) and Architect, (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”.

9. Letter to the Board dated February 15, 2007 from Town Engineer
10. Letter to the Board dated February 15, 2007 from Design Review Board
11. Email dated February 26, 2007 from Building Inspector to Planning Director
12. Memo to the Board dated February 26, 2007 from Board of Health Director
13. Email dated February 26, 2007 from Board of Health Director to Planning Director
14. Memo dated March 1, 2007 from Community Housing Specialist to Planning Director
15. Memo to the Board dated March 5, 2007 from Planning Director
16. Memo to the Board dated March 6, 2007 from Fire Chief
17. Email dated March 7, 2007 from Sudbury Water District Superintendent to Planning Director
18. Letter to the Board dated March 7, 2007 from Lt. Glavin, Police Dept.
19. Letter to the Board from Lawrence W. Tighe, received March 8, 2007
20. Memo to the Board dated March 19, 2007 from Conservation Commission
21. Memo to the Board dated March 29, 2007 from Design Review Board
22. Letter dated April 17, 2007 from Town Engineer to Conservation Commission
23. Memo to the Board dated May 1, 2007 from Planning Director
24. Agreement for Technical Services (Edward Marchant) dated May 1, 2007
25. Memo to the Board dated May 1, 2007 from Mark Howland, Traffic Engineer

26. Impervious Surface Calculations prepared by Paul Finger Associates dated March 7, 2007
27. Comparative Market Analysis prepared by Eileen Logan, William Raveis Real Estate and Home Services dated April 25, 2007
28. Summary Appraisal Report and Valuation Analysis prepared by Avery Associates dated July 28, 2005
29. Memo to the Board dated June 12, 2007 from DPW Director
30. Memo to the Board dated May 24, 2007 from Design Review Board
31. Letter dated June 1, 2007 from DEP to Janet Bernardo, PE (ESS Group, Inc.) regarding use of existing septic system
32. Email dated June 14, 2007 from Fire Chief to Planning Director regarding circulation and emergency access
33. Meeting notes prepared by Paul Finger dated June 14, 2007 re: meeting with Fire Chief
34. Memo to the Board dated June 18, 2007 from Planning Director – outstanding items
35. Certificate of Appropriateness dated June 11, 2007 from Historic Districts Commission
36. Letter to the Board dated June 19, 2007 from Geoff Engler with encls: Preliminary Development Budget, Building Specifications, As-of-right Land Appraisal, Raveis Market Analysis
37. Letter to the Board dated June 28, 2007 from Design Review Board
38. Work Session Notes from July 6, 2007
39. Letter to the Board dated July 20, 2007 from Paul Finger re: waivers from the Sudbury Wetlands Bylaw
40. Email to the Board dated July 24, 2007 from Fire Chief regarding fire lane width
41. Memo to the Board dated July 24, 2007 from Community Housing Specialist – Comments on Affordable Component
42. Email to the Board dated July 25, 2007 from Geoff Engler re: Revised Development Budget
43. Email to the Board dated July 25, 2007 from Conservation Coordinator re: outstanding items
44. Certification from ZBA members Garanin and Klofft regarding review of audio tape and minutes of missed meetings.
45. Memo to the Board dated July 25, 2007 from Planning Director
46. Letter to the Board dated July 25, 2007 from Paul Finger Associates requesting waiver from local Wetlands Bylaw with encls.: Pre-Development & Post Development Conditions plans, West Drive Drainage Option 1&2
47. Sensitivity Analysis submitted by Edward Marchant
48. Email to the Board dated August 1, 2007 from Geoff Engler enclosing Revised Unit Plan
49. Email to the Board dated August 10, 2007 from Conservation Coordinator re: rain gardens and drainage improvements
50. Work Session draft minutes August 8, 2007
51. Letter dated August 23, 2007 from Paul Finger Associates to Executive Office of Transportation re: drainage easement
52. Email dated August 30, 2007 from Robert Engler with attachments: Development Budget, Workforce Sales Price Calculations, Affordable Sales Price Calculations for 1&2BR units @70%, Affordable Sales Price Calculations for 2BR unit, Schedule of

Expenses, Exterior Wall Envelope Construction & Renovation Specifications dated August 22, 2007, 1st & 2nd floor plan

