

HOST COMMUNITY AGREEMENT

This Host Community Agreement (the "Agreement") is entered into by and between the Town of Littleton (the "Town"), acting by and through its Board of Selectmen and Apple Valley Homes, Inc., along with its successors and assigns ("Developer") having its notice address at 9 Reed Lane, Littleton, Massachusetts 01460, on behalf of themselves, their successors and assigns. This Agreement represents the understanding between the Town and the Developer (the "Parties") with respect to the commitments by the Developer in connection with the developments more specifically described below and the agreements by the Town to support said developments.

RECITALS

WHEREAS the Developer is the owner of the parcel(s) of land shown as "Village at Reed Meadow, Over 55 Housing Development, Reed Lane, Littleton, Massachusetts, Prepared for Apple Valley Homes, Inc., Scale 1" = 40', Date: October 31, 2006, Acton Survey & Engineering, Inc.", recorded with Middlesex South District Registry of Deeds (the "Registry") in Plan Book 2007 Plan 371, as amended by Plan dated August 8, 2008, and recorded in the Registry in Book 2008, Plan No. 801.(the "Plan"), (which lots and parcels are collectively called the "Premises"); and

WHEREAS for Developer's title to the Premises see the deed recorded in Book 46623, Page 577; and

WHEREAS the Premises are the subject of the Over-55 Housing Development Special Permit Application Decision (the "Special Permit") issued pursuant to Article XXIII, Section 173-145 *et seq.* of the Littleton Zoning Bylaw on January 4, 2007 and recorded with the Registry in Book 49595, Page 238; and

WHEREAS the Special Permit authorized construction of a twelve (12) unit Over 55 Housing Development, of which three (3) units were required to be "Affordable Units" as that term is defined by the Department of Housing and Community Development; and

WHEREAS, despite the Developer's best efforts, it has been unable to sell the Affordable Units to individuals qualified to purchase affordable age-restricted housing; and

WHEREAS the Developer filed with the Planning Board an application to modify the Special Permit so as to remove the affordability requirements for the three (3) Affordable Units; and

WHEREAS in order to satisfy the intent of the Zoning Bylaw and to adequately provide for affordable housing in a manner other than constructing it on site, the Developer has offered to make a donation to the Town of Littleton for the purpose of promoting and providing for affordable housing; and

WHEREAS the Developer proposes to make this donation by paying to the Town a portion of the sales price of four (4) new market rate over-55 residential units that it seeks to have permitted through the modification of the Special Permit; and

WHEREAS the Planning Board has found that due to the limited number of individuals qualified to purchase affordable age-restricted units, this alternate arrangement was fair and reasonably calculated to satisfy the intent of the provisions of Article XXIII (Over 55 Housing Developments) relating to affordable housing; and

WHEREAS the Developer wishes to enter into this non-regulatory Agreement with the Town to memorialize its commitment to provide for affordable housing through the alternate means discussed herein.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable considerations, the receipt of which is hereby acknowledged, the Parties, on behalf of themselves, their successors and assigns, hereby covenant and agree as set forth herein.

1. Upon issuance by the Planning Board of a Decision substantially in conformance with the document attached as "Exhibit A" hereto, the Developer shall forthwith cause this Agreement to be recorded with the Registry of Deeds evidencing the Developer's agreement to do the following.

a. The Developer will construct four additional residential units (two duplex residential structures, each containing two residential dwelling units) as authorized by the amendment to the Over-55 Housing Development Special Permit Application Decision upon a portion of Parcel B, as shown on said Plan, which Lot will be designated on a further Amendment to the Plan and approved by the Planning Board. The new units will be marketed and sold with no affordability restriction.

b. Upon sale of each unit, Developer will pay to the Town of Littleton, to be used for affordable housing purposes, a one-time payment of a sum of money equal to 7% of the final sales price of the newly constructed duplex housing unit,. As used herein, "final sales price" shall be defined as the price that a good faith purchaser unrelated to and without any interest in the Developer pays as part of an arm's length conveyance, plus all extras and additions, without any adjustment for costs or expenses of sale. For purposes of this agreement a "duplex housing unit" shall refer to each unit in the duplex building, such that there will be four newly constructed duplex housing units..

