

TOWN CLERK  
SUDBURY, MASS

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Landham Crossing LLC  
192 Boston Post Road  
February 13, 2012

NOTICE OF DECISION  
COMPREHENSIVE PERMIT  
LANDHAM CROSSING LLC  
LANDHAM CROSSING  
192 BOSTON POST ROAD  
SUDBURY, MA  
ZONING BOARD OF APPEALS CASE NUMBER 11-16  
FEBRUARY 13, 2012

**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, from Landham Crossing LLC/Benjamin Stevens, Manager (the "Applicant") on February 9, 2011 to construct a 32 unit condominium development (which was subsequently reduced by the Applicant to 31 condominium units) including eight (8) affordable units, on a 8.52 acre parcel of land located at 192 Boston Post Road. Said property is within an A-Residential Zoning District, and is identified as parcel 0018 on Town Assessor's Map K-10 (the "Property"). The Property is owned by Kenneth and Madeleine Esser.

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

The Applicant is a qualified eligible Applicant to apply for a Comprehensive Permit pursuant to 760 CMR 56.04 in that:

- a) It is a limited dividend organization eligible to obtain a Comprehensive Permit pursuant to M.G.L. c. 40B;
- 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 controls the Property through a Purchase and Sale Agreement; and
- d) It has received a Site Approval Letter from MassHousing dated February 3, 2011.

The Board convened the public hearing on this application on March 14, 2011. The public hearing was continued to April 25, 2011, September 7, 2011, October 3, 2011, December 8, 2011, January 19, 2012 and February 13, 2012. The hearing was closed on February 13, 2012. Sitting as members of the Board and present throughout the hearing were Elizabeth T. Quirk, Chair, Benjamin D. Stevenson, Clerk, Jonathan G. Gossels, Jeffrey P. Klofft, and Jonathan F.X. O'Brien. Jeffrey Klofft was absent for the December 8, 2011 public hearing session, but has

certified that he has reviewed both the audio tape of the hearing and the draft minutes of the meeting, and pursuant to M.G.L. c. 39, § 23D, is therefore qualified to vote on this application.

The Board has considered the recommendations of the boards and committees of the Town of Sudbury regarding the Sudbury Bylaws, and finds that reasonable conditions relative to these regulations have been incorporated herein.

In reviewing the application of Landham Crossing 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 56.03(3a). 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 56.03(3b). The Board also finds that the development as proposed in the application, as modified during subsequent sessions of the public hearing and as modified by the attached conditions is consistent with local needs within the meaning of Massachusetts General Laws, Chapter 40B, Sections 20-23 and that it is consistent with the character of the zoning district. Finally, the Board notes that the Applicant has presented evidence of site control in its application, and evidence of Project Eligibility through its MassHousing Project Eligibility Letter dated February 3, 2011.

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 Landham Crossing, subject to the following conditions.

## **II. Application Details**

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

1. Comprehensive Permit Application submitted by Landham Crossing LLC, Ben Stevens, Manager, dated February 9, 2011;
2. Plan prepared by Bruce Saluk and Associates, Inc. entitled "Landham Crossing, 192 Boston Post Road, Sudbury, MA", containing 9 sheets:
  - ◆ Sheet EX, Existing Conditions Plan, dated January 5, 2011, last revised 8/23/11
  - ◆ Sheet C1, Layout Plan, dated January 5, 2011, last revised 1/5/12
  - ◆ Sheet C2, Grading Plan, dated January 5, 2011, last revised 1/5/12

- ♦ Sheet C3, Drainage & Utility Plan, dated January 5, 2011, last revised 1/5/12
  - ♦ Sheets C4 and C5, Details, dated January 5, 2010, last revised 1/5/12
  - ♦ Sheet C6, Detail Sheet, dated July 25, 2011, last revised 1/5/12
  - ♦ Sheet C7, Plan & Profile, dated December 23, 2011, last revised 1/5/12
  - ♦ Sheet C8, Building Grading Plan, dated December 30, 2011
3. Architectural drawings and elevations by Reeves Design Associates dated February 3, 2011 (sheets SD-01, SD-01, SD-03) and March 10, 2010 (sheets A2, A3, A6 and A7);
  4. Landscape Plan prepared by Thomas Wirth Associates, Inc. consisting of 2 sheets:
    - ♦ Sheet L-1, Concept Landscape Plan, dated November 2, 2011, last revised 1/5/12
    - ♦ Sheet L-2, Wetland Edge Planting Plan Detail, dated November 2, 2011, last revised 1/5/12
    - ♦ Sheet L-3, Detail of Unit Entrance Zones, dated 1/5/2012
  5. Traffic report by MDM Transportation Consultants, Inc., dated February 22, 2011
  6. Stormwater Management Report dated July 2011, last revised September 26, 2011 prepared by Bruce Saluk, Engineer, Saluk & Associates, Inc.

(All the above plans and the specifications described in subparagraphs 1- 6 shall be referred to as the "Comprehensive Permit Plans")

7. 2/24/2011 Memo from the Sudbury Design Review Board
8. 3/1/2011 Memo from the Debbie Dineen, Conservation Agent
9. 3/3/2011 Memo from William Place, DPW Director/Town Engineer
10. 3/7/2011 Memo from John Whalen, Assistant Fire Chief
11. 3/11/2011 Memo from Jim Kelly, Building Inspector
12. 3/11/2011 Memo from Jody Kablack, Director of Planning and Community Development
13. Undated letter from abutters Rosemary and Patrick Delaney and Catherine Brown, received 5/31/2011.
14. 8/15/2011 Memo from Bill Place, DPW Director/Town Engineer re: Stormwater Management Report
15. 8/31/2011 E-mail from Ben Stevens, Update on Revised Plans
16. 9/26/2011 Memo from Bruce Saluk, Engineer, Saluk & Associates, Inc. and revised Stormwater Management Report
17. 9/30/2011 Memo from Beth Rust, Community Housing Specialist, re: Affordable Units
18. 10/3/2011 E-mail from Bruce Saluk Engineer, Saluk & Associates, Inc. re: Correspondence from Bill Place, Debbie Dineen, and DEP about plan changes
19. 10/3/2011 Memo from Jody Kablack, Director of Planning and Community Development
20. 10/3/2011 List of Waivers
21. 10/6/2011 – Request for Extension of Time Form from Ben Stevens
22. 10/7/2011 – Letter from Beth Quirk to the Conservation Commission