53. Site Acquisition Cost Comparative Analysis prepared by Edward Marchant
54. Breakdown of square footage for all buildings dated September 5, 2007 prepared by Clinton Design Associates
55. Email dated September 5, 2007 from Geoff Engler with attachments: Development Budget, Unit sizes and descriptions
56. Letter dated October 10, 2007 from Town Engineer to Conservation Coordinator
57. Work Session minutes for November 15, 2007
58. Narrative Appraisal prepared by Prospectus, LLC dated November 10, 2007
59. Email dated November 28, 2007 from Kevin Duffy re: agreement to grant road widening easement

- [60. Construction schedule prepared by the Applicant dated January 14, 2008](#)
- [61. Memo from Paul Finger Associates to the Board dated January 14, 2008 requesting waivers from the rear yard setback for Buildings 4 and 5, and waiver to allow expansion of the existing in-ground irrigation system.](#)

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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 2600, Dimensional requirements to waive the required yard setbacks as follows:
 - a) Side yard setbacks from a Residence Zone along the western Property boundary for the construction of two detached garage buildings, and along the eastern Property boundary for the construction of one detached garage building, to no less than five (5) feet and seven and one-half (7 1/2) feet, respectively.
 - b) Height requirements for units in Building 1 to be reconstructed with three (3) stories, as presently exists.
 - [c\) Rear yard setbacks for Buildings 4 and 5 to be no less than 20 feet from the building foundation, and no less than 10 feet for any exterior deck](#)
4. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 4243(b) to waive the requirement to obtain a Water Resource Overlay District Special Permit for the development which will render impervious greater than 15% of the lot area. The proposal incorporates stormwater management design which demonstrates a net improvement to existing conditions with respect to water quality and groundwater recharge.
5. Zoning Bylaw, Article IX, of the Sudbury Bylaws, Section 6300 to waive the requirement to obtain Site Plan Review from the Board of Selectmen for a change of use within a commercial structure involving more than 500 square feet. M.G.L. c. 40B delegates the permit granting authority for Comprehensive Permits to the Zoning Board of Appeals.

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6. Sudbury Bylaws, Article XXVI, Public Way Access Permit, to waive the requirement of a permit from the Planning Board. The alteration of the traffic operations on this site have been examined, and conditions are included in this decision to ensure public safety.
7. Sudbury Bylaws, Article XXII, Wetlands Administration, to waive the requirement to obtain a permit from the Conservation Commission. The site is under the jurisdiction of the Massachusetts Wetlands Protection Act, and has received approval under that statute.
8. [Sudbury Bylaws, Article XXVII, In-ground Irrigation Systems, to allow the expansion of the existing system.](#)

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IV. General Conditions

This Permit is granted subject to the following conditions:

1. The Applicant shall submit proof of ownership of 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)~~three (3) 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. All construction of the Project, including landscaping, shall be completed within two (2) 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.
5. Any changes to the Project must be reviewed and approved by the Board in accordance with 760 CMR 31.03.
6. This Permit approves the construction of the Project, consisting of twenty-one (21) units of attached residential housing in five (5) 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.
7. Six (6) 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, and the remaining four (4) of the Affordable Units shall be two (2)

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 1C, 1E, 2A, 2B 3A1 and 3A2 as shown on the Permit Plan.

8. 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. 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 prior to Plan revisions and endorsement by the Board.
9. Building permits for the Project shall not be issued until the Endorsement Plan has 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 the Sudbury Board of Health for the wastewater disposal system has been received and submitted to the Board.
12. The Applicant shall comply with the Order of Conditions issued by the Sudbury Conservation Commission dated November 7, 2007, or with any Superseding Order of Conditions from the Dept. of Environmental Protection, 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 existing buildings shall be renovated in accordance with the Permit Plan. The existing buildings shall not be demolished nor substantially altered from the Permit Plan.
14. The Applicant shall be permitted to remove no more than 5,000 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 and approval 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. If any asbestos containing material is to be disturbed in the renovation of the existing buildings, the Applicant shall comply with applicable federal and state regulations to ensure safe removal and disposal of such materials and submit documentation of such compliance to the Building Inspector.
17. 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.
18. The Applicant shall be permitted to locate one (1) construction trailer, one (1) sales trailer and up to 3 ground level storage containers, not to exceed twenty five (25) feet in any dimension. on the Property for no longer than one (1) year after the first occupancy permit is issued. The trailer and storage containers~~locations~~ shall be located south of Building 1 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.
19. Addresses for the dwellings shall be Hudson Road. All mailboxes shall be located within the Project as shown on the Permit Plan.
20. Any material changes to the architectural plans shall require review by the Design Review Board. The Board shall review final, stamped architectural plans for consistency with this Permit prior to issuance of building permits.
21. 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) to be held in escrow 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

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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.