c. Notwithstanding the foregoing subparagraph b., the aggregate sum to be paid by the Developer for all four new units shall be a minimum of \$50,000.00, and the Developer shall pay any shortfall to the Town at the time of closing on the last remaining unit.

d. Upon execution and recording of this Agreement, the Town will execute and provide to the Developer termination of the Regulatory Agreement for the Development.

e. Upon execution and recording of this Agreement the affordability restrictions referenced in Section 173-161.A of the Zoning Bylaw shall be released for all units and the right of first refusal shall be deemed waived.

f. The Town will authorize the Treasurer to execute and deliver a Partial Release of this Agreement, substantially as set forth in Exhibit "B", as each home is sold and the consideration herein paid.

2. The obligations hereunder shall run with the land and be binding upon and inure to the benefit of successors and assigns of the Developer.

3. Entire Agreement. This Agreement reflects the entire agreement between the parties. Any prior or simultaneous correspondence, understandings, agreements, and representations are null and void upon execution hereof, unless set out in this Agreement.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

5. Invalidity of Particular Provisions. If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, then in such event, this Agreement shall be deemed void and without recourse to the parties hereto except that any action taken hereunder shall be rescinded by the parties hereto.

6. Counterparts. This Agreement may be executed in several counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original, but all of which together shall constitute one instrument.

7. All notices or requests required or permitted hereunder shall be in writing and addressed, if to the Town as follows:

Planning Board
Town of Littleton
Town Office Building
37 Shattuck Street, P.O. Box 1305
Littleton, MA 01460

with a copy to:

Thomas J. Harrington
Miyares and Harrington LLP
50 Leonard Street • Suite Three
Belmont, MA 02478

If to the Developer to:

Apple Valley Homes, Inc.
9 Reed Lane
Littleton, MA 01460

With a copy to:

Sherrill R. Gould, Esq.
Gould Law Offices.
P.O. Box 752
Littleton, MA 01460

Each of the Parties shall have the right by notice to the others to designate additional parties to whom copies of notices must be sent, and to designate changes in address. Any notice shall have been deemed duly given if mailed to such address postage prepaid, registered or certified mail, return receipt requested, on the date the same is received or when delivery is refused, or if delivered to such address by hand or by nationally recognized overnight courier service, fees prepaid, when delivery is received or when delivery is refused, or if transmitted by facsimile or other electronic means with confirmatory original by one of the other methods of delivery herein described, on the date so transmitted by facsimile or other electronic means.

8. The Developer may assign their rights and obligations under this Agreement to any other party or entity with the written permission of the Town, which shall not be unreasonably withheld.

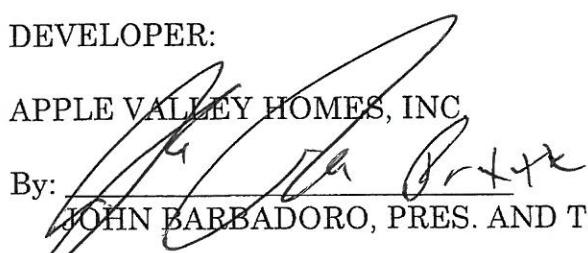
[Remainder of page intentionally left blank]

Executed as an instrument under seal this 17th day of December, 2012.

DEVELOPER:

APPLE VALLEY HOMES, INC

By:


JOHN BARBADORO, PRES. AND TREAS.

TOWN:

TOWN OF LITTLEON
By its Board of Selectmen







EXHIBIT A

DRAFT FOR REVIEW

**MODIFY OVER-55 HOUSING DEVELOPMENT
SPECIAL PERMIT APPLICATION DECISION**

APPLICATION: **MODIFY SPECIAL PERMIT FOR OVER 55 HOUSING
DEVELOPMENT – VILLAGE AT REED MEADOW**

PROPERTY LOCATION: Reed Lane off Harvard Road, Littleton, Ma
Map U-44, Parcels 7-1, 7-2, 7-3, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9, 7-10, 7-11, 7-12, and 7-14

DESCRIPTION: Modify an Over 55 Housing Development Special Permit issued in December 2006 for Village at Reed Meadow to allow 4 additional duplex units.