23. 10/11/2011 – Letter from Debbie Dineen, Conservation Coordinator, to Ben Stevens
24. 10/12/2011- Letter of response from Ben Stevens, Landham Crossing, to Debbie Dineen
25. 11/2/2011 – memo from Bruce Saluk, Bruce Saluk & Associates, Inc.
26. 12/5/2011 – Summary of Plan Changes from Ben Stevens to the ZBA
27. 12/6/2011 – List of Exceptions/Waivers from Ben Stevens to the ZBA
28. 12/8/2011 – Letter from Bill Place, DPW Director/Town Engineer, to Jody Kablack
29. 12/8/2011 – Memo to the ZBA from Jody Kablack
30. 12/8/2012 correspondence from Bruce Saluk, Summary of Rainfall Depths
31. 1/7/2012 - Memo from Ben Stevens to the ZBA/Jody Kablack
32. 1/16/2012 – Memo from Bruce Saluk, Bruce Saluk & Associates, Inc., to Bill Place including Supplemental Stormwater Calculations
33. 1/17/2012 – Memo from Eric Poch, Vice-Chairman of the Planning Board, to the ZBA
34. 1/17/2012 – Memo from Jody Kablack, Director of Planning and Community Development, to the ZBA
35. 1/18/2012 – Updated List of Exceptions/Waivers
36. 1/18/2012 – Memo from Ben Stevens to the ZBA, Project Update
37. 2/6/2012 – Downstream Impact Study prepared by Bruce Saluk & Associates, Inc.

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

### **III. Exceptions**

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

1. Zoning Bylaw Article IX of the Sudbury Bylaws:
  - a. 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.
  - b. Section 2230, Appendix A, to allow multi-family dwellings as a Principal Use, which is not specifically set forth in the Zoning Bylaw. The site will be utilized as a townhouse condominium development with multiple dwelling structures.
  - c. Section 2620, Appendix B, to exceed the maximum height permitted in this zoning district of 35 feet. The tallest structure in this development will be 41 feet high, with an average height of buildings at approximately 38 feet.
  - d. Section 3310 to permit all units in the development to access Boston Post Road via one common driveway. The Board has duly considered the width and construction of the roadways in the development for safe and adequate access, and the proposed roadway configuration has received the approval of the Fire Chief.

2. Rules and Regulations Governing the Subsurface Disposal of Sewage in Sudbury:
  - a. Section II to allow the suitability of the site to be determined based upon criteria established in accordance with Title V (310 CMR 15.00).
  - b. Section III requiring the size of the leaching area to be based on sidewall area only. Effluent loading rates shall comply with 310 CMR 15.242 and related sections of Title V requirements.
  - c. Section IV requiring minimum design flow rates for multi-family residences. The sewage disposal system shall be sized using the design flow rates in 310 CMR 15.203. The septic system shall be designed for the number of bedrooms stated on the Plan.
  - d. Section VI requiring a variance to utilize a pump. Applicant shall comply with all Title V and 310 CMR 15.00 requirements.
  - e. Section VII to approve the minimum distance between leaching facilities and surface watercourses to be 100 feet, and for the minimum distance between leaching facilities and wetlands be 50 feet, in compliance with Title V (310 CMR 15.00)
  - f. Section X requiring a variance to construct retaining walls in lieu of the slope requirement. Retaining walls shall be designed to meet Title V and 310 CME 15.00 requirements.
3. Sudbury Bylaws, Article XXVII, In-ground Irrigation Systems, sections 6 and 8 to permit the installation of an irrigation well within the development without further approval of the Board of Health and to waive the requirement to provide an Integrated Pest Management Plan for the Project. The location of the well shall comply with the separation requirements of Title V (310 CMR 15.00), the Wetlands Protection Act (G.L. c. 131, § 40), and DEP wetlands regulations (310 CMR 10.00). The Landscape Plan for the development contains many native species which will not require significant irrigation.
4. Sudbury Bylaws, Article XXII, Wetlands Administration. The provisions of the Sudbury Wetlands Administration Bylaw are hereby waived for the construction of the Project except to the extent that they are included in the Order of Conditions issued for the Project.