22. Automatic fire protection sprinkler systems shall be installed in all units and shall be designed in accordance with the applicable provisions of NFPA. 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.
23. Landscaping shall be installed at the Property substantially in accordance with the Endorsement Plan. Landscaping shall be installed in a timely manner for each phase of the Project.

~~24. All vehicles shall enter the site from the western access point on Hudson Road, and shall exit the site from the eastern access point on Hudson Road. Appropriate signage acceptable to the shall be installed by the Applicant and maintained in good condition. The Town of Sudbury shall eliminate remove the 3rd lane on Hudson Road in front of the Property to enable vehicles exiting the site to improve increase the safety of left turn turning movements safety. The site circulation shall be shown on the final Plan.~~

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24. Circulation within the site shall be approved by the Director of Public Works, and shall be shown on the final Plan. The Plan shall include circulation patterns, appropriate aisle widths, turning radii, curbing, and signage. All changes to the Property circulation shall be at the sole cost of the Applicant. one way from the access points to approximately 100 feet into the site. The remainder of the site shall accommodate two way traffic. The first 100 feet from the access points shall be constructed to a width of eighteen (18) feet. The remainder of the roadway shall be constructed to a width of twenty (20) feet, with a striped lane divider. Appropriate signage and striping shall be installed. The radii radiiuses of the access roads shall be redesigned to accommodate the required one way design.

25. Sight distance at the intersection of the Project entrance and Hudson 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.

26. The Applicant has agreed to contribute forty-five thousand dollars (\$45,000.00) into a specified account to assist the Town with the Sudbury Center Improvement project in making actual physical improvements within the project area, as such improvements made within the project area will have a direct and significant benefit to the vehicular and pedestrian safety of the future residents of the Property. Such funds will be dedicated solely for this purpose and

will be authorized for expenditure under the direction of the Town Manager. Said funds shall be payable to the Town at a rate of three thousand dollars (\$3,000.00) upon the sale of each market rate unit in the Project. Full payment of the \$45,000 must be completed prior to the sale of the fifteenth market rate unit.

27. The Project shall include handicapped parking spaces pursuant to 521 CMR 23.2.1, as applicable.
28. Each unit shall be provided with at least 2 parking spaces for personal use (which may include the tandem space behind an interior parking garage as shown on the Permit Plan).
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 Permit 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. There shall be no on-street parking, except where designated on the Permit Plan.
33. Prior to the issuance of building permits, the Applicant shall notify the Massachusetts Department of Transportation and Energy pursuant to M.G.L. c. 40, s. 54A regarding the Project being built adjacent to a state-owned railroad corridor..
34. The Applicant has agreed to convey all rights to the lease revenue generated by the existing wireless communications facility on the Property to the organization of unit owners upon the sale of the sixteenth unit ~~or turnover of control of the association to the unit owners as per the Association ByLaws.~~ Any lease revenue generated shall be allocated to the General Reserve account for the condominium association. The existence of this wireless communications facility shall be disclosed in the condominium documents for the Project. ~~A copy of the existing lease shall be provided to the Board prior to issuance of building permits.~~
35. 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.
36. 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.
37. 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.

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38. 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.
39. 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.
40. Notwithstanding anything herein to the contrary, the above mentioned terms, conditions and restrictions and/or grants on conveyances of rights or title shall apply to the Property only in the event the Applicant commences, and thereafter completes all or a portion of the Project. It is expressly understood that the terms, conditions and restrictions and/or grants or conveyances of rights or title stated herein shall not be in effect or apply to the Property or any development in existence now or in the future, other than 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 –Sudbury Water District Superintendent
 - ◆ Fire hydrant locations – Sudbury Water District Superintendent and Fire Chief
 - ◆ Fire alarm cable and boxes – Fire Chief
2. Any new roadway for the Project shall be constructed to typical Town standards for roadway construction, except for pavement width (which shall vary between 18 and 24 feet wide), depth of pavement (which shall be approved at three inches (3”) total depth), and the requirement for walkways.
3. Final design of the stormwater management system, including final stormwater calculations, shall be submitted for review and approval of 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 June 12, 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. The Board reserves the right to conduct a peer review of the drainage analysis for consistency with DEP Stormwater Guidelines at the Applicant’s expense.
4. Final design and approval of the wastewater disposal system shall be obtained from the Sudbury Board of Health and submitted to the Board prior to the issuance of building permits.
5. 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 Sheet C-101 of the Endorsement Plan.