APPLICANT/OWNER: Apple Valley Homes, Inc.
9 Reed Lane
Littleton, MA 01460

ENGINEER: Acton Survey & Engineering
PO Box 666
Acton, MA 01720

DATES OF LEGAL NOTICES: July 26, 2012 and August 2, 2012

DATES OF HEARING: August 9, September 6, September 27, October 11, and October 25, 2012

MEMBERS PRESENT: Mark Montanari, Gerald Portante, Don MacIver, Richard Crowley, and Peter Scott

REFERENCE PLANS: “Modification to Village at Reed Meadow”, Over 55 Housing Development, Reed Lane, Littleton, Massachusetts” (2 Sheets) Owner: Apple Valley Homes, Inc., dated October 31, 2006 consisting the following sheets: 1. Site Plan; and 2. Site Details Erosion & Sedimentation Control Plan

Following proper notice, the Littleton Planning Board held a public hearing on the above date to consider the application of Apple Valley Homes, Inc. to modify the Definitive Over 55 Housing Development according to Article XXIII of the Town of Littleton Zoning By-law, Sections 173-140 *et. seq.*

The Public Hearing was closed on _____.

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FINDINGS

Following the Hearing, the Board, based on the application, and together with the materials and testimony provided at its hearing, made the following specific findings regarding the land in question and the proposed use:

1. The application substantially meets the submittal criteria set forth in Section 173-151 of the Bylaws.
2. The Board finds, pursuant to Section 173-152A, the additional dwellings do not detract from the ecological and visual qualities of the environment and are harmonious with the existing neighborhood and that the preservation of desirable open space of the vicinity is maximized.
3. The Board finds, pursuant to Section 173-152B that the applicant shall convey the _____ acres of Open Space for Conservation/Municipal purposes prior to the issuance of occupancy permits for the new duplex units.
4. The Board finds that current economic conditions have, despite best efforts from the Applicant, made it impossible to maintain the required number of affordable units on the project site. Specifically, the sale of Over-55 Units to individuals qualified to purchase affordable units has been severely limited by current economic conditions. In order to satisfy the intent of Section 173-161 Affordable Units in another manner, the Applicant has offered to make a gift to the Town of fifty thousand dollars (\$50,000) or seven percent (7%) of the final sales price of the four (4) new duplex units, whichever is greater, said gift to be deposited with the Town for the purpose of providing for and otherwise supporting Affordable Housing prior to occupancy permits being issued for those four (4) new duplex units. The Applicant has represented to the Planning Board that the terms of this gift shall be memorialized in a Host Community Agreement with the Town of Littleton, and this amendment is expressly conditioned on the completion of such an Agreement.
5. The Board finds, pursuant to Section 173-159 that the modified plan complies with all relevant requirements of the Zoning Bylaws and is on balance no less beneficial to the town than the development likely without such approval; and that the developer has offered to contribute to meeting housing need.

DECISION

At the meeting held Thursday _____, a motion was made by _____ and seconded by _____ to **grant/deny** the application to **MODIFY the Over 55 Housing Development Special Permit** in accordance with the reference plans with the following conditions/for the following reasons:

1. All such installation and construction shall be completed within 24 months of this date or an extension of said time frame;
2. All drainage, pavement, landscaping, utilities, etc. shall be constructed as shown on the plans;
3. If all the houses in the development are not completed within two years from the time that the base course of pavement is installed, the developer shall reclaim and reinstall the 2 inch-

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es of base course prior to installing the top course of pavement if the Planning Board deems that is necessary;