#### **IV. General Conditions**

This Permit is granted subject to the following conditions:

1. This Permit is granted to the Applicant and may not be transferred or assigned to any party without the Board's approval. Any change in control of a voting majority of the members of the Applicant will constitute a transfer or assignment. The Permit does not run with the land.
2. This Permit shall become void if the Applicant does not commence with development of the Project as approved herein within the later of two (2) years of the filing of this Permit with the Town Clerk, or within two (2) years of the expiration of all appeals. Commencement of development shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under that permit. The Board may grant extensions for good cause.
3. All construction of the Project shall be completed within three (3) years from the date of issuance of the building permit unless a request is filed with, and approved by, the Board extending such time.
4. Any material changes to the Project must be reviewed and approved by the Board in accordance with 760 CMR 56.05(11).
5. This Permit approves the construction of the Project, consisting of thirty-one (31) units of attached residential housing in nine (9) buildings, with associated accessory structures, facilities, infrastructure and landscaping, all as shown on the Plan, as modified by this Permit. Unit sizes and mix of units, including the number and location of bedrooms and garages, shall be substantially consistent with the Comprehensive Permit Plans.
6. Eight (8) units shall be reserved in perpetuity for purchase and occupancy by low or moderate income households earning no more than eighty (80) percent of the Median Family Income for the Boston-Cambridge-Quincy, MA-NH HMFA (HUD Metro Fair Market Rent Area), as determined by the U.S. Department of Housing and Urban Development (HUD) and as adjusted for household size (the "Affordable Units"). Seven (7) of the Affordable Units shall be two (2) bedroom units, and one (1) of the Affordable Units shall be a three (3) bedroom unit. All Affordable Units shall have one (1) car garages. The initial sales prices of the Affordable Units shall be established in accordance with the requirements established by the Department of Housing and Community Development in its Comprehensive Permit Guidelines. The Affordable Units shall be Units 3, 6, 10, 14, 18, 24, 27 and 30, as shown on the Plan.

7. No construction activities for the Project shall commence on the Property until the Plan has been revised according to this Permit, the Plan is endorsed by the Board, and the limits of disturbance around the property are properly marked and shielded from impact by construction vehicles. The Director of Planning and Community Development shall be called to inspect the site prior to disturbance. Notwithstanding the foregoing, the Applicant shall be permitted to install hay bales around the perimeter of the areas to be disturbed prior to Plan revisions and endorsement by the Board.
8. Building permits for the Project shall not be issued until final building plans have been submitted for review, approval and endorsement by the Board for consistency with the Decision. Final stormwater plans shall be submitted to the DPW Director for review to confirm consistency of such plans with the Comprehensive Permit Plan. Final site plans, architectural plans and floor plans shall be submitted to the Board for review to confirm consistency of such plans with the Comprehensive Permit Plans. Final building plans shall be submitted to the Building Inspector for review to confirm the compliance of such plans with the Massachusetts Building Code.
9. The Applicant shall comply with all conditions of the Order of Conditions for the Project issued by the Sudbury Conservation Commission.
10. Exterior construction activities shall be confined to the hours between 7:00 am and 6:00 pm, Monday through Friday and between the hours of 8:00 am and 4:00 pm on Saturday. There shall be no construction on Sundays, or on state or federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to or after the times stated herein. For this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and the erection of new structures.
11. 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. Appropriate measures shall be taken to keep dust and noise of demolition to a minimum.

12. The Applicant shall be permitted to locate one (1) trailer on the Property for no more than three (3) years from the date of this approval, for construction and/or sales needs. The trailer shall be located in one of two locations as shown on the Plan. No further approval shall be necessary.
13. The Applicant shall be permitted to remove and/or replace approximately 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. 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.
14. Addresses for the dwellings shall be 192 Boston Post Road, and shall be issued by the Town Engineer/Director of Public Works. All mailboxes shall be located within the development in the approximate location shown on the Plan.
15. Sight distance at the intersection of the development 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 development and certify that the actual conditions comply with the design specifications for sight distance. If actual conditions do not comply with these specifications, the DPW Director shall notify the Board and the Board may require additional improvements by the Applicant as necessary to satisfy the design specifications.
16. Prior to Occupancy of any unit, the Applicant shall certify to the Board's satisfaction that landscaping or other construction on the Property does not diminish sight distance at the driveway of either abutting property owner on Boston Post Road.
17. The Applicant agrees that it shall cooperate with the Massachusetts Highway Department's ("MassHighway") taking of a certain area of the Property along the Property frontage on Route 20 and Landham Road, as reasonably required by MassHighway to facilitate MassHighway's design and construction of a traffic signal at the Landham Road intersection, and as generally depicted in the plan entitle "Conceptual 4-Lane Section, Route 20 at Landham Road" prepared by VHB dated August 27, 2010.
18. The Applicant shall obtain a curb cut permit from MassHighway prior to the issuance of an occupancy permit.
19. The Project shall contain one hundred fourteen (114) parking spaces, as shown on the plan, and shall include handicapped spaces as required by 521 CMR 23.2.1.



20. Appropriate measures shall be taken to contain the soil on outgoing trucks via the use of covers. Appropriate measures shall be taken during construction to prevent the tracking of material onto any public way. Such measures shall include the installation of a stone apron at the entrance to the site as shown on the Plan. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.
21. The Applicant shall repair in a timely manner any damage to public roads or sidewalks adjacent to the Project that results from the construction and/or maintenance of the Project.
22. The Applicant shall not expand the paved sections of the Project beyond that which is depicted on the Plan. There shall be no additional construction beyond the building envelopes shown on the Comprehensive Permit Plans.
23. A temporary construction sign no greater than twenty (20) square feet in size may be erected on the Property at the time of issuance of a building permit.
24. A permanent freestanding development sign no greater than eight (8) square feet shall be erected adjacent to the entrance driveway, subject to review of adequate sight distance by the DPW Director. The street number "192" shall be included as a sign cap centered on top of the sign, but such number shall not be included in the maximum sign size.
25. The Applicant shall not cause congestion on the abutting public ways due to construction parking. If necessary, parking during construction shall be secured at off-site locations and workers shuttled to the Property.
26. 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.
27. The following source control and pollution prevention measures shall be employed on the Property to prevent contamination of stormwater runoff. These measures shall be added to the condominium documents to assure compliance after construction:
  - a. Store lawn and deicing chemicals under cover;
  - b. Apply fertilizers and pesticides sparingly to prevent washoff;
  - c. Use of slow release nitrogen and low phosphorus fertilizers is encouraged;
  - d. No fertilization or pesticide application in or near any wetland resource area;
  - e. Pet waste shall be picked up on the Property and disposed of in the toilet or trash;
  - f. Store, use and dispose of household hazardous wastes properly;

- g. Limit exterior washing of vehicles to locations that drain to pervious surfaces and away from storm drains;
  - h. Maintain vehicles and clean up fluid spills/drips from pavement areas;
  - i. Pump and maintain septic systems;
  - j. Use alternative deicers such as calcium chloride and magnesium chloride in lieu of sodium based deicers;
  - k. No coal tar-based pavement sealants are to be used on the Property.
28. The Applicant has agreed to contribute, and shall contribute, \$30,000.00 (Thirty Thousand Dollars) to the Town, which amount shall be applied by the Town towards traffic mitigation in the general vicinity of the Property to reduce the impacts of this development on traffic flow and improve safety. This contribution shall be submitted to the Town prior to the issuance of the first occupancy permit for the development.
29. 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.
30. The Applicant shall comply with all local regulations and bylaws as of the date of this Permit, except for those which are waived in accordance with the Exceptions granted in Section III above.
31. Copies of all plans or documents submitted to other Town departments or Boards as required by this Permit, including the Building Inspector, Conservation Commission and Town Engineer, shall be submitted to the Board.
32. 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.
33. 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.
34. 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.
35. Where the Comprehensive Permit Plans or documents submitted to support the

application contain information in conflict with the wording of this Permit, the wording of the Permit shall prevail.

#### **V. Construction Details**

1. Prior to the issuance of a building permit, the Applicant shall prepare a set of Final Detailed Design Site Plans for review by the Building Inspector, including confirmation from the Engineer of Record that the final working drawings and specifications have been prepared in accordance with standard engineering practices and fully incorporate all requirements of the Conditions of Approval as set forth herein.
2. 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:
  - a. Water mains - Water District Superintendent
  - b. Fire hydrant locations – Water District Superintendent and Fire Chief
  - c. Fire alarm cable and boxes – Fire Chief
  - d. Primary and secondary electrical cables including distributions boxes and transformers – Wiring Inspector
  - e. Telephone cables and Street lighting – Wiring Inspector
3. A construction schedule and construction phasing plan 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.
4. The roadway for the Project as shown on the Comprehensive Permit Plans shall be constructed to the specifications of the typical cross-section found on the Comprehensive Permit Plan.
5. All utilities serving this development shall be installed underground, including any extensions from existing lines or poles external to the subject property. All existing overhead utilities and poles located on the premises shall be removed and replaced with underground service, not including main lines along Boston Post Road.
6. Sudbury Water District water shall be extended to serve the development at the expense of the Applicant. Installation of water mains and hydrants shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief. No drinking water wells shall be permitted on the Property.

7. Board of Health approval pursuant to Title V requirements shall be obtained for construction of the wastewater disposal system. Prior to the issuance of any certificate of occupancy, the Applicant shall demonstrate to the satisfaction of the Board or its designee (which shall be the DEP-CRO and/or the Sudbury Board of Health), that there is a maintenance contract for the Project's wastewater disposal system for the initial five (5) year operating period. The Condominium Association shall provide proof to the Sudbury Board of Health of the maintenance contract for operating periods beyond year five, as required by DEP, or if DEP does not establish a time period, then every five (5) years.
8. Automatic fire protection sprinkler systems shall be designed in accordance with the applicable provisions of NFPA, and shall be installed in each unit in accordance with the provisions of 780 CMR 906.0. If a communal fire suppression system is installed, it shall not be located in the basement of an affordable unit unless such area is securely separated from the private residence and accessed from the exterior of the building. Regular and standard on-going maintenance of the system shall be the responsibility of the Condominium Association and not the individual unit owners.
9. All retaining walls greater than four (4) feet in height shall be designed by a structural engineer prior to construction.
10. Erosion control shall be employed on the Property to stop construction runoff and sedimentation from entering the abutting public ways and adjacent wetland areas.
11. All existing structures shall be demolished and removed from the Property. All debris on the Property shall be removed.
12. 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).
13. The construction process shall reasonably conform to the construction phasing plan, the construction schedule and all applicable local, state and federal laws and regulations regarding noise, vibration, dust and sedimentation, use and interference with town roads. Deviations from any phasing plan, particularly regarding delivery of any affordable unit, shall be noted in writing to the Board which shall include an explanation as to the need for deviation from the original schedule.
14. Airborne dust and particulate matter abatement procedures shall be required during construction such that airborne contamination is restricted to the Property to the extent reasonably feasible. If significant dust is generated onto abutting properties, the Applicant shall rectify by paying for the cost to spray wash any affected building. This condition shall be enforced by the Building Inspector, and any claim made by an affected

property owner shall be required to provide documentation of such offense.

#### **VI. Landscaping/Screening/Lighting**

1. A final Landscape Plan shall be submitted for the review, approval and endorsement of the Board, and shall substantially comply with the Comprehensive Permit Plans. The final plan shall include:
  - a. The quantity, species and size of initial plants shall be noted.
  - b. A note shall be added indicating the meadow over the septic leaching field shall be mowed no more frequently than twice per year.
  - c. A note shall be added that any plantings to be located within the driveway sight lines shall be maintained at a height of two (2) feet or less to ensure unobstructed line of sight from the driveway.
  - d. Mature trees proposed for preservation shall be clearly marked on the Landscape Plan.
  - e. Materials used for the internal walkways and paths shall be noted.
  - f. The bus stop area shall be shown on the Landscape Plan.
  - g. All proposed lighting, including styles, heights/sizes, quantities and locations shall be shown on the Landscape Plan.
  - h. A schematic plan for the development entrance shall be submitted, including sign location, lighting location, stone walls or other decorations, and including heights and sizes of these fixtures.
2. Landscaping and screening around the development shall be installed as substantially shown on the Comprehensive Permit Plans reviewed by the Board during the public hearing.
3. Trees shown on the Landscape Plan as proposed for preservation throughout the Property shall be flagged and appropriately protected prior to commencement of any construction activity on the Property.
4. The proposed irrigation well shall be in conformance with sections 1, 2, 3, and 4 of Article XXVII of the Sudbury Bylaws.
5. The Applicant shall maintain the landscaping within the common areas in perpetuity. The landscaping installed behind units 8-22 is proposed to function as wetland edge restoration plantings, and shall be continually maintained and shall not be altered by the unit owners. Any changes to the Landscape Plan affecting land within one hundred (100) feet of a wetland resource shall require approval of the Conservation Commission. Any dead vegetation shall be removed immediately and replaced in accordance with the specifications on said plan. These requirements shall be contained in the Condominium

Association bylaws.

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 and along Boston Post Road. If, in the opinion of the Board, additional screening is required, the Applicant shall forthwith rectify such deficiency with the planting of additional vegetation.
7. All landscaping required by this Permit shall be secured for a period of two (2) years by the performance bond. The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period. Verification of the dates of planting must be submitted to the Board.
8. Lighting within the development has not been thoroughly discussed and will be subject to review and approval once the Landscape Plan showing all lighting is submitted. The Plan shall indicate street lighting, accent lighting, unit lighting, sign lighting and any other lighting proposed.
9. The entrance sign shall be externally illuminated, and shall not be illuminated between the hours of 11:00 P.M. to 6:00 A.M.
10. All exterior lighting shall be arranged to prevent glare and light spilling over to neighboring properties or any public way. There shall be no building flood lighting. Ground lighting along the roadways in the development shall be limited to 75 watts equivalent or less of incandescent lighting per fixture.
11. The Applicant shall install shields on all lights if the Board determines that such lighting produces glare onto abutting properties.
12. The Condominium Association documents shall contain a provision prohibiting light spilling over to neighboring properties and onto the abutting Open Space.
13. The Board or their representative shall inspect the Property prior to release of the performance bond for the development (or anytime prior) to certify that lighting meets the intent of these provisions. If, in the opinion of the Board, the lighting is not shielded from the adjoining properties, the Applicant shall forthwith rectify such condition to the satisfaction of the Board.

## **VII. Legal Requirements**

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

Applicant or the Condominium Association shall provide the Board with a copy of the contract. The provisions of this paragraph shall not modify the obligation of the original Applicant and the Condominium Association.

5. Condominium documents, including a realistic Condominium Fee budget based upon comparable developments that have been occupied for at least two (2) years, shall be subject to the review and approval of the Board. The Applicant shall submit copies of this document for review by the Board or its representative at least thirty (30) days prior to the issuance of the first occupancy permit. These documents shall pro-rate the maintenance fees for the Affordable Units according to the projected restricted sale price of each Affordable Unit at the time of the recording of the Master Deed in accordance with G.L. c. 183A. This requirement is intended to ensure that the Affordable Units will pay such maintenance fees only in proportion to the sales value of those units. Prior to issuance of any occupancy permit, the Board reserves the right to approve the Condominium Fee (including normal Capital Reserve requirements) for all the units in the development.
6. The Affordable Units shall constitute a percentage (beneficial) interest in the Condominium Association that shall be in proportion to the initial price of the Affordable Units to the sum of the projected initial prices of the affordable and market-rate units.
7. The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.
8. The condominium documents shall provide that:
  - a. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this Permit without Board approval.
  - b. Conditions set forth in the Permit concerning condominium governance must be set forth in the documents; in the event of any conflict between the condominium document and the Permit, the terms of the Permit shall control.
  - c. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
  - d. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
  - e. To the extent permitted by law, upon turnover of the Condominium Association by the Applicant to the unit owners, at least 25% of the trustees of the Condominium Association shall be owners of Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
  - f. The Master Deed shall provide that in the event of condemnation or casualty, proceeds above the resale price of the Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing in the event that the unit is not rebuilt or is rebuilt and there are excess monies available.



9. The Applicant shall assure that the proper covenants are included in the Condominium Association's documents to address the following:
- a. There shall be no additions beyond the building envelopes shown on the Plan, except for the allowance to create sunrooms in lieu of decks/patios for units 8 and 12-28.
  - b. Garages shall not be converted for habitable use.
  - c. There shall be no conversion of interior space into additional bedrooms.
  - d. No disposal of yard and landscaping waste shall be permitted in the surrounding wooded areas on the site.
  - e. Trash barrels shall be stored inside the garages except on collection day.
  - f. Water conservation measures shall be implemented for the care and maintenance of the landscaped areas.
  - g. The bus waiting area shall be kept clear of snow and ice at all times.
  - h. Sheds or other outdoor enclosures are prohibited.
  - i. Resident parking in the designated guest spaces in the development shall be for temporary use only.
  - k. Restrictions on home-based businesses shall be no greater than that provided under the Sudbury Zoning Bylaw.
  - l. The owners of the units shall be notified of the requirement to retain and maintain vegetation in the rear of units 1-22.
  - m. There shall be a provision prohibiting light spilling over to neighboring properties and the abutting Open Space.
  - n. There shall be a prohibition on the installation of sink garbage disposal units.
  - o. All fire lanes and parking areas shall be kept clear at all times, and all snow shall be removed from these areas to ensure access by fire trucks and other public safety vehicles. Fire lanes shall be posted as such; vehicles parked in such fire lanes shall be towed at the owner's expense. All signage shall be maintained in good order.
  - p. Operation and maintenance of the stormwater management and wastewater disposal systems shall be the responsibility of the Condominium Association, and if required to be maintained or repaired by the Town of Sudbury, the Association will be responsible for all reasonable expenses associated therewith, as detailed in condition IX.6.
  - q. Unit owners shall submit to the Condominium Association copies of all applications for building permits.
  - r. The meadow over the septic system shall be mowed no more than two (2) times per year.
  - s. Unit owners shall be notified in the Master Deed that properties to the north, northeast and northwest are not public recreation areas.

- t. The following source control and pollution prevention measures shall be employed on the Property to prevent contamination of stormwater runoff:
- 1) Store lawn and deicing chemicals under cover;
  - 2) Apply fertilizers and pesticides sparingly to prevent washoff;
  - 3) Use of slow release nitrogen and low phosphorus fertilizers is encouraged;
  - 4) No fertilization or pesticide application in or near any wetland resource area;
  - 5) Pet waste shall be picked up on the Property and disposed of in the toilet or trash;
  - 6) Store, use and dispose of household hazardous wastes properly;
  - 7) Limit exterior washing of vehicles to locations that drain to pervious surfaces and away from storm drains;
  - 8) Maintain vehicles and clean up fluid spills/drips from pavement areas;
  - 9) Pump and maintain septic systems;
  - 10) Use alternative deicers such as calcium chloride and magnesium chloride in lieu of sodium based deicers;
  - 11) No coal tar-based pavement sealants are to be used on the Property.
10. All necessary easements shall be granted by the Applicant where required by public utility companies or the Town of Sudbury. Evidence of recordation of all easements shall be submitted to the Board prior to occupancy.
11. Evidence of financing approval and MassHousing Final Approval shall be submitted to the Board prior to the issuance of building permits.
12. A performance bond shall be required by the Board to ensure proper functioning of the roadway and drainage system; proper installation of screening, landscaping, and walkways; and compliance with all other conditions required by this Permit that are not fully completed prior to issuance of the first occupancy permit for the Project. A cost estimate for the bond shall be determined by the Director of Public Works at the then current bonding rates established by the Town. The performance bond shall be submitted to the Board prior to the issuance of Certificates of Occupancy for any unit in the development. The type and form of such performance bond shall be submitted for review by Town Counsel prior to being accepted by the Board. The performance bond shall not be released below Twenty Five Thousand Dollars (\$25,000) until the development is complete, all conditions of this Permit have been fulfilled, a copy of the Limited Dividend Cost Certification report for the Project demonstrating compliance with the limited dividend requirement has been submitted to the Town, and an as-built plan indicating conformance with the approved Plan and prepared in accordance with Town requirements is submitted to the Board and approved.

13. This Permit shall be recorded at the Middlesex South Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of records and existing mortgages which shall be paid in full prior to issuance of a building permit. Recording information shall be submitted to the Board prior to the issuance of building permits, and a title opinion to this effect shall be provided at the same time to the Board by Counsel for the Applicant.
14. If at any time during construction, the Conservation Agent, Director of Planning and Community Development, Building Inspector, Director of Public Works or the Board determines that a violation of the approved Plan or this Permit has occurred, the Town, through the Building Inspector or the Board, shall notify the Applicant by certified mail and the Applicant shall be given thirty (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.

#### **VIII. Affordability Requirements**

1. Twenty five percent (25%) of the total units in this development (or eight (8) units) 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 standard Massachusetts Housing Finance Agency Regulatory Agreement for either Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or for the Housing Starts Program, shall be executed prior to the issuance of the initial Building Permit. This Regulatory Agreement shall set forth the terms and agreements relative to the sale and resale of the Affordable Units in the development. The Regulatory Agreement shall be submitted for review and approval of Town Counsel and the Director of Planning and Community Development prior to its

recording.

3. Each affordable unit shall be sold for no more than the Maximum Initial Sales Price established in the Regulatory Agreement. The maximum initial sales price for the Affordable Units shall be set at a price no greater than "that which can be afforded" (including principal and interest payments based upon a zero points, 30 year fixed interest rate amortizing mortgage loan, realistic condominium fees that accurately project the anticipated costs of operating and maintaining the Project, property insurance, real estate taxes, and private mortgage insurance) by households earning no more than seventy percent (70%) of the applicable Median Family Income, adjusted for household size. The Maximum Resale Price shall be established in accordance with the terms of the approved Deed Rider. The form of Deed Rider to be used is the so-called Universal Deed Rider, which Deed Rider has been approved by Fannie Mae and is designed to preserve the Chapter 40B Affordability Requirement in the instance of a foreclosure by a lender.
4. The standard MassHousing Monitoring 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 development. The Monitoring Agreements designate the entity that monitors the affordable units, and sets forth the responsibilities for monitoring the sale and resale of the affordable units, including income eligibility of prospective buyers, and requirement for an accounting of the project costs and revenues after completion to determine if profits are within the limited liability requirement. The Monitoring Agreement shall be submitted for review and approval of Town Counsel and the Director of Planning and Community Development prior to its execution by the relevant parties and prior to occupancy of any unit. A copy of the document shall be forwarded to the Board for its information. The Sudbury Housing Trust has stated its desire to be the Monitoring Agent for the affordability requirement for this development, subject to MassHousing and/or DHCD approval.
5. As a "Limited Dividend Organization," the Applicant's profit shall not exceed twenty percent (20%) of its approved development costs in the Project, as outlined per MassHousing regulations and standards. Any profit in excess of such amount shall be paid to the Town, in a form that will allow the Town to use such funds to facilitate the development of affordable housing. Review of the Applicant's limited dividend obligations shall be conducted in accordance with a Regulatory Agreement approved by MassHousing.
6. To the maximum extent permitted by law, local preference for the purchase of five (5) 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; 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.

7. A lottery shall be held to solicit interest for the occupancy of the affordable units. Such lottery shall be advertised in a newspaper of local circulation in the Town of Sudbury for at least three (3) weeks prior to the deadline to submit applications for the lottery. All governmental employees noted above shall receive notice of the lottery and the availability of affordable units. The Sudbury Housing Trust has stated its desire to be the Lottery Agent for the initial sales in this development, subject to MassHousing and/or DHCD approval. The lottery must conform to the lottery procedures of MassHousing and/or DHCD then in effect, and shall include a description of the eligibility requirements, the lottery and resident selection procedures and a clear description of the preference system being used for initial and on-going buyer selection. This Affirmative Fair Housing Marketing Plan, ("Marketing Plan"), shall be subject to the review and approval of the Planning and Community Development Department prior to issuance of an occupancy permit, which Marketing Plan shall include, but not be limited to, the following minimum information, but only to extent that MassHousing/DHCD approves the inclusion of such information in the Marketing Plan:
  - a. The information session and the lottery shall take place in Sudbury;
  - b. The Lottery Agent shall appropriately advertise to all Local Preference categories and those on the Community Housing Office's 'interest' list;
  - c. Only qualified eligible applicants will enter the lottery, with the requirement for preliminary income verification prior to the lottery;
  - d. 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;
  - e. 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 dependents, number of adults, number of bedrooms needed, %AMI, town currently living in;
  - f. Unless MassHousing/DHCD's procedures differ, the lottery shall be advertised twice in a newspaper of local circulation in the Town of Sudbury for at least three (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;

- g. The Marketing Plan shall comply with all Fair Housing laws;
  - h. The Marketing Plan shall contain, to the extent legally allowable, a strategy for marketing units under the "local preference" described in Condition VIII.6 above;
  - i. The Marketing Plan shall adequately describe the 'waiting list' process, including what preferences and priorities are used to lease vacant units; and
  - j. The Marketing Plan shall be submitted for review and approval of the Planning and Community Development Department at least fourteen (14) days prior to the commencement of the affirmative marketing period.
8. The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Initial Price shall be four (4) persons for three bedroom units, and three (3) persons for two bedroom units, unless the subsidizing agency or other public agency requires that a smaller household size be used.
  9. The affordability requirement of this Comprehensive Permit shall be senior to any mortgage liens on the affordable units. The Applicant shall be required to use a Deed Rider consistent with this requirement.
  10. The eight (8) affordable units shall have the same exterior amenities and design as the market-rate units.
  11. The eight (8) affordable units shall have the interior finish details as described by the Applicant in correspondence to the Board dated October 3, 2011. All units shall be air-conditioned.
  12. At least three (3) Affordable Units must be fully constructed prior to the issuance of an Occupancy Permit for the tenth market unit. The remaining five (5) Affordable Units must be fully constructed prior to the issuance of an Occupancy Permit for the twenty-third market unit.
  13. No buyer-selected upgrades to Affordable Units shall be allowed on initial sale. All Affordable Units shall be resold pursuant to the conditions of the Regulatory Agreement and Deed Rider.
  14. 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.
  15. The Applicant shall bear all expenses associated with services provided by the Monitoring Agent for the cost certification monitoring and monitoring the initial sale of each of the eight (8) Affordable Units.

16. To the extent required by law, if a household or households requiring handicap access modifications is selected in the lottery for the initial sales of the eight (8) Affordable Units, the Applicant shall make such reasonable modifications at the Applicant's expense to accommodate such household.

#### **IX. Maintenance/Inspections**

1. Enforcement of the conditions of this decision shall be by the Building Inspector or the Board.
2. The Applicant shall notify the relevant town departments of installation of utilities and infrastructure for inspections prior to backfilling.
3. The Applicant and the Condominium Association created for the development shall be responsible for maintaining the stormwater management structures and drainage system in the development in accordance with the Operation and Maintenance Plan submitted.
4. Snow removal, maintenance of roads and walks, storm drainage, lighting, utilities, irrigation and fire protection shall be maintained by the Applicant and the Condominium Association created for the development. The Town of Sudbury does not accept responsibility for any infrastructure improvements or maintenance in this development.
5. Fees for all inspections by Town departments shall be paid by the Applicant directly to the inspection entity.
6. In the event of any failure to comply with the requirement to maintain the stormwater management and wastewater disposal systems in the development in accordance with engineering or manufacturing guidelines for operation and maintenance or in any manner which fails to safeguard public health and safety, or in the event the Applicant, its successors, or agent fails to properly maintain the Project roadway for safe and adequate emergency vehicle access/egress as determined by the Sudbury Fire Department, Police Department or Department of Public Works, the Town of Sudbury, acting through its Department of Public Works, may, but is not required to, notify the Applicant or the Condominium Association, as appropriate, of the need to remedy said violation and specifying the work which needs to be done and providing for a thirty (30) day time period in which to complete the work. In the event said work is not completed in a satisfactory manner within thirty (30) days, or such reasonable time period as is necessary to complete such work, 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 thirty (30) days of billing by the town, said costs shall constitute a lien upon the premises and shall incur interest at the rate of eighteen percent (18%) per annum, plus the costs of collection including

reasonable attorney's fees. Notice of this lien shall be recorded by the Town in the Middlesex County South District Registry of Deeds, which notice shall indicate the identity of the property owner, the amount of the unpaid assessments, the property burdened and a reference to the Book and Page in the Middlesex County South District Registry of Deeds where the Declaration is recorded. These restrictions are intended to maintain the environmental stability of the development and shall run with the land upon which they are imposed and shall, pursuant to the provisions of General Laws Chapter 184, Section 32, not expire hereunder. The Master Deed shall include a provision for the placement of municipal liens on the Property to secure payment should the Town of Sudbury be required to maintain or repair any portion of the stormwater management or wastewater disposal system.

#### **X. Plan Endorsement**

A Mylar Plan set shall be submitted for endorsement by the board after the appeal period has expired. The Board shall not endorse the Comprehensive Permit Plans until the following conditions have been complied with to the satisfaction of the Board:

1. A complete set of Site Plans, Landscape Plans, Architectural Plans and Floor Plans in compliance with the conditions listed herein shall be submitted.
2. The standard signature block is added to all Comprehensive Permit Plan sheets.
3. Units proposed as walk-outs shall be labeled on the Plan.
4. Complete lighting details shall be added to the Landscape Plan.
5. The temporary construction sign shown on Sheet C-1 shall be revised to indicate it shall be no greater than twenty (20) square feet in size.
6. A schematic plan for the development entrance shall be submitted.
7. The endorsed Plan shall satisfy the Sudbury Fire Department.

#### **XI. Building Permits**

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

1. The Plan has been endorsed by the Board, the Town Clerk and all Town Officials.
2. Confirmation that the final working drawings and specifications have been prepared in accordance with standard engineering practices and fully incorporate all requirements of the Conditions of Approval as required by Conditions IV.8 and V.1.
3. Receipt of evidence of recording of this Permit with the Middlesex South Registry of



Deeds.

4. Board of Health approval for construction of the wastewater disposal system.
5. Final Architectural Plans stamped by a registered architect have been submitted and approved by the Board.
6. Final Landscape Plan incorporating all the requirements listed in Condition VI.1 has been submitted and approved by the Board.
7. A construction schedule as required by Condition V.3 is submitted.
8. All permit fees normally required for building permits and other Town permits have been paid to the Town.
9. Evidence of financing approval and MassHousing Final Approval has been submitted to the Board.
10. The Regulatory Agreement, including an approved form of Deed Rider, has been executed.
11. The limits of disturbance around the site shall be properly staked and marked, and the Director of Planning and Community Development called for an inspection.
12. The limits of disturbance and trees proposed for preservation have been flagged as required by Conditions IV.7 and VI.3.
13. Erosion control methods have been installed as required by Condition V.10.
14. The house has been demolished and all junk removed from the Property.
15. Receipt of a title opinion indicating compliance with Condition VII.13 above.

**XII. Occupancy**

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

1. The Condominium Association documents, including a proposed budget, as required in Condition VII have been submitted and approved by Town Counsel.
2. Lottery, Marketing and Fair Housing Plan has been approved by the Board as required by Condition VIII.7.
3. Receipt of the proposed form of Deed Rider to be attached to and recorded with the Deed for each affordable unit, as required by Condition VIII.1.
4. Monitoring Agreement for the continued enforcement of the affordable units has been executed, as required by Condition VIII.4.
5. A performance bond, as detailed in Condition VII.12 has been submitted to and accepted by the Board.
6. Installation of the stormwater management system for the roadway and common areas has been completed.
7. All easements granted and recorded for the development have been submitted to the Board.

8. Receipt of a maintenance contract for the wastewater disposal system pursuant to Condition V.7.
9. Sight distance has been certified as required in Conditions IV.15 and 16.
10. A curb cut permit has been issued by Massachusetts Department of Transportation as required by Condition IV.18.
11. Traffic mitigation contribution has been submitted as noted in Condition IV.28.

### **XIII. Release of the Performance Bond**

No request to reduce funds from the Performance Bond below Twenty Five Thousand Dollars (\$25,000.00) 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. All requirements of Condition VII.12 above shall have been satisfied.
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.13.
5. Certification of adequate landscaping as described in Condition VI.6. Verification of dates of landscaping installation has been submitted.

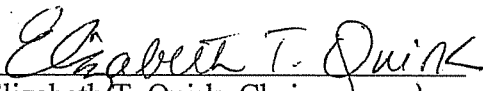
Landham Crossing LLC  
192 Boston Post Road  
February 13, 2012

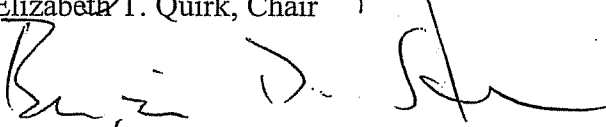
On Motion:

To approve the application of Landham Crossing LLC for a comprehensive permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of thirty-one (31) townhouse condominiums, including eight (8) 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 Kenneth and Madeleine Esser, consisting of 8.52 acres at 192 Boston Post Road in Sudbury (Assessor's Map K10, Parcel 0018), subject to all of the conditions stated in the foregoing permit decision:

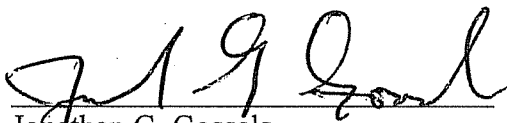
Voted:

Date: February 13, 2012

  
Elizabeth T. Quirk, Chair

  
Benjamin D. Stevenson, Clerk

  
Jeffrey P. Klofft

  
Jonathan G. Gossels

  
Jonathan F.X. O'Brien

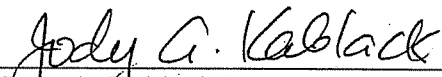
Landham Crossing LLC  
192 Boston Post Road  
February 13, 2012

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, SS

February 13, 2012

On this 13th day of February, 2012, 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 6, 2017

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  
Ben Stevens, Trask Development  
Joshua Fox, Attorney