6. 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.
7. The Applicant has agreed to locate 3 fire hydrants on the Property. Two hydrants shall be relocated from their present location on the Property to the southerly corners of the interior driveway, and one new hydrant shall be installed at the easterly driveway near Hudson Road. The new hydrant locations shall be shown on the Plan.
8. If a household or households requiring modifications for disabled living is selected in the lottery for the initial sales of the six (6) Affordable Units, the Applicant shall make such reasonable modifications at the Applicant's expense, in accordance with M.G.L. c. 151B.
9. The six (6) Affordable Units shall be constructed in accordance with and as specified in the Building Specifications for Market Rate and Affordable Units dated May 31, 2007 submitted by the Applicant. 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.
10. Building plans shall conform to the Massachusetts Building Code.
11. 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).
12. It is understood that an existing drainage pipe, which captures runoff from Hudson Road and is maintained by the Town of Sudbury, traverses the Property. [The Applicant shall grant to the Town of Sudbury a drainage easement for the purposes of maintaining and repairing said pipe and associated structures which are situated on the Property.](#) The pipe shall be shown on the existing conditions plan for future identification prior to endorsement of the Plan. ~~The Town of Sudbury shall continue to maintain said pipe through a prescriptive easement, unless the Applicant shall grant an easement to the Town for said purposes.~~
13. The Applicant shall prepare a set of final stamped Plans for endorsement, including confirmation from the Engineer, [Landscape Architect and Architect](#) 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 by town departments, and shall endorse the Endorsement Plan at a scheduled meeting of the Board.

VI. Lighting

1. Exterior lighting within the Project shall be installed to illuminate the walkways leading to residences and the Project roadways, illuminate the front entrance sign and illuminate the driveway accesses. This common lighting shall be controlled by the condominium association. Building mounted lighting for each unit shall also be allowed. A final Lighting Plan in general conformance with these requirements shall be submitted for review, approval and endorsement of the Board prior to issuance of building permits. The Lighting Plan shall indicate the type of lights, proposed wattage, number of fixtures, stock numbers and location of all proposed lighting.
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. The light source shall be either Metal Halide or incandescent. Wattage will be limited to 150 watts for an incandescent light and 125 watts for a Metal Halide light. ~~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 prior to issuance of building permits, and shall substantially comply with the Permit Plan. The Landscape Plan shall include additional screening vegetation on the southeast corner of the Property.
2. A detail plan for typical unit landscaping shall be added to the Plan, subject to review and approval by the Board. Landscaping for the units in Buildings 1, 2 and 3 which face Hudson Road shall be prohibited from displaying fences, play structures or other outdoor amenities over four (4) feet high that are visible from Hudson Road.
3. 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.
4. 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.

5. All vegetation proposed within any areas used for stormwater or wastewater management shall be of a type that minimizes potential damage to these systems resulting from root growth.
6. 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. 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.
7. 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 Ten Thousand and 00/100 Dollars (\$10,000.00). 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 internal 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. Exterior lighting;
 - g. Wastewater disposal system;
 - h. Water system for both domestic use and fire protection, including automatic fire sprinkler systems and hydrants.
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 [in accordance with the Operation and Maintenance Plan](#), the wastewater disposal system, 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 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 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 sixty (60) 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 if the Lottery Plan documents are submitted earlier than sixty (60) days prior to the issuance of the first occupancy permit. 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. 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. The Board reserves the right to review the schedule of beneficial interests for all 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% (but no more than 35%) 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.
 - f. The lease revenue from the wireless communications facility located on the Property shall be placed in the General Reserve Account for the Project.
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 forty (40).
 - c. No disposal of yard and landscaping waste shall be permitted in the surrounding wooded areas on the site.
 - ☉ Trash barrels shall be stored inside the garages except on collection day.
 - ~~Water conservation measures shall be implemented for the care and maintenance of the landscaped areas.~~
 - d. There shall be a prohibition on the enlarging or enclosing of decks/patios.
 - e. There shall be a prohibition on the addition of sheds or other outdoor enclosures.
 - 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.
 - 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 responsible for all reasonable expenses associated therewith, as detailed in Condition X.7 of the Comprehensive Permit.
 - o. Unit owners shall submit to the Condominium Association copies of all applications for building permits.
 - p. Units shall be prohibited from displaying fences, play structures or other outdoor amenities over four (4) feet high that are visible from Hudson Road.
 - q. There shall be a prohibition on snow removal into wetland areas of the Property.
11. All necessary easements shall be granted by the Applicant where required by public utility

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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. The Applicant has agreed to grant to the Town of Sudbury for one dollar (\$1.00) a ten (10) foot wide road widening easement along the frontage of the Property. The Town of Sudbury shall restore the Property to its pre-disturbed condition including landscape restoration. Town agrees to provide Applicant or owners association with 90 days notice prior to any work. Town agrees to perform all work within this easement expeditiously to limit duration of disturbance. This easement shall be submitted for acceptance by the Town and recorded prior to issuance of building permits.
13. A performance bond shall be required by the Board to ensure proper functioning of the roadway and drainage system; proper installation of landscaping; 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.
14. 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 Dollar (\$50,000.00) limit shall be reduced commensurate with work completed, inspected and approved by the DPW Director and the Board.
15. Evidence of financing approval and MassHousing Final Approval shall be submitted to the Board prior to the issuance of building permits.
16. 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.
17. 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 any violation or construction activities shall be ordered to cease until the violation is corrected.

IX. Affordability Requirements

1. No less than 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 rate 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 21st unit and the 6th 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 Forty Thousand and 00/100 Dollars (\$140,000.00), 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 3A1.
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. 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. The affordability requirement of this Permit shall be senior to any mortgage liens on the Affordable Units.
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 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 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 issuance of building permits. 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 six (6) 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. The final cost certification shall utilize a Property value no greater than ~~\$2.75~~\$2.875 million dollars, unless the Project Administrator approves a lesser Property value
9. To the maximum extent permitted by law, and applicable regulation, local preference for the purchase of four (4) 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.
10. A qualified Lottery Agent shall conduct a lottery to solicit interest for the purchase of the affordable units. The Town of Sudbury Housing Trust has stated its desire to be the Lottery Agent for this Project. The lottery must conform to the lottery procedures of the Project Administrator then in effect, and a Marketing Plan shall be subject to the review and approval of the Planning and Community Development Department, which shall include, but not be limited to the following minimum information:
 - a. The Information Session and the Lottery shall take place in Sudbury;
 - b. The Lottery Agent shall appropriately advertise to all Local Preference categories

~~send letters to all employees, METCO families~~ and those on the Community Housing Office's 'interest' list;

- c. Only qualified eligible applicants will enter the lottery, with the requirement for income and asset verification prior to lottery;
 - d. The Lottery Agent shall notify all potential applicants that Sudbury requires a home buyer education training prior to closing;
 - e. During the application period, the Lottery Agent will periodically provide information on the total number of applications received, and how many of those are eligible, are from local preference and are from minorities. Reasons for ineligibility shall be included.
 - f. Prior to the lottery the Lottery Agent will provide information on the final applicant pool, including: category of local preference status, minority declaration, number of persons in household, ages of dependants, number of adults, number of bedrooms needed, %AMI, town currently living in.
 - g. Prior to signing Purchase and Sale agreements for any units, the Lottery Agent shall provide the Monitoring Agent a complete eligibility package.
 - h. 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 and school employees noted above shall receive notice of the lottery and the availability of Affordable Units.
 - i. The Marketing Plan shall comply with all Fair Housing Laws.
 - j. The Marketing Plan shall contain, to the extent legally allowable, a strategy for marketing units under the "local preference" described in Condition IX.9 above.
 - k. The Marketing Plan shall be submitted for review and approval prior to the 60 day affirmative marketing period.
11. The Applicant, in conjunction with the Monitoring Agent, shall submit a detailed procedure to the Planning and Community Development Department 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. This information shall be submitted prior to the affirmative 60 day marketing period.
12. The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Initial Price shall be three persons for two bedroom units and two persons for one bedroom units, unless the Project Administrator requires that a smaller household size be used.
13. 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 sixth Affordable Unit.

14. 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.
15. 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, [Conservation Coordinator](#) 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, with the exception of the existing drainage pipe transporting runoff from Hudson Road to the rear of the Property, which shall be maintained by the Town.
6. Fees for all permits and inspections by Town departments shall be paid by the Applicant directly to the issuing or inspection entity.
7. 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. Final Plans, stamped by a Registered Profession Engineer, [Landscape Architect](#) and Architect, 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.
2. 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 Plan sheets.
3. Final approval from the DPW Director on the stormwater management system has been obtained, and the Plan revised to reflect any changes required. 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. A notation that all utilities shall be installed underground shall be added to the Sheet C-101 of the Endorsement Plan.
5. The roadway cross section shall be added to the Detail Sheet.
6. The location of the Affordable Units shall be noted on the Plan.
7. The fire hydrants shall be shown on the Plan.

8. Traffic circulation shall be noted on the Plan, and the width of pavement and driveway accesses shall reflect the ~~one-way design requirements~~approval of the Director of Public Works.
9. The existing drainage pipe from Hudson Road to the rear of the Property shall be shown on the Existing Conditions Plan. A notation shall indicate a proposed Drainage Easement around the pipe.
10. Final landscape plan incorporating all the requirements listed in Condition VII.1 and stamped by a Landscape Architect has been submitted and approved by the Board, including the typical unit landscape plan.

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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.2.
2. 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.8 and VII.4.
3. Receipt of evidence of recording of this Comprehensive Permit with the Middlesex South Registry of Deeds.
4. Sudbury Board of Health approval of the wastewater disposal system has been obtained.
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, including the typical unit landscape plan.~~
7. Final lighting plan as required by Condition VI.1 has been submitted and approved by the Board.
8. Final approval from the Historic Districts Commission is received.
9. A current construction schedule as required by Condition X.2 is submitted.
10. All permit fees normally required for building permits and other Town permits have been paid to the Town. No fees have been waived for any units.
11. Evidence of financing approval and MassHousing Final Approval has been submitted to the

Board as required by Condition VIII.15.

12. The Monitoring Agreements have been executed.
13. The Regulatory Agreement, including an approved form of Deed Rider, has been executed.
14. Receipt of a title opinion or a copy of a title insurance policy evidencing ownership and indicating compliance with Conditions IV.1 and VIII.16.
15. Notification to the Executive Office of Transportation by the Applicant pursuant to Condition IV.33.
16. Receipt of an executed road widening easement to the Town pursuant to Condition X.12. The Town shall provide a draft easement to Applicant prior to execution.
- [17. Receipt of an executed drainage easement to the Town pursuant to Condition V.12.](#)

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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.11.
3. A performance bond, as detailed in Condition VIII.13 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.10.
6. Sight distance has been certified by the Director of Public Works for the Project egress on Hudson Road as required by Condition IV.25.
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 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.21.

9. Upon sale of each of the fifteen market units, the Applicant shall pay the \$3,000.00 per market unit for the benefit of the Sudbury Center Improvement project pursuant to Condition IV.26

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.21 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.14, 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.6 and 7.
6. Any damage to public roads caused by this Project shall be repaired as required in Condition IV.29.

On Motion:

To approve the application of Somerset Sudbury Development LLC for a Comprehensive Permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of twenty-one (21) condominium units, including six (6) 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 Somerset Development LLC, consisting of 2.77 acres of land at 29 Hudson Road in Sudbury, Town Assessor's Map H09, Parcels 002 and 069, subject to all of the conditions stated in the foregoing Permit decision:

Voted:

Date: January 14, 2008

Jonathan G. Gossels, Chairman

Jeffrey P. Klofft

Elizabeth A. Taylor

Nancy G. Rubenstein

Stephen A. Garanin

Jonas D.L. McCray, Alternate

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

January 14, 2008

On this 14th day of January, 2008, 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
Kevin Duffy, Somerset Sudbury Development LLC
Robert Engler
Paul Finger
Edward Marchant