4. Plantings within the development shall conform to the plans;
5. The developer shall pay the Town's costs of all construction inspections and consultations; all construction must be inspected at intervals approved by the Planning Board;
6. Subject to execution of the Conservation Restriction, the deed(s) for the Open Space must be granted to the Town for Conservation/Municipal purposes prior to issuance of occupancy permits for the new duplex units;
7. This approval is contingent upon receipt of all water and utility easements in conformity with the Plans.
8. The Reed Lane subdivision roadway and appurtenances shall remain in private ownership for perpetuity;
9. The walking trail parking lot access shall be constructed within Parcel A as shown on said plan;
10. Prior to the Board's endorsement of its approval of the Special Permit thereon the developer shall furnish guarantees to the Planning Board as provided in Section 81-U of Chapter 41, GL, that no lot included in such plan shall be conveyed until the work on the ground necessary to service all the lots has been completed in the manner specified by the Subdivision Regulations of the Town of Littleton with the specific conditions listed herein, or a cash bond in lieu of completion has been accepted by the Planning Board.
11. The total number of dwelling units shall not exceed 16, and this total number is restricted in perpetuity. No further subdivision of any lot is allowed.
12. Units 7 and 8, 9 and 10A, and 11 and 12A, and [new duplex units to be added] are duplex units and shall share a single septic disposal system, with a deeded maintenance agreement.
13. The Town has agreed to waive all affordability requirements for this project, in receipt of the donation as outlined in Finding #4 above.
14. All Units shall have a maximum of two bedrooms and a maximum size of 1500 square feet per unit, excluding basement, garage and deck. No change in the original footprint of the living space shall be permitted.
15. The living space, defined by the Bylaw as kitchen, dining room, living room and one bedroom, shall be on the ground floor.
16. Each Unit shall be occupied by at least one person age fifty-five (55) or older. Children under the age of eighteen (18) may not reside in any dwelling unit within the development for more than six (6) months in any nine (9) month period. All Units shall be subject to Restriction

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tive Covenants mandating such restrictions. No unit shall be built upon or conveyed until the Restrictive Covenant has been recorded with the Registry of Deeds for Middlesex County.

17. A Homeowner's Association shall be formed which will have the legal responsibility for the management and maintenance of the Development. No unit shall be conveyed until the Homeowner's Declaration has been recorded with the Registry of Deeds for Middlesex County.

Each member voted as follows:

Mark Montanari	AYE/NAY
Gerald Portante	AYE/NAY
Don MacIver	AYE/NAY
Richard Crowley	AYE/NAY
Peter Scott	AYE/NAY

Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A, Massachusetts G.L., and shall be filed within 20 days after the date this decision is filed with Town Clerk.

Signed:

Date Filed with Town Clerk: _____

Don MacIver, Clerk

Diane Crory, Town Clerk

TOWN CLERK CERTIFICATION:

To Whom It May Concern:

I, Diane Crory, Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Planning Board for this Open Space Special Permit and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

DATE: _____

Diane Crory Town Clerk,
Littleton, Mass.

EXHIBIT B
PARTIAL DISCHARGE AND RELEASE OF HOST COMMUNITY
AGREEMENT

The Town of Littleton ("Town"), as party to that certain Host Community Agreement dated ____, 2012, and recorded with Middlesex South District Registry of Deeds (the "Registry") in Book ____ Page ____ ("Host Community Agreement") by and through its Town Treasurer, _____ for consideration paid, hereby forever releases and discharges the following described property from any and all obligations under the Host Community Agreement and acknowledges receipt in full of any payments due the Town of Littleton under the Host Community Agreement relative to the following described property:

[LOT DESCRIPTION]

IN WITNESS WHEREOF, the said Town of Littleton has caused this Partial Discharge and Release to be signed, acknowledged and delivered in its name and behalf by its Town Treasurer this ____ day of _____.

TOWN OF LITTLETON
By its Town Treasurer

Duly Authorized

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

_____, 201____

Then personally appeared before me, the undersigned notary public, _____, Town Treasurer of the Town of Littleton, proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as Town Treasurer of the Town of Littleton, as aforesaid.

Notary Public
My Commission Expires: