



TOWN OF LITTLETON, MASSACHUSETTS  
ZONING BOARD OF APPEALS  
AMENDED DECISION UPON APPLICATION OF  
FIFTEEN GREAT ROAD II, LLC  
FOR A COMPREHENSIVE PERMIT

**I. BACKGROUND**

**INTRODUCTION:** The Town of Littleton Zoning Board of Appeals (the “ZBA”) issued a Comprehensive Permit (the “Original Permit”) to Fifteen Great Road II, LLC (the “Applicant”) dated February 14, 2013 relating to the property described herein and permitting the construction of 190 multi-family rental units (the “Original Project”). After significant efforts were made to finance the Original Project, it was determined by the Applicant that market conditions have changed such that a portion of the Original Project should be modified to permit the construction of some “for-sale” units and that the remaining rental units should be more economically configured. On November 18, 2013, the Applicant filed an application to the ZBA pursuant to 760 CMR 56.05(11) seeking to amend the Original Permit to bifurcate the Project into a for-sale and a rental component as stated herein. On November 21, 2013, the ZBA determined that the requested changes were Substantial Changes pursuant to 760 CMR 56.05(11) and that a public hearing was required for same. This Decision is an Amended Decision that incorporates those changes to the Original Permit that are specifically addressed herein and otherwise supersedes the Original Permit.

**APPLICANT:** Fifteen Great Road II, LLC

**PROPERTY:** 15 Great Road, Littleton MA, being Lots 1, 2 and 3 containing a combined 21.17 +/- acres of land as shown on a plan entitled “Plan of Land, Littleton: 15 Great Road, Town: Littleton, Massachusetts, Prepared for Fifteen Great Road II, LLC, dated December 4, 2013” (the “ANR Plan”, a copy of which is attached hereto as “Exhibit A”).

**ZONING:** Residence (R) District

**THE PROJECT:** 200 unit development of 56 for-sale single-family dwelling detached residential condominiums and 144 rental housing units in three buildings, together with wastewater treatment facility and maintenance building, clubhouse/leasing office, recycling center and other facilities, all as shown on the Civil Plans listed below. For the purposes of this Decision, the for-sale units and associated infrastructure permitted hereunder shall be referred to as the “For-Sale Component” and the rental

units and the associated infrastructure permitted hereunder shall be referred to as the "Rental Component" of the Project (either, a "Component"). The For-Sale Component of the Project shall be located on Lots 1 and 2, and shall alternatively be referred to as "Wildflower Meadow." The Rental Component of the Project shall be located on Lot 3 and shall alternatively be referred to as "Village Green."

**PUBLIC HEARING:** The Original Permit was issued on February 14, 2013 and recorded in the Middlesex South District Registry of Deeds at Book 62302, Page 288. On November 18, 2013, the Applicant filed an application to the ZBA pursuant to 760 CMR 56.05(11) seeking to amend the Original Permit. On November 21, 2013, the ZBA determined that the requested changes were Substantial Changes pursuant to 760 CMR 56.05(11) and that a public hearing was required for same. The ZBA held public hearings on December 12, 2013, December 19, 2013, January 7, 2014, February 12, 2014 and March 3, 2014. The ZBA voted to close the public hearing on March 3, 2014.

**DECISION DATE:** March 3, 2014.

**APPROVED PLANS:** This Decision is based on the plans listed in "Exhibit B"—List of Approved Plans (the "Approved Plans"), which the ZBA by this Decision has approved.

## **II. THRESHOLD DETERMINATIONS**

### **Jurisdictional/Eligibility Requirements:**

The Applicant has submitted into the record a Project Eligibility Letter from MassDevelopment (a copy of which is attached hereto as "Exhibit C") dated June 30, 2011. Pursuant to the Act and the Regulations, the threshold jurisdictional requirements of 760 CMR 56.04(1) are deemed satisfied upon submission of this Project Eligibility Letter.

### **Consistency with Statutory and Regulatory Needs**

The Town of Littleton (the "Town") has made significant progress with respect to its affordable housing stock. Upon granting the Original Permit, the Town's subsidized housing inventory increased to 13.97% based on the 2010 census. At the time the Applicant filed its original application for a comprehensive permit, however, Littleton did not meet the Statutory Minima as defined by 760 CMR 56.03(3). Accordingly, Littleton's Zoning Bylaw and its other local bylaws and regulations which ordinarily apply to development in the Town were for this Project subject to waiver by a comprehensive permit, upon a proper showing that such bylaws and regulations are not consistent with local needs within the meaning of M.G.L. c.40B, §§20-23. The waivers similarly apply to the Applicant's request to modify the Original Permit.

When reviewing the original application for a comprehensive permit, the ZBA made a preliminary determination that the regional need for affordable for-sale housing has not been demonstrated in the Town of Littleton due to the fact that the last several for-sale housing projects created by the 40B process or local action initiative have either been undersubscribed after extensive advertising, or have failed due to the Developer's insolvency during construction. The ZBA recognized that the need for affordable rental housing is demonstrated by the fact that Littleton does not presently allow the construction of multi-family rental housing by local ordinance and that there exists in the Town only one affordable multi-family housing project which is unrestricted as to age. The ZBA also made a preliminary determination that adding all 190 units to the rental stock would aid in reaching the statutory minima for affordable housing in Town.

During the public hearing on the application to amend the Original Permit, the Applicant presented evidence that the original project, as designed, was not financeable and the ZBA recognized that the inclusion of the For-Sale Component would aid in making the Project financeable.

### **Completeness of Application**

In addition to the above jurisdictional requirements, an applicant for a comprehensive permit must comply with both the Regulations, 760 CMR 56.05(2), and the ZBA's regulations governing the content of a comprehensive permit application. Under both of the aforesaid sets of regulations, an application must contain certain documentation and plans. The Applicant fulfilled all of the applicable application requirements.

### **III. PROCEDURAL HISTORY**

The Original Permit was issued on February 14, 2013 and recorded in the Middlesex South District Registry of Deeds at Book 62302, Page 288. On November 18, 2013, the Applicant filed an application to the ZBA pursuant to 760CMR56.05(11) seeking to amend the Original Permit. On November 21, 2013, the ZBA determined that the requested changes were Substantial Changes pursuant to 760 CMR 56.05(11) and that a public hearing was required for same. After notice duly mailed, published and posted pursuant to G.L. c.40A, §11, the ZBA opened its public hearing on the application to amend the Original Permit on December 12, 2013. The ZBA held continued sessions of its public hearing on December 19, 2013, January 7, 2014, February 12, 2014 and March 3, 2014, and voted to close the public hearing on March 3, 2014.

### **IV. FINDINGS OF FACT**

After the public hearing closed, the ZBA made the following findings of fact:

1. The Property is shown as Lots 1, 2 and 3 containing a combined 21.17 +/- acres of land as shown on a plan entitled "Plan of Land, Littleton: 15 Great Road, Town: Littleton, Massachusetts, Prepared for Fifteen Great Road II, LLC, dated December 4, 2013". It is located within the Residence (R) Zoning District as set forth in the Littleton Zoning Bylaw. It has approximately 770 feet of frontage on Great Road (Route 2A/119).

2. The zoning surrounding the Property within Littleton is exclusively residential.

3. The Property is bounded westerly by an existing subdivision of single-family homes and easterly by a mixed use property consisting of approximately 900,000 square feet of office and retail use as well as 380 apartments. To the north of the Property is a parcel of land for which the Applicant has received approval from the Planning Board pursuant to Article XIX (Open Space Development) of the Zoning Bylaw to develop as a single-family open space development subdivision containing 21 new residential lots and an open space parcel (said parcel and said development proposal hereinafter collectively referred to as the "Subdivision"). The Subdivision is the subject of the Special Permit dated February 20, 2013 and recorded with the Middlesex South District Registry of Deeds in Book 62302, Page 380; the Form D recorded in Book 62302, Page 387; and is shown on the Definitive Subdivision Plan recorded as Plan No. 559 of 2013.

4. The Property contains three lots on a combined 21.17 +/- acres of land, of which approximately .87 acres are wetlands.

5. The Project contains 200 dwelling units, 56 of which are part of the For-Sale Component and 144 of which are part of the Rental Component. In the For-Sale Component there are 56 buildings, of which 12 are two-bedroom dwelling units and 44 are three-bedroom dwelling units for a total of 156 For-Sale Component bedrooms. In the Rental Component there are 3 buildings which contain 66 one-bedroom dwelling units, 66 two-bedroom dwelling units and 12 three-bedroom dwelling units for a total of 234 Rental Component bedrooms and a total of 390 bedrooms for the total Project. In addition, the

Project will contain a WWTF and maintenance building, clubhouse/leasing office, and a recycling center and garage buildings.

6. The ZBA supported the Applicant's proposed revisions to the Project for the following reasons: (a) The three buildings included in the Rental Component of the Project have been revised to feature elevators, which is of critical importance for serving the housing needs of the Town's aging population; and (b) the Project, as revised, will provide a needed source of entry-level housing within the Town.

7. The Town does not have a municipal sewer system. As the Project contains a total of 200 residential units with a Title 5 design flow well in excess of 10,000 gallons per day, a Wastewater Treatment Facility ("WWTF") is required pursuant to 310 CMR 15.004(1)(a) and 314 CMR 5.15. The WWTF as proposed has Title 5 design flow of 55,005 gallons per day (or 500 bedrooms). At this design flow, the WWTF has capacity to serve more residential units than are contained within the Project. The Applicant testified and submitted evidence that under DEP aggregation rules, the Subdivision must also be served by the WWTF. The Applicant has further testified that there are environmental and cost benefits associated with allowing the lots within the Subdivision to connect to and be served by the WWTF.

8. The Applicant testified and submitted evidence that the use of the WWTF to serve both the Project and the Subdivision will have several benefits for the Project, including significantly reduced capital and operating costs for the Project and the environmental benefits of treatment of wastewater prior to disposal. The ZBA determined that the use of the Project's WWTF to enable development of the Subdivision lots that are located outside of, and not otherwise connected with, the Project, warranted mitigation measures from the Applicant. Accordingly, a subcommittee of the ZBA and the Applicant negotiated an agreement intended to provide for the adequate mitigation of the total impacts of all development contemplated by the Applicant. At the conclusion of these negotiations, the Applicant and the Town entered into the Host Community Agreement dated February 11, 2013, a signed copy of which is attached hereto as "Exhibit D."

9. The Project will be served primarily by a driveway connecting to Great Road, a state highway. Improvements to Great Road are within the exclusive jurisdiction of MassDOT.

10. The Project will also have a gated emergency access driveway that shall as conditioned below be acceptable and approved by the Fire Department to the north, which will provide limited access to Grist Mill Road via the Subdivision way. This access shall be posted "DO NOT ENTER-EMERGENCY VEHICLES ONLY" and shall be restricted to emergency and public safety vehicles and maintenance, including snow plowing, emergency use and temporary use for the construction of the access driveway itself and the Project.

11. The Project on the Property, as conditioned below, would not be rendered uneconomic by the terms and conditions of this Decision or the Host Community Agreement. In addition, the intent and purpose of the Host Community Agreement will not be adversely affected by the amendments to the Original Permit authorized in this Amended Decision.

12. The Project will, when conforming to the conditions set forth in this Decision, adequately provide for traffic circulation, storm water drainage, sewage disposal and water without an undue burden on the occupants of the Project or on the surrounding neighborhood or the Town.

13. The Project represents a reasonable accommodation of the regional need for low and moderate income for-sale and rental housing and is consistent with local and regional housing needs within the meaning of G. L. c. 40B, Section 20.

14. The Project, when conforming to the conditions set forth in this Decision, will not be a threat to the public health and safety of the occupants of the Project or the surrounding neighborhood or the Town.

15. The Project will cause the Town to satisfy the statutory minima, by bringing the Town's subsidized housing inventory to 13.04% based on the 2010 census and the DHCD Subsidized Housing Inventory dated April 30, 2013.

16. The Applicant's commitments to the Town, as memorialized in the Host Community Agreement, constitute a reasonable mitigation for the impacts of the Project.

## V. DECISION

Pursuant to M.G.L. c. 40B, §§21-23 and the regulations, 760 CMR 56.00 *et seq.*, the ZBA, after a public hearing and findings of fact, hereby grants a Comprehensive Permit to the Applicant for the construction of two hundred (200) dwelling units in 59 buildings on the Property, with associated infrastructure improvements as set forth on the plans, with the following waivers and subject to the following conditions. On March 3, 2014, the ZBA voted 4 in favor and 1 opposed to approve the Application for an amendment to the Original Permit, with the waivers and subject to the conditions stated herein. This Amended Decision supersedes the Original Permit.

On the motion to approve the Amended Decision, the vote of the ZBA was as follows:

Sherrill Guld, Chair	Yes
William Farnsworth, Vice Chair	Yes
Jeff Yates	Yes
John Cantino	Yes
Cheryl Hollinger	No

## **VI. WAIVERS FROM LOCAL BYLAWS AND REGULATIONS**

**The ZBA voted to GRANT the following specific waivers:**

### **Waivers for Lots 1, 2 and 3 (entire project)**

#### **Chapter 173 – Zoning Bylaws**

1. §173-16 to §173-19. Site Plan Review, Preparation of plans, Design requirements, Review and approval: To eliminate the requirement to submit a site plan for 8 or more units for review by the Town's Planning Board, but permit said submission and site plan review by the ZBA.
2. §173-26.A. Principal Uses Use Regulation Schedule: To permit development of multiple buildings on a lot, multifamily buildings, accessory structures and uses within a Residential District.
3. §173-32.C. Parking Requirements: To allow all parking spaces within the Project to be constructed without the requirement for a wheel bumper or wheel guard.
4. §173-32.C(5) Parking Requirements: To permit the use of grassed swales and other acceptable design standards as may be permitted by MA Department of Environmental Protection.
5. §173-32.C.(6) Parking Requirements: To permit development based upon use of those storm water control Best Management Practices and Low Impact Development techniques in the parking areas as may be permitted by State Regulations; specifically the Commonwealth of Massachusetts Department of Environmental Protection under the provisions of the Wetland Protection Act: Storm Water Management Standards per 310 CMR 10.05(6)(k), and such other applicable State Regulations.
6. §173-36.D. On each of Lots 1, 2 and 3 on-premises signs in residential districts: To permit the construction of signs having a background color other than natural wood, white, or the same color as the principal structure or its trim. The Applicant has stated that signs of the requested style and color scheme are customary for this type of use and are essential for the proper functioning of the project.
7. Article XIII, §173-125 to §173-128 Shared Residential Driveway: To allow the project to incorporate a unified driveway system.

#### **Conservation Commission Rules and Regulations**

8. The ZBA waives all local wetland regulations. The Project must comply with the Wetlands Protection Act and DEP Storm Water Quality Standards.

#### **Code of the Town of Littleton**

9. § 138-1. Electronic Plans: To allow a level 1 (one) electronic plan submittal as related to any ANR or subdivision plans required for the 40B.

**Town of Littleton Low Impact Design/Best Management Practices Manual (May 2007)**

10 To permit development based upon use of those storm water control techniques as permitted by State Regulations; specifically the Commonwealth of Massachusetts Department of Environmental Protection under the provisions of the Wetland Protection Act: Storm Water Management Standards per 310 CMR 10.05(6)(k). Development will adhere to the practices and techniques as defined by the State of Massachusetts.

**Notwithstanding the grant of the foregoing specific waivers**, it is the intention of the ZBA by this Comprehensive Permit to authorize construction of the Project as shown on the Approved Plans. If, in reviewing the Applicant's building permit application(s), the Building Commissioner determines that any additional waiver from local zoning, wetlands, health or subdivision or other regulations is necessary to permit construction to proceed as shown on the Final Approved Plans, the Building Commissioner shall proceed as follows: (a) any matter of a de minimis nature shall be deemed within the scope of the waivers granted by this Comprehensive Permit and shall not require further proceedings before the ZBA in accordance with 760 CMR, 56.05(11); and (b) any matter of a substantive nature having a substantial potential adverse impact on public health, safety, welfare or the environment shall be reported back to the ZBA for expeditious disposition of the Applicant's request for a waiver therefrom. If a matter is shown on the Final Approved Plans, it shall be deemed de minimis.

**Waivers for Lot 1**

11. §173-34.C. & D. General Regulations: To permit the lighting of the entrance sign on a 24 hour 7 day a week basis to provide for safe recognition and access to the project and to permit lighting of the leasing sign between 6 a.m. and 9 p.m. only, 7 days a week on Lot 1.

12. §173-36.A. On-premises signs in residential districts: To permit the installation of 2 signs on Lot 1. One sign will be a monument sign indicating Address/Name/Phone, the second will provide a method for property advertisements for the buildings on Lot 3.

13. §173-36.B. On-premises signs in residential districts: To permit the installation of one sign with 24 square feet each side and a second sign that will be 12 square feet on each side. Both are in excess of 9 (nine) square feet.

14. §173-36.E. On-premises signs in residential districts: To allow, in addition to the entrance sign, a leasing sign that contains current or timely marketing information, which may change from time to time.

15. §173-38.A. and B. Off Premises signs: To allow 2 signs on Lot 1 to serve Lots 2 and 3 (A) and for those signs to be lighted (B).

**Waivers for Lot 2**

16. §173-28.A. (General Regulations) Intensity of Use Schedule (Lot Frontage): To permit the creation and existence of Lot 2 without frontage.



### **Waivers for Lot 3**

17. §173-27.A. (General Regulations) Intensity of Use Schedule (Maximum Building Height): To permit the maximum building height to exceed 32 (thirty two) feet and to be measured as follows: The maximum height measured from the first floor finished slab to the top of the roof of Buildings 1, 2 and 3 on Lot 3 as shown on the Architectural Elevations shall be no more than 53 feet.
18. §173-28.A. (General Regulations) Intensity of Use Schedule (Lot Frontage): To permit the creation and existence of Lot 3 without frontage.
19. §173-32.B.(1) Parking requirements. 2 spaces per dwelling unit. To permit 268 spaces for 144 dwelling units which is a ratio of 1.86 with an additional 20 unbuilt "reserve" spaces to be shown on the plan that could be built at a later date if required in the future.
20. §173-32.C.(3) Parking Requirements: To eliminate the screening requirements for parking lots of 8 or more cars.
21. §173-36.B. On-premises signs in residential districts: To permit the installation of a sign that will be 12 square feet on each side which is in excess of 9 (nine) square feet.
22. §173-36.C. and D. On-premises signs in residential districts: To permit the installation of a lighted sign for leasing. The lighting of the leasing sign is permitted between 6 a.m. and 9 p.m. only, 7 days a week.
23. §173-36.E. On-premises signs in residential districts: To allow, leasing signs that contain current marketing information, which may change from time to time.
24. §173-53 and §173-26 Accessory Uses: To waive all requirements of The Code of The Town of Littleton, Massachusetts v41 Part II General Legislation Chapter 173, Zoning (hereinafter "Zoning Bylaw"), including without limitation, §173-2 relative to accessory building or use, and any other provision of the Zoning Bylaw and/or any other Town of Littleton bylaw, rule, regulation or requirement, so as to allow the Club House and recycling facility and WWTF situated within the 40B Development to connect to and service Lots 1 and 2, the Lots within the Subdivision and all of these Lots: Lot 20B as shown on the ANR Plan, Lot 25B as shown on a Plan of Land entitled "Plan of Land in Littleton, Massachusetts", dated September 8, 1999, and recorded in the Middlesex South District Registry of Deeds as Plan Number 1419 of 1999, and Lot 56A as shown on a plan entitled "Plan of Land in Littleton/Westford, MA" dated September 13, 2000, recorded in the Middlesex South District Registry of Deeds as Plan Number 1330 of 2000; so long as such connection(s) and service(s) is/are not in violation of the ground water discharge permit for the WWTF, as may be amended from time to time.

### **Board of Health Regulations (Lot 3)**

25. Regulation 1 Permits: The ZBA finds that DEP's issuance of a groundwater discharge permit satisfies the requirements of regulation 1 and, furthermore, to the extent it may not, regulation 1 is waived.

26. Regulation 2 Professional Review: The ZBA finds that DEP's issuance of a groundwater discharge permit satisfies regulation 2 and, furthermore, to the extent it may not, this waiver is granted.

27. Regulation 29 Two Compartment Tanks & Outlet Filters: This waiver was granted as the project will comply with the standards permitted by the Massachusetts Department of Environmental Protection.

### **Code of the Town of Littleton**

28. §64-7.A.(1) to (15) Building Permit Fees. Provided the Applicant obtains a building permit for at least two (2) of the rental buildings within the Rental Component of the Project by August 31, 2014, no building permit fees for the rental buildings on Lot 3 shall be due until construction allowed by such permit actually commences.

## **VII. CONDITIONS**

1. This Decision permits the construction, use and occupancy of 144 rental units in the Rental Component and 56 for-sale units in the For-Sale Component of the Project, and associated facilities and improvements as depicted on the Final Approved Plans to be submitted and endorsed in accordance with this Decision. Of the 144 dwelling units in the Rental Component, 66 shall be one-bedroom dwelling units (of which 17 will be affordable), 66 shall be two-bedroom dwelling units (of which 16 will be affordable), and 12 shall be three-bedroom dwelling units (of which 3 will be affordable). Of the 56 dwelling units in the For-Sale Component, 12 shall be two-bedroom dwelling units (of which 3 will be affordable), and 44 shall be three-bedroom dwelling units (of which 11 will be affordable). There shall be no additional housing units or bedrooms on the Property, and no additions beyond the building area envelopes shown on the Final Approved Plans without further approval of the ZBA.

2. The Project shall be constructed in substantial conformance with the Approved Plans.

3. For each individual unit within the For-Sale Component of the Project, all structures (including any allowable additions) shall be contained entirely within a building area envelope substantially as shown on the Approved Plans. There shall, at a minimum, be a 15-foot separation between the building area envelopes for each adjacent unit within the For-Sale Component of the Project.

4. Only those housing units listed on the Wildflower Meadow Home Plans dated January 24, 2014 and shown on the corresponding plan set (the "Wildflower Meadow Models") may be constructed within the For-Sale Component of the Project. For each individual unit within the For-Sale Component of the Project, the model and foundation options shall be further restricted to those shown on the "Wildflower Meadow Unit Options," dated February 14, 2014, a copy of which is attached hereto as "Exhibit E."

5. For the units within the For-Sale Component of the Project, prior to the original application for a building permit only, any Wildflower Meadow Model that does not

feature a covered front entryway or a farmer's porch on the front of the house may be modified so as to feature either such improvement.

6. In addition to any modifications authorized by Condition 5 above, units within the For-Sale Component of the Project may, either before or after issuance of the original building permit for any for-sale unit, be modified to include one deck, one sunroom, or one porch, provided that said addition must be located to a side or the rear of the house, must be located entirely within the unit's building area envelope, and its exterior dimensions must not exceed 12 feet by 14 feet in size. For each improvement made pursuant hereto, the Applicant or unit owner, as applicable, must also install a drip line recharge trench that adequately addresses drainage for the additional impervious surface such that for every 100 square feet of building footprint, a recharge trench of two (2) feet wide by two (2) feet deep by three and a quarter (3.25) feet long (or equivalent bottom area and volume) is required. This does not apply to uncovered decks or other similar structures.

7. Subject to Condition 8, below, the attic or basement of any Wildflower Meadow Model may be finished as part of the original construction or (subject to a building permit) at any time thereafter, provided that the finished space may never be used as a sleeping area.

8. With the exception of those modifications authorized pursuant to Conditions 5 and 6 above, the exterior of the Wildflower Meadow Models may not be changed or revised so as to create additional interior space, including dormers, beyond what is shown on the Approved Plans.

9. There shall be no sheds, outdoor enclosures or other accessory structures within the For-Sale Component of the Project other than those shown on the Approved Plans.

10. The Applicant shall construct all Affordable Units within the For-Sale Component of the Project to the "Maximum Foundation Option" as shown on Exhibit E, subject to actual ledge conditions encountered in the field. The Applicant has not conducted borings and test holes at every affordable unit location and, therefore, where the Applicant encounters ledge under an affordable unit and provides evidence of same to the Building Commissioner, the Applicant may construct the affordable unit with a crawl space instead of a full basement.

11. The Applicant shall obtain Final Approval from its Subsidizing Agency prior to issuance of any building permit for the Project. A standard Massachusetts Housing Finance Agency Regulatory Agreement For Comprehensive Permits Projects in Which Funding is Provided Through Other Than a State Entity a Non-Governmental Entity, or for the Housing Starts Program, between the Applicant and MassHousing, as Project Administrator, shall be executed and recorded with the Middlesex South District Registry of Deeds prior to the issuance of the initial Building Permit for the applicable Component of the Project. These Regulatory Agreements shall set forth the terms and agreements relative to the sale and resale of the Affordable Units in the For-Sale Component of the Project and relative to the rental of the Affordable Units in the Rental Component. The Applicant shall submit the Final Approval Application(s) and the Regulatory Agreement(s) to Town Counsel and to the ZBA for its information.

12. Prior to commencement of any construction concerning any portion of either the Rental Component or the For-Sale Component of the Project (whether pursuant to a building permit or otherwise), unless waived by the Building Commissioner for good cause shown, the Applicant shall submit to the Building Commissioner a proposed set of final engineered plans, engineering drawings, and landscaping plans, as applicable, showing (i) such common portions of the project which are required for either component of the Project to proceed, and "labeled common infrastructure" and (ii) plans applicable to the Rental Component and (iii) plans applicable to the For Sale component stamped by the Applicant's design engineer or registered landscape architect, as applicable (the "Proposed Final Approved Plans"). The Proposed Final Approved Plans shall be substantially in accordance with the Approved Plans except that they shall be updated in accordance with the requirements of this Decision. Along with this set of Proposed Final Approved Plans, the Applicant shall submit a list, prepared and stamped by the Applicant's Design Engineer, of the specific changes made to the Approved Plans to conform to the requirements of this Decision, if any. The Proposed Final Approved Plans shall include, at a minimum:

(i) Common Infrastructure

- a. Lighting Plan only as to the shared driveway (Boxwood Drive);
- b. Landscaping, screening and planting plan (only as to the 119 entrance and vegetative buffers);
- c. Grading plan (Boxwood drive only);
- d. Erosion control plan Boxwood drive;
- e. Utilities plan including water, electric, telephone and sewer collection system (Boxwood drive);
- f. Site Layout Plan, including sidewalks, school bus waiting area) (Boxwood Drive).

(ii) Plans applicable to Lot 3, the rental component

- a. Lighting Plan;
- b. Landscaping, screening and planting plan;
- c. Grading plan;
- d. Erosion control plan;
- e. Utilities plan including water, electric, telephone and sewer collection;
- f. Site Layout Plan, including sidewalks.

(iii) Plans applicable to each of Lots 1 and 2, the For Sale Component

- a. Grading plan;
- b. Erosion control plan;
- c. Utilities plan including water, electric, sewer collection, drainage; and
- d. Site Layout Plan.

The absence of any such items listed in (ii) and (iii) above shall not affect the ability of the other Component to commence construction activities or obtain a building permit.

The Building Commissioner shall review the Proposed Final Approved Plans and the list of changes to ensure that they are consistent with and in conformity with this Decision. Upon the Building Commissioner's positive finding, the ZBA shall endorse the Proposed Final Approved Plans which shall thereupon constitute the "Final Approved Plans" for that portion of the applicable Component of the Project under this Decision.

In addition, prior to the issuance of a building permit for an individual unit within the For-Sale Component of the Project, the Applicant shall submit to the Building Commissioner a Unit Development Plan that is substantially in the same form, depicts substantially the same features (i.e. landscaping) as the sample attached hereto as Exhibit F ("Sample Unit Development Plan"), and otherwise demonstrates that the unit, as proposed to be developed, is in compliance with the requirements of this Amended Decision.

13. In the event the Building Commissioner determines that the Applicant's construction drawings submitted with its building permit application(s) materially deviate from the applicable Final Approved Plans in such a manner that, in his professional opinion, they do not conform to the requirements and conditions imposed by this Comprehensive Permit Decision, the Building Commissioner shall so notify the Applicant of the specific deviations, and the Applicant shall either bring the construction drawings into conformity with this Decision or seek modification of this decision in accordance with 760 CMR 56.05(11). In the event of a disagreement between the Building Commissioner and the Applicant with respect thereto, they shall notify the ZBA which shall thereupon determine whether the building permit construction drawings conform to this Decision. Upon finding that the building permit construction drawings (with any necessary revisions) do conform to this Decision, the ZBA shall endorse those construction drawings as consistent with the Decision, if so requested by the Applicant. Otherwise, the Applicant shall follow the procedures set forth in 760 CMR 56.05(11). Notwithstanding the foregoing or any other provision of this Decision to the Contrary, the site plans relating to the For-Sale Component may be modified to change the style/model of any particular unit from that which is shown on the site plan to another Wildflower Meadow Model shown on Exhibit E as a permissible alternative for that unit, and further provided that there shall be no more than 12 two bedroom units and 44 three bedroom units in the For-Sale Component and the number of bedrooms in the For-Sale Component shall not exceed 156. Notwithstanding the foregoing, the interior of any style model may be changed provided the exterior dimensions of the model and the number of bedrooms for such Unit do not increase from the base plan. Exterior changes such as relocation of windows may be made to accommodate such changes to the interior floor plan.

14. No construction activity other than site work shall occur on a Component of the Project until the Applicant shall have:

- a. Obtained Final Approval from its Subsidizing Agency, executed and recorded the Regulatory Agreement as required in Condition 11, above, and provided evidence of same to the Building Commissioner;
- b. Obtained and filed with the Building Commissioner a copy of all federal, state and local permits and approvals required for the applicable Component of the Project including, without limitation, Groundwater Discharge Permit issued by the Department of Environmental Protection ("DEP") for the construction and operation of the WWTF;

- c. Obtained all necessary building, electrical, plumbing and associated permit(s) for the proposed work on the applicable Component of the Project required by state law;
- d. Properly marked the limits of disturbance on the applicable Component of the Property; and
- e. Delivered to the Building Commissioner a letter from the ZBA's consulting engineer that the Civil Plans for the common infrastructure and such Component meet the Mass DEP storm water standards.

The absence of any such items listed as a- e above for either Component shall not affect the ability of the other Component to commence construction activities or obtain a building permit subject to the approval of the Subsidizing Agency.

15. Prior to commencement of any construction activities on any Component of the Project, including site work, the Applicant shall submit to the Building Commissioner and the ZBA a Construction Phasing Plan as to that Component. Such plan shall be subject to the approval of the Building Commissioner. Each phase shown shall include two means of access from an existing public way for emergency vehicles, and the second means of access shall be available for use before an occupancy permit is requested for any residential building. In addition, prior to commencement of construction activities on any Component of the Project, the Applicant shall submit to the Building Commissioner a construction schedule in order to provide guidance and facilitate inspections. Such construction schedule shall, at a minimum be revised quarterly to reflect work completed and changes in construction timing. The absence of a Construction Phasing Plan and/or a construction schedule for either Component shall not affect the ability of the other Component to commence construction activities or obtain a building permit.

16. All construction activity shall adhere to applicable local, State and Federal laws and regulations regarding noise, vibration, dust and sedimentation. The Applicant shall use reasonable means at all times to minimize inconvenience to residents in the vicinity of the Property.

17. Construction activities on-site shall only occur between 7:00 a.m. and 7:00 p.m., Monday through Friday and between 8:00 a.m. and 5:00 p.m. on Saturday. No work shall be allowed on-site on Sundays or on Holidays as recognized by the Commonwealth of Massachusetts, unless the Building Commissioner has provided advance written authorization for such work to occur. For the purposes of this condition, the term "construction activities" shall be defined to include start-up or operation of equipment or machinery, delivery of building materials and supplies, removal of trees, grubbing, clearing, grading, filing, excavating, import or export of such materials, installation of utilities both on and off the Property, demolition of existing structures, removal of stumps and debris, and the erection of new structures.

18. The Emergency Access Driveway shall not be used by any construction vehicles including, but not limited to, tractor trailer trucks, dump trucks, heavy equipment trailers, low-bed trucks or pick-up trucks in the construction of the Project after (i) the completion of the internal road from Great Road which crosses the wetlands on Property, and that provides access to all of the Project and that is serviceable for all construction purposes, including use by the aforesaid described trucks and equipment, or (ii) the excavation for any footing of any building in the Project where crossing the wetlands or

access from Grist Mill Road is necessary to access said building, whichever occurs earlier. In addition, the Emergency Access Driveway shall not be used in connection with the removal of any earth materials (*i.e.* soil and trees) from the 40B Development.

19. The Applicant shall be responsible for mitigating all construction-related impacts, including erosion, siltation and dust control.

20. The Applicant shall regularly, but not less than bi-weekly, remove construction trash and debris from the Property in accordance with good construction practice. No tree stumps, demolition material, trash or debris shall be burned or buried on the Property. However, material intended for future use may be stockpiled on the Property and maintained in a neat and workmanlike manner.

21. All potential safety hazards that may exist on the Property from time to time during the period of construction shall be adequately secured prior to the end of each workday.

22. Only earth products that are intended for use on the Property shall be delivered to the Property. No earth shall be stripped or excavated and removed from the Property except in connection with road, infrastructure or permitted construction activities. No earth processing operations shall occur on the Property, unless such earth products are to be combined and/or mixed for use on the Property. All piles of stockpiled earth shall be stabilized with adequate dust and erosion controls. All piles of stockpiled earth shall be removed from the Property upon completion of construction of roads and infrastructure.

23. A licensed blasting professional shall do any necessary blasting on the Property after proper pre-blast inspections have been conducted and all required permits have been obtained from the Littleton Fire Department. Pursuant to M.G.L. c.148, §19, before the issuance of a permit to use an explosive in the blasting of rock or any other substance as prescribed by the State Fire Marshall at the Property, the applicant for the permit shall file with the Littleton Town Clerk a bond running to the Town, with sureties approved by the treasurer of the Town, in the penal sum as the officer granting the permit shall determine in accordance with M.G.L. c. 148, §19 to be necessary in order to cover the risk of damage that might ensue from the blasting or its keeping therefor.

24. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP's Dust regulations at 310 CMR 7.09, as amended, as directed by the Building Commissioner. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.

25. The Applicant shall implement measures to ensure that noise from project construction activities does not exceed levels, as set forth by Federal and State regulatory agencies, including without limitation DEP's Noise regulations at 310 CMR 7.10, as amended, and DEP's DAQC Noise Policy No. 90-001 (2/1/90), as amended. The Applicant shall cease any noise which does not comply with applicable regulations when directed by the Building Commissioner to comply therewith.

26. The Applicant is responsible for the sweeping, removal of snow, and sanding of the internal roadways permitting access to residents and emergency vehicles during

construction. The Applicant shall maintain all portions of any public road used for construction access free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.

27. During construction of the Project, the Applicant shall implement necessary traffic safety controls as required or requested by the Littleton Police Department, to ensure a safe and convenient vehicular access in and around the Property and on Great Road. Any traffic problems that occur as a result of site operations and construction shall be mitigated immediately.

28. 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.

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. Soil material used as backfill for pipes, and/or structures (i.e. detention basins) shall be certified by the Design Engineer to the Building Commissioner as meeting design specifications.

31. The Applicant shall notify the relevant Town departments of installation of utilities and infrastructure for inspections prior to backfilling.

32. The Applicant shall comply with any Order of Conditions issued with respect to the Project.

33. The fire alarm system including the location of various components shall be located in areas acceptable to the Littleton Fire Chief or his designee and shall be tied to the Littleton dispatch system.

34. The Applicant shall construct and maintain a locked and gated emergency access driveway as shown on the Final Approved Plans to connect to Grist Mill Road for use (except as provided for in Condition 18, above) only for maintenance and in the event of emergencies by Littleton police, fire, ambulance or other emergency services. The Applicant shall provide appropriate keys or other means of access to the Town Administrator, Littleton police, fire, ambulance and other emergency services. The design and construction of the emergency access shall be acceptable to the Littleton Fire Chief or his designee. The Applicant shall provide for the maintenance of this emergency access over time such that it shall be appropriately passable in the event of an emergency. Upon completion of construction, the Emergency Access Driveway, will be sign-posted; "DO NOT ENTER-EMERGENCY VEHICLES ONLY." The Applicant shall further provide and record, in a form to be reviewed by Town Counsel, a covenant limiting use of the driveway to emergency access, installation and maintenance of utilities of every name, nature and description, and temporary construction consistent with Condition 18 above.

35. All fire lanes, emergency access driveways 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, and all signage shall be maintained in good order.



36. In the event that the snow storage areas designated on the Approved Plans are inadequate for a particular storm or events, any excess snow must be removed from the Property.

37. Traffic signage shall be consistent with the requirements of the current edition of the Manual for Uniform Traffic Control Devices (MUTCD), the Massachusetts Amendments to the Manual on Uniform Traffic Control Devices and the Standard Municipal Traffic Code, and the site plans.

38. There shall be a bus waiting area as shown on the Approved Plans.

39. All utilities, including but not necessarily limited to electric, cable and telephone shall be located underground.

40. The Applicant shall install vertical curbing for all areas where a sidewalk is adjacent to an interior way, as shown on the Approved Plans.

41. The Applicant shall have the option of treating the Rental Component (buildings on Lot 3) of the Project as a single user for the purpose of metering the water service from the Littleton Water Department. LWD along with the Applicant and its consultant team, will determine the final layout of utilities whereby the Applicant pays one connection fee for the buildings on Lot 3. In doing so, Lot 3 will be serviced by one master meter, associated water appurtenances and backflow prevention device housed in an above ground utility building and all operations and maintenance activities on the Applicant's (owner's) side of the master meter become the exclusive responsibility of the applicant/owner and/or his/her agent. Alternatively, if a connection fee is paid for each rental building, LWD will be responsible for the reading of the master meters and first responder for water infrastructure issues to the buildings property lines.

If the Applicant subsequently becomes something other than a single user for the Rental Component or any individual building with the rental component, the new water metering shall be subject to the approval of the Littleton Water Department, and will not need approval by the ZBA. The Applicant shall bear the costs associated with providing the additional meter(s).

Each "For-Sale Unit" in the For-Sale Component (on Lots 1 and 2) shall have individual meters and be subject to standard Littleton Water Department connection fees including the Affordable Units. LWD will be first responder for water emergencies and will work with the owner or his/her representative to remedy interruption of water service. Since this is private property, LWD will not excavate nor perform any emergency or routine water repairs, other than the replacement of water meters.

42. The Applicant shall show on the proposed Final Approved Plans, and construct on the Property, fire hydrants in amounts and locations as agreed to by the Littleton Water Department and the Fire Chief or his designee.

43. The Final Approved Landscaping Plans are listed above in Exhibit B under Civil Plans as Landscape Plan 1 of 2, Plan Number 6303A L-1, and Landscape Plan 2 of 2, Plan Number 6303A L-2, both dated February 4, 2014. The landscaping shall, at a minimum, be as shown on these Final Approved Landscaping Plans, provided, however,

that nothing contained herein shall prevent the Applicant from providing additional landscaping or buffering on the Property.

44. The Applicant and subsequent owners shall maintain all landscaped areas of the Property as shown on the Final Approved Plans. Dead or diseased plantings shall be replaced as soon as possible in accordance with growing and weather conditions.

45. Storm water shall be managed in accordance with the Massachusetts Stormwater Handbook, as amended from time to time, as prepared by the DEP and Massachusetts Office of Coastal Zone Management. The Applicant requested that the public hearing be closed after the ZBA received the Hydrology and Stormwater Management Review dated February 26, 2014 from its peer review consultant Graves Engineering, but before all of the matters addressed in that report had been fully addressed. The ZBA was amenable to this request subject to the condition that the Applicant address all of the comments contained in said Hydrology and Stormwater Management Review.

The Applicant shall address all peer review comments to the satisfaction of Graves Engineering and shall promptly provide evidence of same to the ZBA, to Town Counsel, and to the Building Commissioner. Any plan revisions adopted pursuant to peer review comments from Graves Engineering that do not materially change the location of buildings, driveways or parking shall be deemed approved.

46. The Applicant shall prepare a plan for the operation, maintenance and repair of the drainage structures and storm water management system on the Property as shown on the Final Approved Plans, subject to the approval of the ZBA or its designated agent. In the event that a management company is engaged, the guidelines shall be incorporated by reference in the management contract.

47. The Project shall contain 54 parking spaces for on-site parking on Lot 1 as shown on the Approved Plans; 64 parking spaces for on site parking on Lot 2 as shown on the Approved Plans; and 268 parking spaces for on site parking on Lot 3 with space reserved for an additional 20 parking spaces as shown on the Approved Plans.

48. No parked vehicle may encroach on an interior way or sidewalk, and parking of oversized vehicles shall be limited to the designated spaces to be shown on the Final Approved Plans.

49. Outdoor Lighting shall be in accordance with the Final Approved Plans.

50. The WWTF serving the Project shall be designed and constructed as approved by the DEP and in accordance with the terms and conditions of the Groundwater Discharge Permit issued to the Applicant.

51. The Applicant shall provide to the Building Commissioner, the ZBA and the Littleton Board of Health or its agent copies of all permits received by the Applicant from the DEP concerning the WWTF and/or the related groundwater discharge permit, and shall upon request make available to the Board of Health or its agent copies of any other written communications, reports, submissions, or other documents sent by the Applicant or the DEP concerning the wastewater treatment facility, including any inspection/monitoring reports during the operation of the WWTF.

52. The Applicant shall irrigate the project landscape with either irrigation wells or if permitted by DEP, by use of water processed by the sewage treatment facility.

53. Except as approved by this Decision, any additional directional signs for the Project shall conform to the sign requirements of the Littleton Zoning Bylaw unless the ZBA grants a minor modification to this Decision to allow additional temporary or directional signs requiring a waiver therefrom.

54. Without limitation, as security for the ongoing completion of the common facilities and infrastructure for the Project as shown on any Final Approved Plans as to either Component of the Project, no certificate of occupancy shall be issued for any building or unit in such Component until:

- a. All sewage treatment and disposal facilities serving such building and units as shown on the applicable Final Approved Plans have been approved for operation by DEP.
- b. All public water supply facilities serving such building and units as shown on the applicable Final Approved Plans have been completed.
- c. The base and binder course for the roadways, driveways, sidewalks and parking areas serving such building and units as shown on the applicable Final Approved Plans have been installed.
- d. All storm water management and drainage facilities serving such building and units as shown on the applicable Final Approved Plans have been installed.
- e. All electric utilities and heat serving such building and units as shown on the applicable Final Approved Plans have been installed.
- f. For an occupancy permit for any building or unit in either Component of the Project, the Applicant shall have provided to the ZBA a performance guaranty to secure the complete construction of the remaining infrastructure in such Component, as shown on the applicable Final Approved Plans, for the phase of the Project as shown on the applicable Construction Phasing Plan required pursuant to Paragraph 6 above for which the occupancy permit is sought. Said performance guaranty shall be secured by one or in part by one and in part by another, of the methods set forth in clauses (1), (2) and (4) of M. G. L. c. 41, §81U, which method or combination of methods may be selected and from time to time varied by the Applicant. The security provided as aforesaid shall be administered in accordance with the provisions of G. L. c. 41, §81U, relative to such security; provided; however, that wherever the Planning Board is referred to in M. G. L. c. 41, §81U, the ZBA is substituted.

The absence of any such items listed as a- f above for either Component shall not affect the ability of the other Component to obtain an occupancy permit.

55. In the event that the Building Commissioner determines that seasonal weather considerations have reasonably delayed the completion of the final "top coat" paving, landscaping improvements and/or plantings shown on the Final Approved Plans as to any portion of either Component of the Project, the Building Commissioner may in his discretion issue the applicable final occupancy permit; provided that the Applicant shall

complete the final paving and landscaping improvements and plantings as soon as seasonal weather conditions permit, and the Applicant shall post sufficient cash surety with the Town Treasurer for the completion of those improvements should the Applicant fail to do so.

56. As this Comprehensive Permit Decision grants permission to build the Project on the Property under the Act, and as the Applicant has obtained the benefits of a comprehensive permit including the right to construct and use the Project in a manner that is not in compliance with the Town's zoning requirements which otherwise would be applicable to the Property and the Project, but for the Comprehensive Permit's override of local bylaws to promote affordable housing, no use shall be made of the Property or of any building or unit on the Property erected pursuant to this Comprehensive Permit, except as permitted by this Decision and any and all accessory uses normally incidental thereto.

57. As long as this Comprehensive Permit is in force and effect, no business or commercial use shall be conducted on the Property or in any building or unit on the Property except for (a) necessary rental and management activities with respect to the Project, (b) accessory concierge services for residents of the Project including but not limited to such services as an automatic teller machine, a dry cleaning pick-up and drop off location, one or more express mail pick-up and drop off boxes, a photocopy or fax machine, exercise/yoga classes and similar accessory concierge services for the convenience of the residents of the Project and (c) "Zip Car" or similar services for use by residents of the Project.

58. The Applicant (or its successors and assigns) shall either self-manage or shall establish or shall contract with a qualified management entity that shall be subject to and governed by the provisions of this Decision.

59. Number of Affordable Units:

- a. Affordable Rental Unit Requirements: At the option of the Applicant, either (i) twenty percent (20%) of the units within the Project are to be restricted for occupancy by persons or households whose aggregate family income does not exceed 50% of the Median Family Income ("MFI") for the area, adjusted for household size, or (ii) twenty-five percent (25%) of the units within the Project be restricted for occupancy by persons or households whose aggregate family income does not exceed 80% of the MFI for the area, adjusted for household size, as established by the United States Department of Housing and Urban Development, all in accordance with the applicable rules, regulations and guidelines of the Applicant's Subsidizing Agency.
- b. Affordable For-Sale Unit Requirements: Twenty five (25%) of the total For-Sale Units shall be available in perpetuity for purchase and occupancy by households whose income is no more than 80% of the MFI for the area, adjusted for household size and as determined by the United States Department of Housing and Urban Development, all in accordance with the applicable rules, regulations and guidelines of the Applicant's Subsidizing Agency.

60. Affordable Prices: Subject to the specific income percent requirements of the Applicant's Subsidizing Agency, the Affordable Units shall be rented or sold, as applicable, to households whose aggregate adjusted family income conforms to the applicable requirements of Condition 59 above.

61. Perpetual Affordability Restriction: As the Decision grants permission to build the Project under the Act, and as the Applicant has obtained the benefits of a comprehensive permit, the Project shall remain subject to the restrictions imposed by the Act and the Affordable Rental Units shall remain affordable so long as the Project is not in compliance with the Town's zoning requirements which otherwise would be applicable to the Property and the Project but for the Comprehensive Permit's override of local bylaws to promote affordable housing. Accordingly, subject to the approval of the Subsidizing Agency, the Affordability Requirements of this Decision shall restrict the Project so long as the Project is not in compliance with the Town's zoning bylaw, so that those units continue to serve the public interest for which the Project was authorized in perpetuity.

62. To ensure the survival of this affordability restriction, subject to the approval of the Subsidizing Agency, this Amended Decision shall be recorded ahead of any mortgage or other instrument capable of being foreclosed upon, such that its provisions, including without limitation the within Affordability Requirements, shall survive any foreclosure on all or any portion of the property comprising the rental component of the Project. In the alternative, to satisfy this condition, the Applicant may provide for recording a duly executed Subordination, Nondisturbance and Attornment Agreement which provides equivalent protection and which is in a form satisfactory to the Applicant's Subsidizing Agency.

63. Regulatory Agreement: To the extent permitted by the Subsidizing Agency, the following provisions shall be included in both the Rental Component and the For-Sale Regulatory Agreements:

Local Preference: To the maximum extent permitted by law and by the requirements of the Applicant's Subsidizing Agency, a provision that a preference for the rental and sale, as applicable, of seventy percent (70%) of the Affordable Units shall be given to households that meet one or more of the following preference criteria:

- (i) at least one member of the household is currently a legal resident of the Town. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as a Littleton resident with the Littleton Town Clerk pursuant to G. L. c. 51, §4, and would be considered a resident under the United States Census Bureau's residency guidelines;
- (ii) at least one member of the household is an employee of the Town, the Littleton Public Schools; or
- (iii) at least one member of the household is currently privately or publicly employed within the Town.

The Local Preference provisions of this section are intended to complement and not to override or supersede any applicable income eligibility rules and regulations of the Applicant's Subsidizing Agency, or any applicable fair housing regulations of the

Department of Housing and Community Development, the Massachusetts Commission Against Discrimination, the Applicant's Subsidizing Agency, MassDevelopment, MassHousing or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

64. Phasing-in of Affordable Units: In accordance with and to the extent required by the Applicant's Subsidizing Agency, Affordable Units for both Components of the Project shall be constructed on a schedule that provides substantially for the construction and completion of one (1) affordable unit for every three (3) market rate units constructed; and in no event shall any five (5) market rate units be constructed without completion of one affordable unit.

65. Monitoring: In accordance with and to the extent required by the Applicant's Subsidizing Agency's guidelines, a Monitoring Agent or Monitoring Agents shall be retained at the expense of the Applicant to monitor (a) compliance with Chapter 40B Limited Dividend Requirements as defined in each of the Rental Component and the For-Sale Component Regulatory Agreements, and (b) monitor compliance with resident eligibility requirements for the affordable units in each Component. A copy of the Monitoring Agreement shall be provided to the ZBA.

66. Style and Distribution of Affordable Units: The Affordable Units within the For-Sale Component of the Project shall be Units 1, 6, 10, 12, 19, 22, 27, 32, 34, 37, 44, 46, 49 and 51, as shown on the Building Envelope Details 6303A BE-1 and 6303A BE-2 included with the Approved Plans.

The Applicant shall construct the Rosebud Model on Units 22 and 27.

For all other Affordable Units within the For-Sale Component of the Project, the original buyer shall have the right to select which of the available models (as shown on Exhibit E) the Applicant will construct, provided that said original buyer has executed a purchase and sale agreement with the Applicant and provided the Applicant with a deposit prior to issuance of a building permit. The Lottery Information Package and any other advertising material used for marketing said Affordable Units shall indicate that said units are being offered subject to the buyer's choice of allowable models as shown on Exhibit E. Nothing contained herein shall prevent the Applicant, in its sole discretion, from constructing any Affordable Unit before a buyer has been selected in order to remain consistent with Condition 64, above, or as part of a marketing strategy.

The Applicant shall construct all Affordable Units within the For-Sale Component of the Project with garages consistent with the relevant Wildflower Meadow Home Plan and Exhibit E.

The Affordable Units within the Rental Component of the Project shall both initially and during the life of the Project be distributed evenly among the rental buildings and unit types in accordance with the requirements of the Applicant's Subsidizing Agency.

In accordance with and to the extent required by the Applicant's Subsidizing Agency, the exterior of all of the Affordable Units for both Components of the Project shall be indistinguishable in terms of construction and finishes from the Market Rate Units in the Project but may vary in terms of square footage and model type.

67. In accordance with and to the extent required by the Applicant's Subsidizing Agency, the Applicant shall prepare a fair housing plan for each Component acceptable to the Subsidizing Agency.

68. Compliance with the limited dividend requirements for each Component 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 ZBA shall have the right to review such determination using the same standards as the Subsidizing Agency.

69. If, between the date the Decision is filed in the office of the Littleton Town Clerk and the completion of the Project, the Applicant desires to change in a material way and/or to a significant degree the proposed Project as reflected in and approved by the Decision, such changes shall be governed by 760 CMR 56.05(11). Without limitation, in the event any subsequent permitting process (such as the state wetlands review of the Project by the Conservation Commission or DEP, the groundwater discharge permit review of the Project by DEP, or other state or federal governmental approvals) results in a change to the Final Approved Plans which triggers the need for further waivers from local bylaws, rules or regulations, any such matter shall be treated as a project change and the procedures in 760 CMR 56.05(11) shall be followed.

70. Prior to substantial completion of the Project, this Comprehensive Permit may not be transferred or assigned to any party without the approval of the subsidizing agency and written notice to the ZBA, as required by 760 CMR 56.05(12)(b).

71. The Applicant and subsequent Owner(s) of all or any portion of the Property shall be bound by all conditions and requirements set forth in this Decision. Any sale or transfer of rights or interest in all or any part of the Property shall include a condition that the grantee and its successors and assigns shall agree to be bound by the terms and conditions of this Decision.

72. The terms, provisions and conditions of this Decision shall burden and benefit the successors and assigns of the Applicant, with the same effect as if mentioned in each instance where the Applicant is named or referred to. Any and all references to the "Applicant" in this Amended Decision shall include any authorized successors or assigns of the Applicant, including, but not limited to, any Condominium Association created relative to the Project.

73. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant and the Applicant's successors and assigns for as long as the Project and the use of the land does not strictly and fully conform to the requirements of the Littleton Zoning Bylaw; and reference to this Comprehensive Permit Decision shall be incorporated in every deed conveying all or a portion of the Property.

74. Pursuant to 760 CMR 56.05(12)(c), if construction of either Component of the Project authorized by this Comprehensive Permit has not begun within three years of the date on which the Amended Comprehensive Permit becomes final except for good cause, the permit only as it relates to such Component shall become void. This time shall be tolled for the time required to pursue or await the determination on any appeal on any other state or federal permit or approval required for the Project. The ZBA may grant an extension of the

three-year limit for good cause shown, including without limitation economic conditions affecting the Component or Project.

75. In the event a clerical or typographical error in this Decision, upon the request of the Applicant, the ZBA shall correct such clerical or typographical error and the correction of such clerical or typographical error shall not require further proceedings before the ZBA in accordance with 760 CMR 56.05(11).

76.. All outstanding invoices for peer review and consultant costs incurred prior to issuance of the Comprehensive Permit shall be paid by the Applicant.

77. The Applicant shall deposit in escrow the amount of Two Thousand dollars (\$2,000.00) to reimburse the Town in connection with the completion of review of the Final Plans by its consultants. Following the completion of such review, excess funds in the escrow account shall be returned to the Applicant or its successor in interest.

78. All WWTF charges for the affordable units shall be consistent with WWTF charges for market rate units of equivalent bedroom number.

79. The For Sale Component and Rental Components of the Project have common facilities and shall share on a pro rata basis the cost of maintaining these common facilities. Therefore, the Applicant shall establish a Homeowners' Association or other appropriate entity (the "Homeowners' Association") to maintain all of these common facilities with the exception of the WWTF. To accomplish the foregoing, the For-Sale Component through its condominium association and the Rental Component, through its ownership entity shall be pro rata partners/members in the Homeowners' Association or other appropriate entity.

80. Said Homeowners' Association shall have responsibility to maintain and repair all common areas and facilities, including the stormwater management system, common landscaping, and other shared improvements within the For-Sale Component and Rental Component of the Project. The documents creating the Homeowners' Association shall set forth the obligations of the Homeowners' Association for the operation and maintenance of all such common areas and improvements, and copies of such documents shall be provided to Town Counsel for review.

81. The WWTF, including its collection system, shall be governed by the DEP permit and those agreements required by DEP. In accordance with the DEP Permit, the WWTF shall be operated by a single-purpose entity to be created by the Applicant (the "WWTF Operator").

82. The following common facilities and services of the Project, to the extent located on the Property, shall be maintained in perpetuity by the Applicant, Homeowners' Association or WWTF Operator, as applicable, and further shall remain forever private, and the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- a. All roadways, walkways and parking areas;
- b. WWTF;
- c. Stormwater management system, including the maintenance of catch basins



- and detention basins and the like;
- d. Snow plowing;
- e. Landscaping and landscape maintenance;
- f. Trash removal;
- g. Street lighting.

The roadway within the Project shall not be dedicated to or accepted by the Town.

83. Notwithstanding anything contained in Conditions 78, 80 and 82, for all matters relating to the enforcement of this Amended Decision by the Town of Littleton (including the ZBA and Building Commissioner) responsibility for the cost and maintenance of the common facilities and services of the Project as aforesaid, shall be joint and several between Homeowners' Association and the entity(ies) developing the For-Sale Component and the entity(ies) developing the Rental Component pursuant to this Amended Decision; provided, however, the entity(ies) developing the Rental Component shall be relieved of the aforesaid responsibility upon the issuance of occupancy permits for all of the units in the Rental Component and the entity(ies) developing the For-Sale Component shall be relieved of the aforesaid responsibility upon the turnover of the condominium association to the unit owners of the units in the For-Sale Component, at which time such responsibility shall be that of the Homeowner's Association as otherwise provided herein.

Notwithstanding anything contained in Conditions 81 and 82, for all matters relating to the enforcement of this Amended Decision by the Town of Littleton (including the ZBA and Building Commissioner) responsibility for the cost and maintenance of the WWTF as aforesaid, shall be joint and several between WWTF Operator and the entity(ies) developing the Rental Component pursuant to this Amended Decision; provided, however, the entity(ies) developing the Rental Component shall be relieved of the aforesaid responsibility upon the issuance of occupancy permits for all of the units in the Rental Component, at which time such responsibility shall be that of the WWTF Operator as otherwise provided herein.

84. Prior to the issuance of any occupancy permit for the For-Sale Component of the Project, the Applicant shall submit to the ZBA the condominium documents (Master Deed, Bylaws and Rules and Regulations) for review as to form by Town Counsel and for verification that such documents are in compliance with this Permit. The Applicant shall further certify to Town Counsel that said documents are in compliance with M.G.L. c.183A.

85. In accordance with and to the extent required by the Applicant's Subsidizing Agency, the condominium documents shall include a realistic condominium fee budget based upon comparable developments that have been occupied for at least two (2) years, and shall be subject to the review of the ZBA.

86. In accordance with and to the extent required by the Applicant's Subsidizing Agency, the condominium documents shall pro-rate the condominium fees for the Affordable Units according to the projected area of the Affordable Units in proportion to the projected area of the other Affordable Units and market-rate units at the time of the recording of the Master Deed in accordance with G.L. c. 183A.

87. In accordance with and to the extent required by the Applicant's Subsidizing Agency, any assumptions used to determine the initial sales price of the Affordable Units within the For-Sale Component of the Project must include reasonable condominium fee budget projections of all costs, including operation, maintenance and repair reserve for the WWTF.

88. In accordance with and to the extent required by the Applicant's Subsidizing Agency, 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 the Amended Decision without ZBA approval;
- b. Conditions set forth in the Amended Decision concerning condominium governance must be set forth in the documents;
- 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.

89. 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. For each individual unit, all structures shall be contained entirely within the building area envelope shown on the Approved Plans.
- 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. There shall be a prohibition on the addition of sheds or other outdoor enclosures.
- g. Resident parking in the designated guest spaces in the development shall be for temporary use only.
- h. There shall be a provision prohibiting light spilling over to neighboring properties and the abutting Open Space.
- i. 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.

90. The standard Massachusetts Affordable Housing Restriction for Projects in Which Affordability Restrictions Survive Foreclosure (the "Deed Rider") shall 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. Said 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.

91. 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.

92. If a household or households requiring handicap access modifications is selected in the lottery for the initial sales or rentals of any Affordable Units, the Applicant shall make such reasonable modifications at the Applicant's expense.

93. In the event that the Applicant, its successors, or agent fails to maintain the stormwater management system or wastewater disposal system 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 roadway for safe and adequate emergency vehicle access/egress as determined by the Littleton Fire Department, Police Department or Highway Department, the Town may, but need not, conduct such emergency maintenance or repairs, and the Applicant shall convey any easement necessary to implement such intervention. In the event the Town undertakes any maintenance or repairs, the Applicant shall promptly reimburse the Town for all reasonable expenses associated therewith. If the Applicant fails to so reimburse the Town, the Town may place a lien on the property or on any or all of the units therein to secure such payment.

94. In accordance with and to the extent required by the Applicant's Subsidizing Agency and the executed Deed Rider, the Affordable Units within the For-Sale Component of the Project shall be owner-occupied.

95. All residential units within the Rental Component of the Project shall remain rental units.

96. All Affordable Units contained within the Project shall be constructed substantially to the specifications contained in, and to the general level of quality represented by, the "Specifications for Wildflower Meadow, Littleton Mass. January 24, 2014," which was presented to the ZBA during its public hearing and is attached hereto as "Exhibit G", provided that the Applicant may make substitutions of materials that are of equivalent quality.

97. The ZBA acknowledges that for purposes of financing the Project and/or operating the WWTF, it may be necessary or convenient for the Applicant, subject to further proceedings before the ZBA in accordance with 760 CMR 56.05(11), to further subdivide the Property by a suitable amendment of this Comprehensive Permit in the


future. If said amendment to the Comprehensive Permit is allowed as aforesaid, the ZBA shall endorse the plan(s) subdividing the Project and execute such documents as necessary to record the plan(s) at the registry of deeds, so long as such subdivision plan(s) do not interfere with or adversely affect the operation of the Project or the intent of this Decision.

### CONCLUSION


The Application for an amended comprehensive permit for the Project as shown on the Approved Plans is granted for the reasons stated above, subject to the conditions provided herein. The ZBA disposes of the Applicant's requests for specific relief from local bylaws, rules and regulations in accordance with this Decision and its conditions.

### LITTLETON BOARD OF APPEALS

  
Sherrill Gould, Chair

  
William Farnsworth, Vice Chair

  
Jeff Yates, Clerk

  
John Cantino

\_\_\_\_\_  
Cheryl Hollinger

Dated: March 3, 2014.

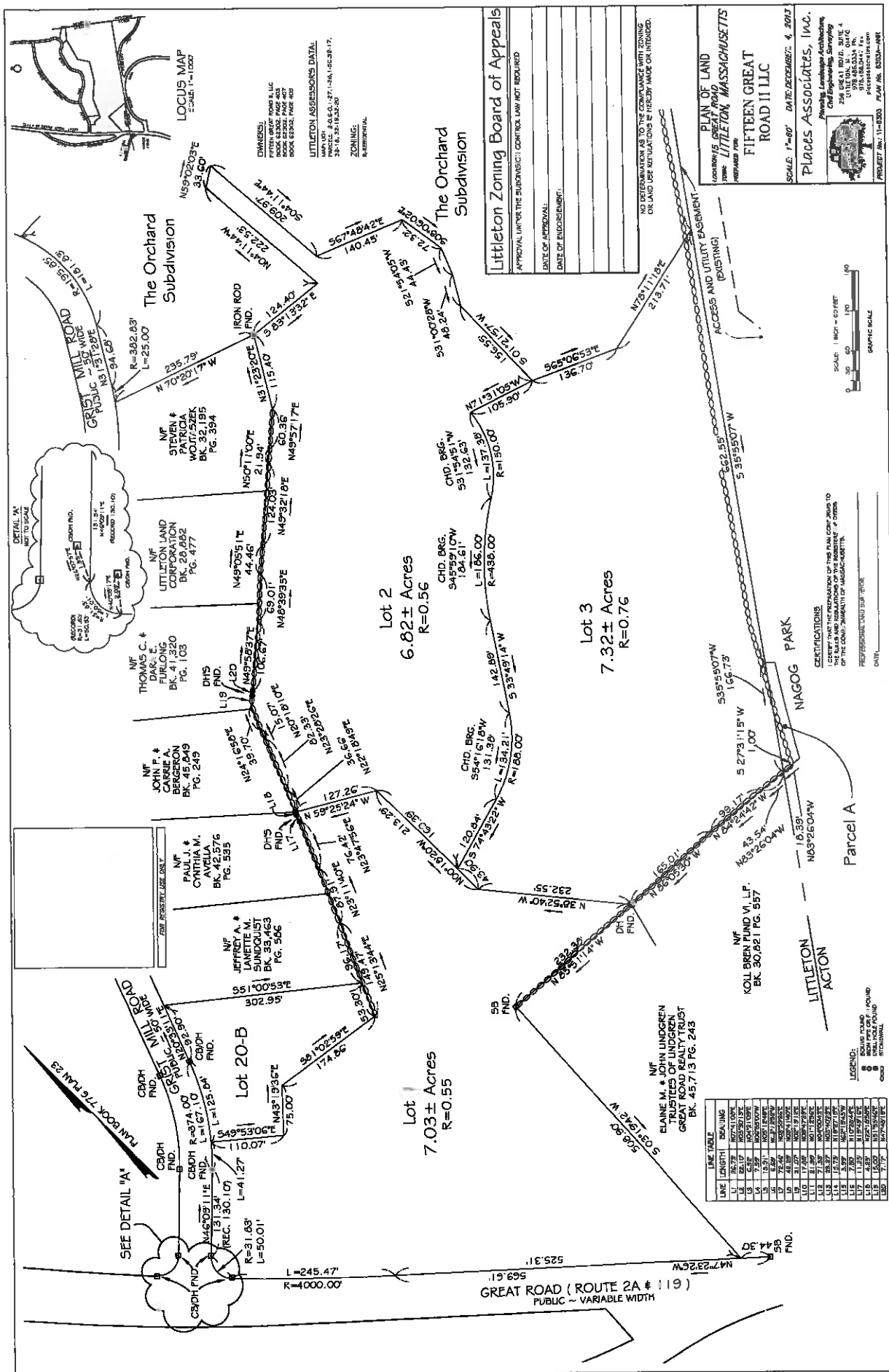
### CERTIFICATION

I, Diane Crory, Town Clerk of the Town of Littleton, Massachusetts do hereby certify that twenty days have elapsed since the above referenced Decision of the Zoning Board of Appeals which was filed in the office of the Town Clerk on \_\_\_\_\_ and no appeal has been filed with the Town Clerk.

\_\_\_\_\_  
Town Clerk  
Littleton, Massachusetts

Dated: \_\_\_\_\_, 2014

## **EXHIBIT A—ANR PLAN**



**EXHIBIT B—LIST OF APPROVED PLANS**

<b><u>Village Green Apartments, David M. White Architect</u></b>			
<b><u>Apartment Building and Additional Buildings</u></b>	<b><u>Plan</u></b>	<b><u>Description</u></b>	<b><u>Date</u></b>
1,2&3	Title Page	Title Page	1/24/2014
1	B1.1	First Floor	1/24/2014
1	B1.2	Second Floor	1/24/2014
1	B1.3	Third Floor	1/24/2014
1	B1.4	Fourth Floor	1/24/2014
1	B1.5	Front Elevation	1/24/2014
1	B1.6	Side/Rear Elevation	1/24/2014
2	B2.1	First Floor	1/24/2014
2	B2.2	Second Floor	1/24/2014
2	B2.3	Third Floor	1/24/2014
2	B2.4	Fourth Floor	1/24/2014
2	B2.5	Front Elevation	1/24/2014
2	B2.6	Side/Rear Elevation	1/24/2014
1&2	TSC.12	Typical Section	1/24/2014
3	B3.0	Lower Level	1/24/2014
3	B3.1	First Floor	1/24/2014
3	B3.2	Second Floor	1/24/2014
3	B3.3	Third Floor	1/24/2014
3	B3.4	Fourth Floor	1/24/2014



**Village Green Apartments, David M. White Architect**

<b><u>Apartment Building and Additional Buildings</u></b>	<b><u>Plan</u></b>	<b><u>Description</u></b>	<b><u>Date</u></b>
3	B3.5	Front Elevation	1/24/2014
3	B3.6	Side/Rear Elevation	1/24/2014
3	TSC.3	Typical Section	1/24/2014
1,2&3	U1	Units A, AH, DH	1/24/2014
1,2&3	U2	Units B1 & B2	1/24/2014
1,2&3	U3	Units C1, C2 & CH	1/24/2014
1,2&3	U4	Units D, E1 & E2	1/24/2014
1,2&3	U5	Units F & G	1/24/2014
1,2&3	U6	Units FH & GH	1/24/2014
Clubhouse	C.1	Floor plan	1/24/2014
Clubhouse	C.2	Elevations	1/24/2014
Clubhouse	C.3	Elevations	1/24/2014
Clubhouse	TSC.4	Typical Section	1/24/2014
Garage	G.01	Floor and Elevations	1/24/2014
Garage	G.02	Floor and Elevations	1/24/2014
Storage	ST.01	Floor and Elevations	1/24/2014
WWTP	WW.01	Floor Plans	1/24/2014
WWTP	WW.02	Elevations	1/24/2014

**Wildflower Meadow Single Family Home Plans—Wendy Welton, Art Form  
Architecture, Inc.**

<b><u>Page Number</u></b>	<b><u>Name</u></b>	<b><u>Version</u></b>
Plan List		
2	Aaron Prime	280.001
3	Aaron Prime Elevations	
4	Aaron Prime First Floor	
5	Aaron Prime Second Floor	
6	Aaron Prime Basement Floor	
7	Aaron Solo	279.001
8	Aaron Solo Elevations	
9	Aaron Solo First Floor	
10	Aaron Solo Second Floor	
11	Aaron Solo Basement Floor	
12	Aurora	633.124
13	Aurora Side Elevation	
14	Aurora Front Elevation	
15	Aurora Side Elevation	
16	Aurora Rear Elevation	
17	Aurora First Floor	
18	Aurora Second Floor	
19	Aurora Attic	

**Wildflower Meadow Single Family Home Plans—Wendy Welton, Art Form  
Architecture, Inc.**

<b><u>Page Number</u></b>	<b><u>Name</u></b>	<b><u>Version</u></b>
20	Aurora Basement	
21	Biscotti	564.144
22	Biscotti Front Elevation	
23	Biscotti First Floor	
24	Biscotti Basement Floor	
25	Cupcake	626.124
26	Cupcake Front Elevation	
27	Cupcake Side Elevation	
28	Cupcake Side Elevation	
29	Cupcake Rear Elevation	
30	Cupcake First Floor	
31	Cupcake Second Floor	
32	Cupcake Basement	
33	Foxglove	50.001
34	Foxglove Elevation	
35	Foxglove First Floor	
36	Foxglove Second Floor	
37	Gairloch	538.126
38	Gairloch Side Elevation	
39	Gairloch Front Elevation	
40	Gairloch Side Elevation	

**Wildflower Meadow Single Family Home Plans—Wendy Welton, Art Form  
Architecture, Inc.**

<b><u>Page Number</u></b>	<b><u>Name</u></b>	<b><u>Version</u></b>
41	Gairloch Rear Elevation	
42	Gairloch First Floor	
43	Gairloch Second Floor	
44	Laughing Tiger	
45	Laughing Tiger Elevation	
46	Laughing Tiger First Floor	
47	Laughing Tiger Second Floor	
48	Laughing Tiger Garage Floor	
49	Pesto SL	182.001
50	Pesto SL Rear	
51	Pesto First Floor	
52	Pesto Second Floor	
53	Pesto Basement Floor	
54	Pesto Front and Rear Elevations	
55	Pesto Side Elevations	
56	Pesto PV1	182.005V1
57	Pesto PV1 rear	
58	Pesto PV1 First Floor	
59	Pesto PV1 Second Floor	
60	Pesto PV1 Basement	

**Wildflower Meadow Single Family Home Plans—Wendy Welton, Art Form  
Architecture, Inc.**

<b><u>Page Number</u></b>	<b><u>Name</u></b>	<b><u>Version</u></b>
61	Pesto PV1 Front Elevation	
62	Pesto PV1 Left Elevation	
63	Pesto PV1 Right Elevation	
64	Pesto PV1 Rear Elevation	
65	Pesto PV2	182.005V2
66	Pesto PV2 First Floor	
67	Pesto PV2 Second Floor	
68	Pesto PV2 Basement	
69	Pesto PV2 Front Elevation	
70	Pesto PV2 Left Elevation	
71	Pesto PV2 Right Elevation	
72	Pesto PV2 Rear Elevation	
73	Rosebud	56.12
74	Rosebud Front Elevation	
75	Rosebud Side Elevation	
76	Rosebud Rear Elevation	
77	Rosebud Side Elevation	
78	Rosebud First Floor	
79	Rosebud Second Floor	
80	Rosebud Basement	
81	Shetland	537.126

**Wildflower Meadow Single Family Home Plans—Wendy Welton, Art Form  
Architecture, Inc.**

<b><u>Page Number</u></b>	<b><u>Name</u></b>	<b><u>Version</u></b>
82	Shetland Side Elevation	
83	Shetland Front Elevation	
84	Shetland Rear Elevation	
85	Shetland Side Elevation	
86	Shetland First Floor	
87	Shetland Second Floor	
88	Shortcake	569.124
89	Shortcake Elevation	
90	Shortcake First Floor	
91	Shortcake Second Floor	

**Civil Engineering, Places Associates, Inc.**

<b><u>Civil Plans</u></b>	<b><u>Title Block Date</u></b>	<b><u>Plan Number</u></b>
Cover Sheet	Feb 4, 2014	6303A CP-1
ANR Survey	Dec 4, 2013	6303 ANR Survey
Notes and Legend	Feb 4, 2014	6303A CP-2
Index Plan	Feb 4, 2014	6303A CP-3
Layout and Utilities 1 of 2	Feb 4, 2014	6303A CP-4
Layout and Utilities 2 of 2	Feb 4, 2014	6303A CP-5
Grading and Drainage 1 of 2	Feb 4, 2014	6303A CP-6
Grading and Drainage 2 of 2	Feb 4, 2014	6303A CP-7
Waiver Plan	Feb 4, 2014	6303A CP-8
Construction Details 1 of 6	Feb 4, 2014	6303A CP-9
Construction Details 2 of 6	Feb 4, 2014	6303A CP-10
Construction Details 3 of 6	Feb 4, 2014	6303A CP-11
Construction Details 4 of 6	Feb 4, 2014	6303A CP-12
Construction Details 5 of 6	Feb 4, 2014	6303A CP-13
Construction Details 6 of 6	Feb 4, 2014	6303A CP-14
E&S Plan	Feb 4, 2014	6303A CP-15
Signage Plan	Feb 4, 2014	6303A CP-16
Common Infrastructure	Feb 4, 2014	6303A CP-17
Landscape Plan 1 of 2	Feb 4, 2014	6303A L-1
Landscape Plan 2 of 2	Feb 4, 2014	6303A L-2
Building Envelope 1 of 2	Feb 4, 2014	6303A BE-1

<u>Civil Engineering, Places Associates, Inc.</u>		
<u>Civil Plans</u>	<u>Title Block Date</u>	<u>Plan Number</u>
Building Envelope 2 of 2	Feb 4, 2014	6303A BE-2



**EXHIBIT C—PROJECT ELIGIBILITY LETTER**



June 30, 2011

160 Federal Street  
Boston, Massachusetts  
02110

Tel: 617-339-2000  
800-445-8030

Fax: 617-339-2001  
617-451-3429

www.massdevelopment.com

**BY OVERNIGHT FEDERAL EXPRESS**

Fifteen Great Road II LLC  
200 Baker Avenue, Suite 303  
Concord, MA 01742  
Attn: Mr. David Hale

Re: Fifteen Great Road Apartments, Littleton, MA (the "Project")  
Project Eligibility Letter

Dear Mr. Hale:

Massachusetts Development Finance Agency ("MassDevelopment") received the application of Fifteen Great Road II LLC for financing for the above-referenced Project using the MassDevelopment Tax-Exempt Bond Financing Program and is pleased to provide you with this determination of project eligibility for the Project under that Program.

MassDevelopment has reviewed the fundability of the Project under the MassDevelopment Tax-Exempt Bond Financing Program in accordance with 760 CMR 56.04 and has reviewed all other criteria required under such regulations. After receipt of the application, MassDevelopment provided written notice of the application to the Town of Littleton (the "Town"). A site visit was conducted on May 31, 2011. MassDevelopment received comments concerning the Project from the Town and from third parties within the review period and after and has considered all comments when reviewing the fundability of the Project under the MassDevelopment Tax-Exempt Bond Financing Program and when reviewing all other criteria and findings required under the applicable regulations prior to issuing this letter.

Based on the application dated March 28, 2011, and supplemental information requested by MassDevelopment during its review, the Project involves the following characteristics:

Applicant: Fifteen Great Road II LLC  
200 Baker Avenue, Suite 303  
Concord, MA 01742

The application was submitted on behalf of the proposed development limited liability company Fifteen Great Road II LLC by Omni Development,

DEA PATRICIA  
Governor

TIMOTHY P. NUHAR  
Lieutenant Governor

CHRISTOPHER  
Chairman

MARTIN JONES  
President and CEO

LLC, a related party, with assistance from the Project's housing consultant Equity Alliance LLC. Following standard program procedures, the application was accepted as submitted by the related party with the requirement that organizational documents of the development LLC must provide that its profits, cash flow, and the distribution of returns to the development LLC or to the members or other owners of the development LLC will be limited as set forth in M.G.L. c. 40B ("c. 40B") and MassDevelopment's equity and limited dividend policies and that the development LLC will enter into MassDevelopment's form of Regulatory Agreement. Evidence of the development LLC's organization and existence has been provided and the above certification has been executed by the development LLC, defined herein as the Applicant.

- Site:** 15 Great Road, approximately 23.09 acres of the land in Littleton, MA and is part of the property shown on Tax Map U1, Parcel 2, Parcel 1-56, and Parcel 6.
- The property is located near the Littleton/Acton/Westford town lines.
- Project:** The Fifteen Great Road Apartments will be a 200-unit garden style rental project in six separate buildings with on-site parking plus a clubhouse/fitness facility.
- Subsidizing Program:** Massachusetts Development Finance Agency Tax-Exempt Bond Financing Program
- Low Income Units:** 20% of all units will be priced affordably and set aside for a minimum period of 30 years for tenants with incomes not exceeding 50% of the Area Median Income.
- Rental Unit Mix:** The Project will consist of 40 1BR (approx. 850 sf. each); 100 2BR (approx. 1100-1300 sf. each); 60 3BR (approx. 1400 sf. each).

**Market Rate Units:** Of the above total units, there will be 32 one-bedroom units; 80 two-bedroom units; 48 three-bedroom units.

**Affordable Units:** Of the above total units, there will be 8 one-bedroom units; 20 two-bedroom units; 12 three-bedroom units.

**Limited Dividend:**

Omni and the Applicant have confirmed that Applicant is the developer of the Project and will be the owner of the Project. The Applicant's organizational documents provide that its profits, cash flow, and the distribution of returns to the Applicant or to the members or other owners thereof will be limited as set forth in c. 40B and the regulations thereunder and MassDevelopment's equity and limited dividend policies and that the Applicant will enter into MassDevelopment's form of Regulatory Agreement containing provisions required under c. 40B and the regulations thereunder as well as the provisions of MassDevelopment's Tax-Exempt Bond Financing Program.

MassDevelopment has reviewed the materials submitted by the Applicant, including, without limitation, preliminary plans, financial projections, and market information, conducted an on-site inspection, and reviewed the Town's and third party's comments and has determined that the Project appears generally eligible and fundable under the requirements of the MassDevelopment Tax-Exempt Bond Financing Program, subject to final review of eligibility for financing and final approval under the c. 40B regulations and has made the additional findings set forth below as required by the c. 40B regulations for the issuance of a project eligibility letter.

Based on the submitted materials and on-site inspection, MassDevelopment has made the following findings.

1. The Applicant Fifteen Great Road II LLC, a Massachusetts limited liability company, is a limited dividend organization, based on its organizational documents and agreements to abide by the subsidizing agency's (MassDevelopment's) limited dividend policy and requirements of c. 40B.
2. The Applicant controls the site, based on evidence that a related party holds purchase agreements for acquisition of the site and that the related party

and the Applicant hold a purchase and sale agreement for transfer of the site to Applicant for development of the Project, which are deemed by the subsidizing agency to be sufficient for site control as provided in the c. 40B regulations.

3. The Applicant and the proposed Project meet the general eligibility standards of the MassDevelopment Tax-Exempt Bond Financing Program. The application for financing will be subject to final review and approval by MassDevelopment as to eligibility under the standards of MassDevelopment's Tax-Exempt Bond Financing Program and subject to review and final approval under the c. 40B regulations at 760 CMR 56.04(7).
4. The site is generally appropriate for residential development, taking into account prior municipal actions to meet affordable housing needs in the municipality.

The Town provided in its comment letter as a description of its activities to provide affordable housing opportunities in the community a reference to its February 2011 approval of the transfer of a comprehensive permit issued in July 2006 to a developer for another c. 40B project to be located elsewhere in the Town, which project did not proceed in 2006. The Town indicates that at this time approximately 8.68% of its housing stock is considered affordable on the DHCD Subsidized Housing Inventory. The Town further noted that its current goal is to add 40 units to achieve its 10% goal of affordable housing. No information was provided concerning whether this other c. 40B project or any other affordable housing project is now proceeding in the municipality. No other municipal actions to create affordable housing were noted in the letter or otherwise noted by the Town or other parties. Based on the foregoing and on c. 40B and the regulations thereunder, MassDevelopment makes the finding stated above as required by the regulations.

5. The conceptual project design is generally appropriate for the site taking into consideration factors such as proposed use, conceptual site plan and building massing, topography, environmental resources, integration into existing development patterns.

The foregoing finding is made hereunder. MassDevelopment did note, however, in its Project review that while the proposed Project is generally appropriate for the site with respect to topography and buildings 1, 2, 4, 5, and 6 make good use of existing topography (and vegetation) to mitigate visual impact on the single-family home neighborhood to the west,

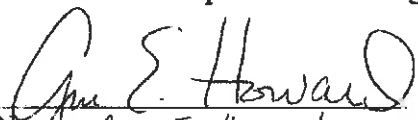
building 3 does not benefit from topographic buffering and that while three-story buildings are generally appropriate for this site and the Applicant has indicated it will add vegetation buffering, this building could benefit from further mitigation or site plan adjustments when the Project is reviewed by the Town.

6. The Project appears financially feasible within the rental housing market in which it is located, based on comparable figures provided by Applicant.
7. The initial pro forma has been reviewed, including a land valuation determination consistent with the Massachusetts Department of Housing and Community Development ("DHCD") guidelines. The Project appears financially feasible and consistent with the DHCD guidelines of Cost Examination and Limitations on Profits on the basis of estimated development costs.

This determination of project eligibility is not a binding commitment for financing from MassDevelopment, rather it is a project eligibility letter under the comprehensive permit (M.G.L. c. 40B) regulations for potential financing under the MassDevelopment Tax-Exempt Bond Financing Program only. This letter does not provide evidence of project eligibility for any other MassDevelopment financing program or for any financing that may be obtained from any other source. If financing is obtained from any other source, MassDevelopment has not agreed by issuance of this letter or otherwise to monitor the Project for compliance with c. 40B or its regulations or to otherwise act as the project administrator.

Any commitment for financing from MassDevelopment is subject to review and final approval of the final financing application and execution by Applicant of MassDevelopment's form of Regulatory Agreement and is subject to the approval of the Board of Directors of MassDevelopment.

Massachusetts Development Finance Agency

By:   
Name: Ann E. Howard  
Title: Chief Operating Officer

**EXHIBIT D—HOST COMMUNITY AGREEMENT**

1059  
MAYNES AND HARDINGTON LLP  
50 LEONARD ST, STE. 3  
BELMONT, MA 02478

2013 SEP 22 10:57  
Bk: 61667 Pg: 496 Doc: AGR  
Page: 1 of 58 04/08/2013 08:56 AM

# **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 (the "Selectmen"), and Fifteen Great Road, LLC, Fifteen Great Road II, LLC, John R. Keilly, as Trustee of Littleton Holding Realty Trust w/d/t dated April 8, 2010, John R. Keilly, as Trustee of Nashoba Place Realty Trust w/d/t dated December 22, 2011, recorded with Middlesex South District Registry of Deeds in Book 58164, Page 117, and Leslie J. French, as Trustee of JFM Realty Trust w/d/t dated February 24, 2006, recorded with Middlesex South District Registry of Deeds in Book 44725, Page 478 (individually and collectively, along with their respective successors and assigns, the "Developer") all having its notice address at 200 Baker Avenue, Suite 303, Concord, MA 01742, 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 has filed an application for a Comprehensive Permit pursuant to M.G.L. c. 40B, §20-23 to construct low and moderate income housing in a 190-unit development of multi-family rental housing (the "Village Green Development") on land off Great Road/State Highway Route 2A in Littleton, further described in the most recent Comprehensive Permit application filed by the Developer (the "40B Development"); and

WHEREAS the 40B Development is located on the land shown on the plan entitled "PLAN OF LAND, LOCATION; 15 GREAT ROAD, TOWN: LITTLETON, MASSACHUSETTS, PREPARED FOR: FIFTEEN GREAT ROAD LLC" Dated December 2, 2012, by Places Associates, Inc., to be recorded herewith in the Middlesex South Registry of Deeds ("ANR Plan") as Lot 1 (the "40B Property"); and

WHEREAS the 40B Development contains 190 rental housing units within 38 buildings, of which 48 are one-bedroom housing units, 78 are two-bedroom housing units and 64 are three-bedroom housing units for a total of 396 bedrooms; and

WHEREAS during the conduct of the public hearing on the Comprehensive Permit, the Zoning Board of Appeals ("ZBA") made the preliminary

WHEREAS the Developer is simultaneously in the process of developing, pursuant to the Subdivision Control Law, M.G.L. c. 41, §§81K-81BB, and pursuant to §§173-98 to 173-118 inclusive and §§173-16 to 173-18 inclusive of the Littleton Zoning Bylaw, an open space residential subdivision (the "Orchards Open Space Plan"), a copy of which plan is attached hereto as Exhibit A, on land off Grist Mill Road in Littleton, Massachusetts, further described in the most recent open space subdivision application filed by the Developer; and

WHEREAS Developer has also submitted to the Littleton Planning Board, as an alternative to the Orchards Open Space Plan, a so-called conventional subdivision plan ("Conventional Plan"), a copy of which Conventional Plan is attached hereto as Exhibit B; and

WHEREAS the Planning Board expressed concern during the public hearing on the Orchards Open Space Plan that the open space to be set aside by the Developer is not consistent with §§173-98 to 173-18 of the Littleton Zoning Bylaw and is not of substantial benefit to the Town; and

WHEREAS the Developer would prefer to pursue the Orchards Open Space Plan rather than the Conventional Plan and has offered to make a gift to the Town of \$100,000, to be used for active recreation purposes, as an alternative means of addressing the Planning Board's concerns regarding the nature of the open space associated with the Orchards development; and

WHEREAS, for the purposes of this Agreement, the term "Subdivision Property" shall mean the land shown on either the Orchards Open Space Plan or the Conventional Plan excluding any Non-Easement Lot, as that term is defined below and however any Non-Easement Lot may be reconfigured as provided in Paragraph 13 below, said Subdivision Property further being shown as Lot 2 on the ANR Plan and that portion of Lot 56A in Littleton as shown on a plan entitled "Plan of Land in Littleton/Westford, MA" dated September 13, 2000, recorded in the Middlesex South District Registry of Deeds as Plan Number 1890 of 2000; and the term "Subdivision Lot" shall mean any lot which is comprised of land within the Subdivision Property excluding any Non-Easement Lot, however reconfigured as provided in Paragraph 13 below; and

WHEREAS the Developer is anticipating the connection of homes constructed on the 40B Property and on the Subdivision Property to a wastewater

determination that the regional need for for-sale housing had not been demonstrated in the Town of Littleton, and that there did exist a regional need for affordable rental housing; and

WHEREAS given the rental nature of the 40B Development, all 190 housing units—both affordable and market rate—are eligible for inclusion on the Subsidized Housing Inventory ("SHI") under the rules of the Massachusetts Department of Housing and Community Development, and therefore may be used for the purpose of determining whether there presently exists in Town low or moderate income housing in excess of ten percent (10%) of the total housing units pursuant to M.G.L. c.40B, §20-23 (the "Statutory Minimum"); and

WHEREAS it is of vital importance to the Town that it satisfy the Statutory Minimum pursuant to M.G.L. c.40B, §20-23, and that it maintain this position on an ongoing basis; and

WHEREAS the inclusion of all 190 housing units on the SHI will cause the Town's SHI units to equal 13.97% of its total housing units, in excess of the Statutory Minimum pursuant to M.G.L. c.40B, §20-23; and

WHEREAS based on the Town's current housing stock and recent local development trends<sup>1</sup>, the Parties project that following the 2020 United States Census the 40B Development may need to provide up to one hundred (100) units to the SHI in order for the Town to maintain its position above the Statutory Minimum; and

WHEREAS it is understood by the Parties that Comprehensive Permit will include a condition requiring that "[a]ll rental units within the Project shall remain rental units in perpetuity", and the Parties wish to further establish, as a matter of contract and outside the regulatory process, that rental units will be preserved at the 40B Development as more specifically described below; and

<sup>1</sup> There are presently 291 housing units in the SHI; there are 3,443 total housing units in Town; and the Parties anticipate that there will be approximately 3,900 total housing units in Town at the time of the 2020 United States Census.

treatment facility (the "WWTF") it proposes to construct on the 40B Property; and

WHEREAS the Developer also seeks to connect Lot 41A (said Lot 41A as shown on a plan entitled "PHASE II 'Apple D'Or Farms' Subdivision of Land in Littleton, Massachusetts", dated January 2, 1996, and recorded with the Middlesex South District Registry of Deeds as Plan No. 704 of 1996), Lot 20B as shown on the ANR Plan and Lots 25B, 27B, 28B, 46A, 47A, 97A, 102A, 127A and 128A (said Lots 25B, 27B, 28B, 46A, 47A, 97A, 102A, 127A and 128A all being shown on a Plan of Land entitled "Plan of Land in Littleton, Massachusetts", dated September 8, 1999, and recorded in the Middlesex South District Registry of Deeds as Plan Number 1419 of 1999), and Lot 56A (said Lot 56A shown on a plan entitled "Plan of Land in Littleton/Westford, MA" dated September 13, 2000, recorded in the Middlesex South District Registry of Deeds as Plan Number 1890 of 2000), to the WWTF; and

WHEREAS in order to connect Lots 41A, 46A, 47A, 97A, 102A, 127A and 128A as described as aforesaid to the WWTF, the Developer needs to install underground sewer lines beneath Grist Mill Road and Surrey Lane (said Lots, hereinafter referred to as the "Easement Lots", are shown on Exhibit C); and

WHEREAS it is possible for the Developer to connect Lots 20B, 25B, 27B, 28B and 56A as described as aforesaid to the WWTF without installing underground sewer lines beneath Grist Mill Road and Surrey Lane (said Lots, even where incorporated into the Orchards Open Space Plan or Conventional Plan and however reconfigured, for purposes of payments under paragraphs 7 and 8 below and otherwise, hereinafter referred to as "Non-Easement Lots"); and

WHEREAS Lots 20B, 25B, 27B and 28B are owned by John R. Keilly, Trustee of the Littleton Holdings Realty Trust by virtue of a deed dated April 9, 2010, recorded in the Middlesex South District Registry of Deeds at Book 54593, Page 583 and Lot 56A is owned by John R. Keilly, Trustee of the Nashoba Place Realty Trust by virtue of a deed dated December 21, 2011, recorded in the Middlesex South District Registry of Deeds at Book 58164, Page 123 and in the Middlesex North District Registry of Deeds at Book 25579, Page 280; and



WHEREAS, the 40B Property is comprised of land owned by (1) John R. Keilty, as Trustee of the Littleton Holding Realty Trust, a trust established by declaration of trust dated April 8, 2010, pursuant to a deed dated April 9, 2010 and recorded in the Middlesex South District Registry of Deeds at Book 64633, Page 683 and a deed dated December 11, 2011 and recorded in the Middlesex South District Registry of Deeds at Book 68154, Page 126; (2) John R. Keilty, as Trustee of the Nashoba Place Realty Trust, a trust established by declaration of trust dated December 22, 2011, pursuant to a deed dated December 22, 2011 and recorded in the Middlesex South District Registry of Deeds at Book 68154, Page 128; and (3) Leslie J. French, as Trustee of the JFM Realty Trust, a trust established by declaration of trust dated February 24, 2005, pursuant to a deed dated February 28, 2005 and recorded in the Middlesex South District Registry of Deeds at Book 44726, Page 484;

WHEREAS, the Subdivision Property, whether shown on the Orchards Open Space Plan or on the Conventional Plan, is comprised of land owned by (1) John R. Keilty, as Trustee of the Littleton Holding Realty Trust, a trust established by declaration of trust dated April 8, 2010, pursuant to a deed dated April 9, 2010 and recorded in the Middlesex South District Registry of Deeds at Book 64633, Page 683; (2) John R. Keilty, as Trustee of the Nashoba Place Realty Trust, a trust established by declaration of trust dated December 22, 2011, pursuant to a deed dated December 22, 2011 and recorded in the Middlesex South District Registry of Deeds at Book 68154, Page 128; and (3) Leslie J. French, as Trustee of the JFM Realty Trust, a trust established by declaration of trust dated February 24, 2005, pursuant to a deed dated February 28, 2005 and recorded in the Middlesex South District Registry of Deeds at Book 44726, Page 484; and

WHEREAS the Parties wish to enter into this non-regulatory Agreement to memorialize their mutual understandings and undertakings with respect to the comprehensive and other permits and approvals to be considered for the Village Green Development, the Orchards Open Space Plan, the Conventional Plan, the Easement Lots and the Non-Easement Lots.

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.

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c. Written confirmation, within fourteen (14) days after filing of the Comprehensive Permit with the Town Clerk, by the Town and the Building Inspector/Zoning Enforcement Officer that the Comprehensive Permit and this Agreement authorize all land and lots within the Subdivision Property, the Easement Lots<sup>4</sup> and the Non-Easement Lots to be connected to and serviced by the WWTF so that all of said lots can be serviced by the WWTF (including, without limitation, to provide sewer service to single family homes and accessory structures and uses on all of said lots) without variances or waivers from the Littleton Zoning By-laws and any and all other statutes, rules, regulations or ordinances of the Town.

Notwithstanding the foregoing, provided that conditions precedent a and c have been performed, the Developer shall make the aforementioned payment of \$250,000 to the Town immediately upon sale of the 40B Property to a third party developer, or by January 2, 2014, whichever occurs sooner.

Until such time as the Developer makes payment to the Town pursuant to this Paragraph 8, and this Agreement is on record with the Middlesex South District Registry of Deeds, no Easement Lot, Non-Easement Lot or Subdivision Lot shall be connected to or served by the WWTF.

Upon receipt of payment of the \$250,000 provided for in this Paragraph 8, all of the 40B Property shall be discharged and released from all provisions of this Agreement except for Paragraph 14, below, by the Town Treasurer executing and delivering simultaneously with this payment a discharge in the form attached hereto as Exhibit F, which shall be modified as necessary to preserve the continuing obligations pursuant to said Paragraph 14.

4. (a) If the 2013 Annual Town Meeting authorizes the Board of Selectmen to convey Sewer Easements for all of the Easement Lots, (i) the Selectmen shall convey the Sewer Easements to the Developer immediately upon payment of the \$250,000 due under paragraph 8 above and (ii) simultaneous with and as a condition of conveyance of the Sewer Easements, the Developer shall also pay all outstanding taxes and interest due on the Easement Lots together with the Town's reasonable attorney's fees associated with the tax title actions relative to the Easement Lots.

<sup>4</sup> It is understood that the Easement Lots further require easements authorized by Town Meeting and conveyed by the Board of Selectmen. See Paragraph 2 above.

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1. The Town agrees to forthwith assent to a Motion or other appropriate pleading with the Land Court to set aside the tax title judgment dated April 12, 2012 in Land Court Case 10-TL-140733, the tax title judgment dated August 20, 2012 in Land Court Case 10-TL-140786 and the tax title judgment dated May 31, 2012 in Land Court Case 10-TL-140787, all subject to the terms set forth in the Stipulation to be filed with such Motion or pleading which is attached hereto as Exhibit D.

2. The Town shall seek at its 2013 Annual Town Meeting a vote authorizing the Board of Selectmen to convey the easements and rights needed from the Town to allow the Developer to install and maintain underground sewer lines and other appurtenant facilities<sup>5</sup> on, above or beneath Grist Mill Road and Surrey Road ("Sewer Easements"). The warrant article will seek authorization to convey Sewer Easements relative to all of the Easement Lots.

3. Immediately upon performance of all of the conditions precedent set forth in subparagraphs a through c, below (hereinafter referred collectively as the "Agreement Conditions Precedent"), the Developer shall pay to the Town the sum of \$250,000.00. The Agreement Conditions Precedent are as follows:

a. Issuance of a Comprehensive Permit by the Town of Littleton Zoning Board of Appeals ("ZBA"), with all appeal periods expired without any appeals being filed, or, if an appeal is filed, upon final resolution of such appeal upon the terms and conditions contained in the form attached hereto as Exhibit E, or upon such other terms and conditions to which the Developer agrees in writing prior to final Decision on the Comprehensive Permit.

b. Issuance by the Massachusetts Department of Environmental Protection and the Town of Littleton of all necessary permits to construct the WWTF, with all appeal periods having expired without appeal having been brought.

<sup>5</sup> For purposes of this Agreement, "other appurtenant facilities" shall mean cleanouts, manholes, markers, magnetic marking tape, insulation for the sewer lines, ports to identify where the sewer lines cross under the public way and such other appurtenances as are normally associated with the installation of such sewer lines.

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(b) If the 2013 Annual Town Meeting does not authorize the Board of Selectmen to convey Sewer Easements for all of the Easement Lots, the \$250,000 paid under Paragraph 8 shall be applied to payments that become due under Paragraphs 7, 8, 9, 10 and 11 below, until the balance is thereby exhausted, and the Town and the Developer shall jointly seek reinstatement of the Land Court tax title judgments applicable to the Easement Lots on which the outstanding taxes have not been paid.

5. The Developer hereby forever waives and releases any and all claims and causes of action now in existence that otherwise provide a basis to install and maintain underground sewer lines and other appurtenant facilities beneath Grist Mill Road and Surrey Road necessary to connect the Easement Lots to the WWTF to provide sewer service to a single family home on each of the Easement Lots; provided, however, that nothing herein contained shall be deemed to waive or release any claims or causes of action to enforce the provisions of this Agreement, including, without limitation, rights conveyed in accordance with this Agreement to install and maintain underground sewer lines and other appurtenant facilities beneath Grist Mill Road and Surrey Road necessary to connect the WWTF to the Easement Lots so that all of the Easement Lots can be serviced by the WWTF to provide sewer service to a single family home and accessory structures and uses on each of the Easement Lots. The parties waive all rights to appeal a Comprehensive Permit issued by the ZBA upon the terms and conditions contained in the form attached hereto as Exhibit E, or upon such other terms and conditions to which the Developer agrees in writing prior to final Decision on the Comprehensive Permit.

6. The parties acknowledge that except for the payments provided for in Paragraphs 3 and 4(a) above, as applicable, no other payments shall be due from Developer pursuant to this Host Community Agreement with respect to the Easement Lots. Upon receipt of the payments provided for in Paragraphs 3 and 4(a) above, as applicable, all of the Easement Lots shall be discharged and released from this Agreement by the Town Treasurer executing and delivering simultaneously with said payment(s) discharge in the form attached hereto as Exhibit F for all of the Easement Lots.

7. For each Non-Easement Lot that is connected to and serviced by the WWTF, so that said Non-Easement Lot can be serviced by the WWTF to provide sewer service to a single family home on said Non-Easement Lot, and

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on which the Developer, its successor or assignee has constructed a finished home, the Developer, its successor or assignee shall pay the Town a one-time payment of 8% of the gross sales price.

8. Provided that the Planning Board on or before February 28, 2013, without necessity of appeal by the Developer, either:

(a) issues a special permit and approval under the Subdivision Control Law, and thereafter with all appeal periods expired without any appeals being filed by any party to this Agreement, for the Orchards Open Space Plan, which special permit and approval permit at least seventeen (17) Subdivision Lots without conditions preventing any of said Subdivision Lots from being connected to and serviced by the WWTF to provide sewer services to a single family home and accessory structures and uses on all of said Subdivision Lots and either (i) grant the waiver in the form requested for the length of dead-end street with a T-turnaround as shown on the Orchards Open Space Plan heretofore submitted to the Planning Board on or about October 2, 2012, or (ii) grant a waiver in the form of a cul de sac without an emergency access as submitted in response to peer review comments on or about January 10, 2013, or (iii) permit the dead end street shown on Exhibit A to be extended to Crist Mill Road; or

(b) issues approval under the Subdivision Control Law, with all appeal periods expired without any appeals being filed by any party to this Agreement, for the Conventional Plan, which approval permits at least seventeen (17) Subdivision Lots without conditions preventing any of said Subdivision Lots from being connected to and serviced by the WWTF to provide sewer services to a single family home and accessory structures and uses on all of said Subdivision Lots;

and in the case of either (a) or (b) above, not subject to any conditions that are more onerous to the Developer than the standard conditions imposed by the Planning Board to implement and enforce the performance standards and other regulations set forth in the Planning Board's rules and regulations adopted under G. L. c. 41, s. 81Q and the state Subdivision Control Law; then for each Subdivision Lot approved by the Planning Board that is connected to and serviced by the WWTF and on which the Developer, its successor or assignee has constructed a finished home, the Developer, its successor or assignee shall pay the Town a one-time payment of 4.25% of the gross sales price. Further, provided that if the Planning Board shall approve the

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having terminated. Credits under this Paragraph 9 shall be applied to payments that become due under Paragraphs 7, 8, 9, 10 and 11, until the balance is thereby exhausted.

10. Payments, if and to the extent due pursuant to Paragraphs 7, 8 or 9, as the case may be, shall be rendered at the time a Non-Easement Lot or Subdivision Lot with a finished home is sold to a good faith purchaser in an arms' length transaction and the deed is recorded. This obligation shall run with all of the land (except as may be discharged from time to time) that is subject to this Agreement and shall be binding upon any successors and assigns of the Developer until such time as the percentage payment is made to the Town. Upon payment, if and to the extent due, of the percentage due for a lot (whether for a Non-Easement Lot or a Subdivision Lot) under Paragraph 8 above or, at Developer's option, application of the credits due under Paragraphs 4(b) or 9 above, the Town Treasurer shall simultaneously execute and deliver a discharge of such lot in the form attached hereto as Exhibit F.

11. If not previously released and discharged from this Agreement, no structure on a Non-Easement Lot or Subdivision Lot that is connected to or serviced by the WWTF to provide sewer service to said structure may be occupied or otherwise used for residential purposes until a payment with respect to said Non-Easement Lot or Subdivision Lot pursuant to Paragraphs 7, 8 and 9 has been made; provided, however, that to the extent any assignee or successor in title of the Developer, or any other person or entity, seeks to occupy a structure on a Non-Easement Lot or Subdivision Lot that is connected to or serviced by the WWTF, for which a payment pursuant to Paragraphs 7, 8 and 9 has not been made, they shall:

- (a) for a Non-Easement Lot make a one-time payment to the Town of \$54,000.00 or 8% of the appraised value of property and improvements, whichever is higher; and
- (b) in the case of approval of the Orchards Open Space Plan or Conventional Plan with at least 17 Subdivision Lots make a one-time payment to the Town of \$23,375.00 or 4.25% of the appraised value of the property and improvements, whichever is higher; and

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Orchards Open Space Plan as provided in Paragraph 8(a) above with at least nineteen (19) Subdivision Lots, the Developer or its successor or assignee shall make a one-time payment of \$100,000 within thirty (30) days after the expiration of time to appeal the Open Space special permit under M.G.L. c. 40A, §17 and expiration of time to appeal under the Subdivision Control Law under M.G.L. c. 41, §81BB, without any appeals having been filed or, in the event that such an appeal(s) has been filed, within thirty (30) days after the approval of the Orchards Open Space Plan, both as to its special permit and subdivision approval, become final. The Town shall use said payment of \$100,000 for active recreation purposes. For purposes of this Agreement: (a) "finished home" shall be defined as a home sufficiently completed so as to be entitled to an occupancy permit issued by the Town of Littleton Building Commissioner/Zoning Enforcement Officer; and (b) "gross sales price" shall be defined as the price that a good faith purchaser unrelated to and without any financial interest in the seller pays as part of an arm's length conveyance of the finished home and underlying lot, plus all extras and additions, without any adjustment for costs or expenses of sale.

9. In the event that on or before February 28, 2013, the Planning Board does not approve either the Orchards Open Space Plan or the Conventional Plan, in either case with at least seventeen (17) Subdivision Lots being permitted without conditions preventing any of said Subdivision Lots from being connected to and be serviced by the WWTF to provide sewer service to a single family home and accessory structures and uses, then Developer may, at its option, appeal the decision(s) of the Planning Board and shall be entitled to the following reductions and credits against the payments provided for in paragraph 8 above as follows: (a) If the number of Subdivision Lots finally approved which may connect to and be serviced by the WWTF is less than 17, then the one-time payment provided for in paragraph 8 above for each Subdivision Lot shall be 8.5% of the gross sales price (rather than 4.25%); and (b) the Developer shall be entitled to a credit of \$50,000.00 if final approval of the Orchards Open Space Plan or Conventional Plan is not obtained prior to August 28, 2013, a further additional credit of \$50,000.00 if final approval is not obtained before February 28, 2014 and a further additional credit of \$50,000.00 if final approval is not obtained before August 28, 2014. For the purposes hereof, "final approval" shall mean endorsement of subdivision approval, pursuant to M.G.L. c. 41, section 81V on the Orchards Open Space Plan or Conventional Plan as approved and, if the Orchards Open Space Plan is approved, issuance of the necessary Special Permit pursuant to the provisions of the Littleton Zoning Bylaw, all appeals periods

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- (c) in the case of approval of the Orchards Open Space Plan or Conventional Plan with less than 17 Subdivision Lots make a one-time payment to the Town of \$19,850.00 or 8.5% of the appraised value of the property and improvements, whichever is higher.

Upon payment or, at Developer's option, application of the credits due under Paragraphs 4(b) or 9 above, such Lot shall be released and discharged from this Agreement and the Town Treasurer shall execute and deliver a discharge in the form attached hereto as Exhibit F. Nothing contained in this paragraph shall relieve the Developer of its obligation to make payments as required by Paragraphs 7, 8, 9 and 10, but in the event a payment is made pursuant to this paragraph it shall be in lieu of, and not in addition to, payment under said Paragraphs 7, 8, 9 and 10.

12. So long as the Developer complies with its DEP Permit for the WWTF, no payments shall be due under Paragraphs 7, 8, 9, 10 and 11 as to any lots that cannot connect to and use the WWTF so that said lots can be serviced by the WWTF to provide sewer service to a single family home on said lots.

13. The Developer may reconfigure any Non-Easement Lot so as to add some portion of its area to another lot(s), including a Subdivision Lot, provided that no such reconfiguration shall cause there to be fewer than five (5) Non-Easement Lots on which single family homes can be constructed, and for which the Town shall be paid pursuant to the terms of this Agreement.

14. If the 40B Development is converted, in whole or in part, from a rental project to a homeownership project, upon such conversion there shall be a sufficient number of housing units eligible to be included in the Department of Housing and Community Development Subsidized Housing Inventory ("SHI"), for the Town's SHI so that the Town's eligible housing units are at least ten percent (10%) of the total housing units, or such lesser percentage as may be permitted by 760 CMR 66.03(3)(a) or by any successor regulations; provided however, that in no event shall the Developer be required to maintain more than 100 housing units eligible to be included in the Town's SHI upon such conversion. All of the aforesaid provisions of this paragraph shall be null and void and of no force and effect upon the earliest to occur of the following: (a) if, as and when M. G. L. c. 40B, §§20-23 and any regulations, rules or guidelines promulgated thereunder no longer count rental units in the 40B development as housing units eligible to be included

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in the Town's SHI; (b) if as and when M. G. L. c. 40B, §§20-23 and any regulations, rules or guidelines promulgated thereunder no longer count all the housing units (both affordable and market rate) in the 40B Development as housing units eligible to be included in the Town's SHI; (c) if the provisions of M. G. L. c. 40B, §§20-23 are repealed and its requirement that the Town maintain a certain percentage of the total housing stock as low or moderate income housing is not contemporaneously replaced or reproduced elsewhere in the laws of the Commonwealth of Massachusetts; or (d) January 1, 2031.

Upon the expiration of the provisions of this Paragraph as provided for above, nothing contained in this Agreement shall be construed as relieving the Developer of its obligation to provide the minimum number of low or moderate income housing units for the 40B Development then required by M.G.L. c.40B, §§20-23, the regulations, rules and guidelines promulgated thereunder, or the successor requirements then in effect, and the Developer will maintain the number of low or moderate income housing units required in the 40B Development as aforesaid after January 1, 2031.

Nothing contained in this Section shall be construed as approval or endorsement, on behalf of the Town, of the conversion, in whole or in part, of the 40B Development from a rental project to a homeownership project.

15. The obligations contained in this Agreement are contractual and not regulatory. Neither the terms of this Agreement, nor the decision of any party as to whether any term or terms may be altered, amended, waived or released may be the subject of any regulatory or permitting appeal, whether to the Housing Appeals Committee or otherwise.

16. 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.

17. Joint and Several. The obligations of the Developer shall be joint and several.

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

*Civil/Grant/Grant Rd/Neighborhood Community Agreement 2.11.13 C1348*

D'Agostino, Levine, Parra & Netburn, P.C.  
P.O. Box 2223, 268 Main Street  
Acton, MA 01720

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.

22. From time to time, upon the request of the Town or the Developer, each agrees at the expense of the requesting party, to execute, in recordable form, amendments to this Agreement that clarify as a matter of record the local permitting actions that have been taken and the obligations of the Developer pursuant to this Agreement that have thereby been triggered. Such an amendment shall be for informational purposes only; no action taken or not taken pursuant to this Paragraph shall have any effect on the obligations of the Developer or the Town pursuant to this Agreement.

23. The Developer may assign their rights and obligations under this Agreement to any other party or entity in connection with a conveyance of some or all of the real property affected hereby at any time and without permission of the Town and likewise, any assignee may similarly assign their rights and obligations under this Agreement to any other party or entity at any time without permission of the Town; provided, however, the Town shall be sent written notice of any such assignment(s).

24. This Agreement shall be binding upon the Parties and their successors and assigns, and shall run with the land, for a term of one hundred (100) years, unless sooner discharged, and shall be recorded with the Middlesex South District Registry of Deeds and properly indexed to the chain of title for all of the real property affected hereby.

25. Provided that the Agreement Conditions Precedent contained in Paragraph 3.a through c have occurred, and all payments then required by

*Civil/Grant/Grant Rd/Neighborhood Community Agreement 2.11.13 C1348*

19. 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.

20. 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.

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

Board of Selectmen  
Town of Littleton  
Town Office Building  
87 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:

Omni Development, LLC  
c/o David Hale  
200 Baker Avenue, Suite 303  
Concord, MA 01742

With a copy to:

Louie N. Levine, Esq.  
*Civil/Grant/Grant Rd/Neighborhood Community Agreement 2.11.13 C1348*

this Agreement have been made, the Town shall actively support the Developer in any judicial or administrative proceeding in which the Town or any of its Boards or officials are named as a defendant or respondent (excluding any appeal by the Developer of the Planning Board's decision on the Orchard Open Space Plan or the Conventional Plan) and which involve the right of the Developer or its successors and assigns, as the case may be, to connect all of the lots within the Subdivision Property, the Easement Lots and the Non-Easement Lots, or any one or more of them, to the WWTF, so that all of said lots can be serviced by the WWTF to provide sewer services to a single family home and all accessory structures and uses on all of said lots pursuant to the Comprehensive Permit, this Agreement and the Building Inspector/Zoning Enforcement Officer's determinations, referenced in Paragraph 8(c) above.

*[Remainder of page intentionally left blank]*

*Civil/Grant/Grant Rd/Neighborhood Community Agreement 2.11.13 C1348*

Executed as an instrument under seal this 17 day of February, 2013.

DEVELOPER:

Fifteen Great Road, LLC

By: [Signature]  
David E. Hale, Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 17 day of February, 2013, before me, the undersigned notary public, personally appeared David E. Hale as Manager of Fifteen Great Road, LLC, and proved to me through satisfactory evidence of identification, which were known to me, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]  
Notary Public: Thomas F. Harrington  
My Commission Expires: April 1, 2016

[Remainder of page intentionally left blank]

Civil/Probate/Grant Rd/Hort Community Agreement 2.11.13 CLJ/gf

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Fifteen Great Road II, LLC

By: [Signature]  
David E. Hale, Manager

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned notary public, personally appeared David E. Hale as Manager of Fifteen Great Road II, LLC, and proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:  
My Commission Expires:

[Signature]  
John R. Keilty, Trustee  
LITTLETON HOLDING REALTY TRUST

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 14th day of February, 2013, before me, the undersigned notary public, personally appeared John R. Keilty as Trustee of Littleton Holding Realty Trust, and proved to me through satisfactory evidence of identification, which were Mass Driver's License, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]  
Notary Public: Christine M. Baker  
My Commission Expires: 6-15-2017

Civil/Grant Rd/Hort Community Agreement 2.11.13 CLJ/gf

Fifteen Great Road II, LLC

By: [Signature]  
David E. Hale, Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 17 day of February, 2013, before me, the undersigned notary public, personally appeared David E. Hale as Manager of Fifteen Great Road II, LLC, and proved to me through satisfactory evidence of identification, which were known to me, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]  
Notary Public: Thomas F. Harrington  
My Commission Expires: April 1, 2016

John R. Keilty, Trustee

LITTLETON HOLDING REALTY TRUST

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned notary public, personally appeared John R. Keilty as Trustee of Littleton Holding Realty Trust, and proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:  
My Commission Expires:

Civil/Grant Rd/Hort Community Agreement 2.11.13 CLJ/gf

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[Signature]  
John R. Keilty, Trustee  
NASHOBA PLACE REALTY TRUST

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this 14th day of February, 2013, before me, the undersigned notary public, personally appeared John R. Keilty as Trustee of Nashoba Place Realty Trust, and proved to me through satisfactory evidence of identification, which were Mass Driver's License, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature]  
Notary Public: Christine M. Baker  
My Commission Expires: 6-15-2017

Leslie J. French, Trustee  
JFM REALTY TRUST

COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned notary public, personally appeared Leslie J. French as Trustee of JFM Realty Trust, and proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:  
My Commission Expires:

Civil/Grant Rd/Hort Community Agreement 2.11.13 CLJ/gf

John R. Keilly, Trustee  
NASHOBA PLACE REALTY TRUST

COMMONWEALTH OF MASSACHUSETTS

ss.

On this \_\_\_ day of \_\_\_, 2013, before me, the undersigned notary public, personally appeared John R. Keilly as Trustee of Nashoba Place Realty Trust, and proved to me through satisfactory evidence of identification, which were \_\_\_ to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

*[Signature]*  
Leslie J. French, Trustee  
JFM REALTY TRUST

Notary Public:  
My Commission Expires:  
My Commission expires April 4, 2014

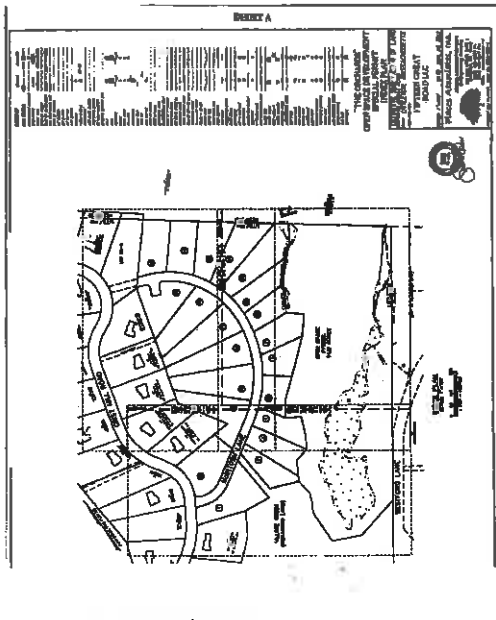
COMMONWEALTH OF MASSACHUSETTS

Middlesex ss.

On this 11 day of February, 2013, before me, the undersigned notary public, personally appeared Leslie J. French as Trustee of JFM Realty Trust, and proved to me through satisfactory evidence of identification, which were known to me to be the person whose name is signed to the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

*[Signature]*  
Notary Public: Thomas J. Harrington  
My Commission Expires:  
My Commission expires April 1, 2014

Civil/Grant/Grant Rd/Host Community Agreement 2.11.13 CL0001



Civil/Grant/Grant Rd/Host Community Agreement 2.11.13 CL0001

TOWN:

TOWN OF LITTLETON  
By its Board of Selectmen

*[Signature]*  
JOSEPH CHANNERY  
*[Signature]*  
TED DUNCETTE  
*[Signature]*  
JIM KARR  
*[Signature]*  
JOSEPH KNOX

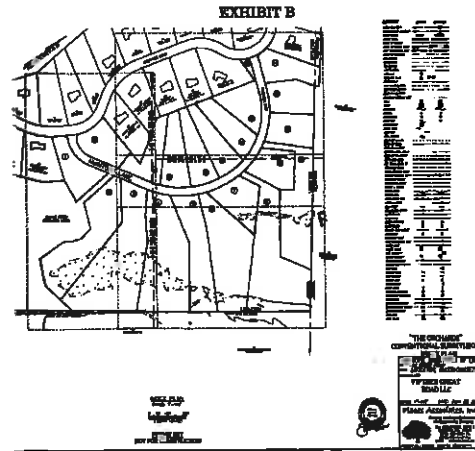
COMMONWEALTH OF MASSACHUSETTS

Middlesex ss.

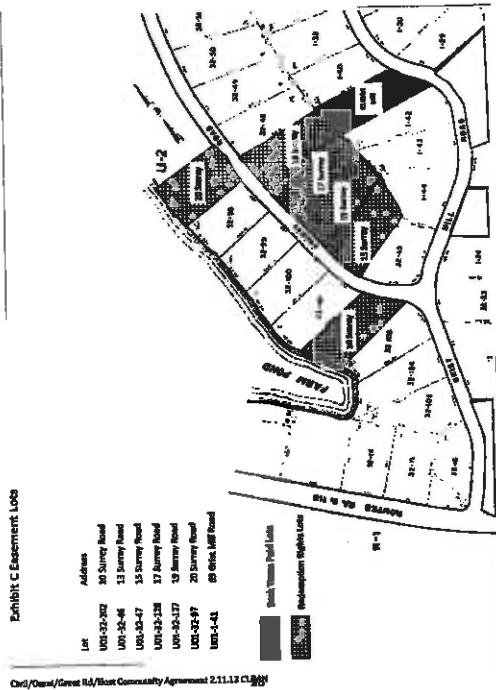
On this 11 day of February, 2013, before me, the undersigned notary public, personally appeared: Erga Channery, Jim Karry, Ted Duncette and Joseph Knox as Members of the Board of Selectmen of the Town of Littleton, and proved to me through satisfactory evidence of identification, which were known to me to be the persons whose names are signed to the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

*[Signature]*  
Notary Public: Thomas J. Harrington  
My Commission Expires:  
My Commission expires April 1, 2014

Civil/Grant/Grant Rd/Host Community Agreement 2.11.13 CL0001



Civil/Grant/Grant Rd/Host Community Agreement 2.11.13 CL0001



**Exhibit D  
STIPULATION**

**COMMONWEALTH OF MASSACHUSETTS  
LAND COURT  
DEPARTMENT OF THE TRIAL COURT**

MIDDLESEX, SS.

LAND COURT DEPARTMENT  
OF THE TRIAL COURT  
CASE NO. 10 TL 140783  
CASE NO. 10 TL 140786  
CASE NO. 10 TL 140787

TOWN OF LITTLETON  
Plaintiff

vs.

JOHN R. KEILTY, TRUSTEE OF  
LITTLETON HOLDING REALTY  
TRUST  
Defendant

**STIPULATION**

TOWN OF LITTLETON  
Plaintiff

vs.

LITTLETON LAND CORP.  
Defendant

**STIPULATION**

Now comes the parties in the above entitled action and agree as follows:

IT (1) by February 1, 2014, the taxes, interest and other appropriate costs are not paid to the Town upon conveyance of all necessary easements and rights to install and maintain underground sewer lines beneath Grist Mill Road and Surrey Road to connect the Waste Water Treatment Facility ("WWTF") to be constructed on the land adjacent to the Apple D'Or Subdivision which is the subject of a Comprehensive Permit application presently pending with the Town of Littleton Board of Appeals, to Lot 41A (said Lot 41A as shown on a plan entitled "PHASE II 'Apple D'Or Farms' Subdivision of Land in Littleton, Massachusetts", dated January 2, 1998, and recorded with the Middlesex South District Registry of Deeds as Plan No. 704 of 1998), and Lots 46A, 47A, 97A, 102A, 127A and 128A (said Lots all being shown on a Plan of Land entitled "Plan of Land in Littleton, Massachusetts", dated September 8, 1999, and recorded in the Middlesex South

District Registry of Deeds as Plan Number 1419 of 1999), so that all of the aforesaid seven (7) Lots can be serviced by the WWTF, with said conveyance having been authorized by vote of the Town Meeting occurring on or before June 30, 2013 and the conveyance of said rights and easements all in accordance with a Host Community Agreement dated \_\_\_\_\_, 2013; or (2) the Town Meeting does not authorize the conveyance of all necessary easements and rights on or before June 30, 2013; then Judgment shall enter for the Plaintiff, Defendants waiving all rights to object to said Judgment and all rights to appeal.

Respectfully submitted,  
TOWN OF LITTLETON  
The Plaintiff  
By Its Attorneys,

JOHN R. KEILTY, TRUSTEE OF  
LITTLETON HOLDING REALTY TRUST  
The Defendant  
By His Attorneys,

James E. Coppola, Jr., Esq. BBO #098860  
Coppola & Coppola  
40 South Street, Ste. 204  
Marblehead, Massachusetts 01945  
(781) 639-0140

Marshall F. Newman, Esq. BBO #370580  
Newman & Newman, P.C.  
1 McKinley Square  
Boston, Massachusetts 02108  
(617) 227-3361

LITTLETON LAND CORP.  
The Defendant  
By its Attorneys,

**Exhibit E  
DRAFT COMPREHENSIVE PERMIT**

**TOWN OF LITTLETON, MASSACHUSETTS  
ZONING BOARD OF APPEALS  
DECISION UPON APPLICATION OF  
FIFTEEN GREAT ROAD II, LLC  
FOR A COMPREHENSIVE PERMIT**

**I. BACKGROUND**

**APPLICANT:** Fifteen Great Road II, LLC (the "Applicant")

**PROPERTY:** 15 Great Road, Littleton MA, being Lot 1 containing 21.17 +/- acres of land as shown on a plan entitled "Plan of Land, Littleton: 15 Great Road, Town: Littleton, Massachusetts, Prepared for Fifteen Great Road, LLC, dated December 2, 2012" (the "ANR Plan", a copy of which is attached hereto as "Exhibit A").

**ZONING:** Residence (R) District

**THE PROJECT:** 190-unit development of multi-family rental housing, together with wastewater treatment facility and maintenance building, clubhouse/leasing office, recycling center and other facilities, all as shown on the Civil Plans listed below.

**PUBLIC HEARING:** The Zoning Board of Appeals (the "ZBA") opened its public hearing on the Application on September 27, 2011, conducted a view of the premises on October 1, 2011, and held continued sessions of the public hearing on October 12, 2011, October 20, 2011, November 17, 2011, December 15, 2011, January 19, 2012, February 16, 2012, March 5, 2012, April 12, 2012, May 17, 2012, June 21, 2012, July 12, 2012, August 16, 2012, September 18, 2012, October 18, 2012, November 15, 2012, December 13, 2012, December 18, 2012 and January 17, 2013. The ZBA voted to close the public hearing on January 17, 2013.

**DECISION DATE:** \_\_\_\_\_, 2013

\*The Applicant submitted a revised application at the February 16, 2012 session of the public hearing; the ZBA then provided notice of the revised application pursuant to M.G.L. c.40B, §91 and M.G.L. c.40A, §11 before reconvening the public hearing on March 5, 2012.

Civ./Comm./Great Rd./Hous. Community Agreement 2.11.13 CLEAN 27

Civ./Comm./Great Rd./Hous. Community Agreement 2.11.13 CLEAN 28

**APPROVED PLANS:** This Decision is based on the following plans submitted for the ZBA's consideration, all of which plans listed below by this Decision the ZBA has approved:

**Architectural Plans**

Building	Floor	Floor	Floor	Elevation	Elevation
<b>Cover Page</b>	<b>Date</b>				
TH3A	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.3	A.103.3	A.103.4	A.301.5	A.302.5
Date	11/30/12	11/30/12	11/30/12	12/18/12	12/18/12
TH3B	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.7	A.103.6	A.103.8	A.301.10	A.302.11
Date	11/30/12	11/30/12	11/30/12	12/18/12	12/18/12
TH3C	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.12	A.103.13	A.103.14	A.301.16	A.302.16
Date	11/30/12	11/30/12	11/30/12	12/18/12	12/18/12
TH3CDU	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.17	A.103.18	A.103.19	A.301.20	A.302.21
Date	11/30/12	11/30/12	11/30/12	11/30/12	11/30/12
TH4A	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.32	A.103.23	A.103.24	A.301.35	A.302.36
Date	11/30/12	11/30/12	11/30/12	12/18/12	12/18/12
TH4B	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.27	A.103.25	A.103.26	A.301.30	A.302.31
Date	11/30/12	11/30/12	11/30/12	12/18/12	12/18/12
TH4C	First Floor	Second Floor	Third Floor	Front / Right Elevation	Rear / Left Elevation
Page	A.101.33	A.103.33	A.103.34	A.301.35	A.302.36
Date	11/30/12	11/30/12	11/30/12	12/18/12	12/18/12

Civ./Comm./Great Rd./Hous. Community Agreement 2.11.13 CLEAN 29

Building	Floor	Floor	Floor	Floor	Elevation	Elevation
TH4CDU	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page	A.101.37	A.103.38	A.103.39		A.301.40	A.302.41
Date	11/30/12	11/30/12	11/30/12		11/30/12	11/30/12
TH5B	First, Second, Third Floor				Front, Right, Left and Rear Elevation	
Page	A.101.42				A.301.43	
Date	11/30/12				12/18/12	
TH5B	First, Second, Third Floor				Front, Right, Left and Rear Elevation	
Page	A.101.44				A.301.46	
Date	11/30/12				12/18/12	
A,B,C,D	First Floor	Second Floor	Third Floor	Loft	Front, Right, Left, Rear Elevation	
Page	A.101.46	A.103.47	A.103.48	A.104.49	A.301.50	
Date	11/30/12	11/30/12	11/30/12	11/30/12	12/18/12	
Clubhouse	Floor Plan				Front and Right Elevation	Rear and Left Elevation
Page	A.101.51				A.301.52	A.302.53
Date	11/30/12				11/30/12	11/30/12
WWTF Building	Maintenance Floor				Front, Right, Left, Rear Elevation	
Page	A.101.54				A.301.55	
Date	11/30/12				11/30/12	

**Civil Plans**

Page	Title Block Date	Last Revision Date	Plan Number
Cover Sheet	July 9, 2012	December 4, 2012	CP-1
Notes and Legend	July 9, 2012	November 1, 2012	6503-CP-2
Index Plan	July 9, 2012	November 1, 2012	6503-CP-3
Site and Utility 1 of 2	July 9, 2012	December 4, 2012	6303-CP-4
Site and Utility 2 of 2	July 9, 2012	December 4, 2012	6303-CP-5
Grading Plan 1 of 2	July 9, 2012	November 1, 2012	6303-CP-6
Grading Plan 2 of 2	July 9, 2012	November 1, 2012	6303-CP-7

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Drainage Plan 1 of 2	2012 July 9, 2012	2012 November 1, 2012	6908-CF-8
Drainage Plan 2 of 2	2012 July 9, 2012	2012 November 1, 2012	6908-CF-9
Construction Details	2012 July 9, 2012	2012 December 4, 2012	6908-CF-10
Construction Details	2012 July 9, 2012	2012 December 4, 2012	6908-CF-11
Landscape Plan 1 of 2	2012 November 1, 2012	2012 December 4, 2012	6908-L-1
Landscape Plan 2 of 2	2012 November 1, 2012	2012 December 17, 2012	6908-L-2
Zoning Exception Plan	2012 July 9, 2012	2012 December 4, 2012	6908-ZEP
Plan of Land	2012 December 2, 2012		6308-ANR-1

**Signs**

Entrance Sign			
Page	A.501.56		
Date	11/30/12		
Rental Sign			
Page	A.501.57		
Date	11/30/12		

**II. THRESHOLD DETERMINATIONS****Jurisdictional/Eligibility Requirements:**

Pursuant to the Act and the Regulations, 760 CMR 56.04(1), an applicant for a comprehensive permit must fulfill, at a minimum, three initial jurisdictional requirements to be eligible to submit an application to the ZBA for a comprehensive permit. These are:

- The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization;
- The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
- The Applicant shall control the Property.

Pursuant to 760 CMR 56.04(1), compliance with these project eligibility requirements "shall be established by issuance of a written determination of Project Eligibility by the Subsidizing Agency that contains all the findings required under 760 CMR 56.04(4), based upon its initial review of the Project and the Applicant's Civil/Consent/Grant Rd/Neighborhood Agreement 2.11.13 CLEAN 31

low or moderate income housing in a 200-unit development of multi-family rental housing approximately 21.18 acres of land off Great Road/State Highway Route 2A in Littleton. As originally proposed, the project was to have either 20% of its units restricted to occupants earning no more than 50% of the area median income or 25% of the units restricted to occupants earning no more than 80% of the median income, and the Applicant proposed construction of seven buildings including a clubhouse.

Pursuant to notice duly mailed, published and posted pursuant to G. L. c. 40A, §11, the ZBA opened its public hearing on the Application on September 27, 2011. The ZBA conducted a view of the premises on October 1, 2011 and October 16, 2011 and held continued sessions of the public hearing on October 12, 2011, November 17, 2011, December 15, 2011, January 18, 2012 and February 16, 2012.

On February 16, 2012, the Applicant submitted a revised application, which among other things reconfigured the land involved with the Project. In its reconfigured form, the Project contains approximately 21.17 acres of land. In response to comments from the Town, the ZBA and the neighbors, the Applicant agreed during the course of the public hearing to reduce the number of units in the Project to 190, to lower the height of the buildings, to use an architectural design more compatible with the rural character of the Town and the scale of existing buildings in the neighborhood.

Pursuant to notice duly mailed, published and posted pursuant to G. L. c. 40A, §11, the ZBA re-advertised and re-noticed the public hearing on the amended application. The ZBA and the Applicant entered into an agreement confirming that all of the information submitted prior to the amended application would be part of the amended application and would be considered by the ZBA in connection with its consideration of the amended application. The ZBA considered the amended application during sessions of the public hearing held on March 5, 2012, April 12, 2012, May 17, 2012, June 21, 2012, July 12, 2012, August 16, 2012, September 18, 2012, October 18, 2012, November 15, 2012, December 13, 2012, December 18, 2012, and January 17, 2013.

The Applicant and the ZBA agreed to extend the time for the ZBA to render its decision on the amended application to January 1, 2013. All sessions of the public hearings were recorded by detailed minutes. Minutes and exhibits are available for public review in the ZBA's office. A list of the Hearing Exhibits is contained in the record.

Sitting for the ZBA and present throughout the public hearing were: Sherrill Gould (Chairman), William Farnsworth (Vice Chairman), Jeff Yates (Clerk), John Cantino (Assistant Clerk), Cheryl Hollinger (Member), Rod Stewart (Alternate), Marc Saucier (Alternate) and Alan Bell (Alternate).

qualifications in accordance with 760 CMR 56.04." The Applicant has submitted into the record a Project Eligibility Letter from MassDevelopment dated June 30, 2011. The threshold jurisdictional requirements of 760 CMR 56.04(1) are therefore deemed satisfied.

**Consistency with Statutory and Regulatory Needs**

Littleton has made significant progress with respect to its affordable housing stock, with a subsidized housing inventory (as of May 10, 2012) of 8.5%. Nonetheless, Littleton does not presently meet the Statutory Minimum as defined by 760 CMR 56.03(3). With this being the case, Littleton's Zoning Bylaw and its other local bylaws and regulations which ordinarily apply to development in the Town may be waived by a comprehensive permit issued by this ZBA upon a proper showing that such bylaws and regulations are not consistent with local needs within the meaning of M.G.L. c.40B, §§20-23.

The ZBA made a preliminary determination that the regional need for for-sale housing has not been demonstrated in the Town of Littleton due to the fact that the last several for-sale housing projects created by the 40B process or local action initiative have either been undersubscribed after extensive advertising, or have failed due to the Developer's insolvency during construction. The ZBA did determine, however, that the need for affordable rental housing is demonstrated by the fact that Littleton does not presently allow the construction of multi-family rental housing by local ordinance and that there exists in the Town only one affordable multi-family housing project which is unrestricted as to age. The ZBA also made a preliminary determination that adding all 190 units to the rental stock would aid in reaching the statutory minimum for affordable housing in Town.

The ZBA was satisfied that the Applicant demonstrated a proper showing that there exists a need for affordable rental housing stock.

**Completeness of Application**

In addition to the above jurisdictional requirements, an applicant for a comprehensive permit must comply with both the Regulations, 760 CMR 56.05(2), and the ZBA's regulations governing the content of a comprehensive permit application. Under both of the above said sets of regulations, an application must contain certain documentation and plans. The Applicant fulfilled all of the applicable application requirements.

**III. PROCEDURAL HISTORY**

On or about August 18, 2011, the Applicant filed an application for a Comprehensive Permit pursuant to M.G.L. c.40B, §§20-23 (the "Act") to construct Civil/Consent/Grant Rd/Neighborhood Agreement 2.11.13 CLEAN 32

To assist in its review of the Project, the ZBA retained Edward H. Marchant, 9 Rawson Road, Brookline, MA 02445 to provide advice on the interpretation and application of G. L. c. 40B; Graves Engineering, Inc., 101 Grove Street, Worcester, MA 01605 to conduct the civil engineering peer review of the Project; and Vanessa Haugen Brustin, Inc., 101 Walnut Street, Post Office Box 9151, Watertown, MA 02471-9151 to conduct traffic peer review of the Project.

Over the course of the public hearing, the ZBA heard testimony and received written comments from the Applicant and its representatives, the ZBA's consultants, all Town boards and departments, abutters, counsel for the abutters, and members of the public. All Town boards, commissions, and departments were notified of the application and the public hearing, and all of their comments and recommendations have been considered by the ZBA. A list of all written evidence received during the public hearing is attached hereto as "Exhibit B."

The ZBA voted to close the public hearing on January 17, 2013.

**IV. FINDINGS OF FACT**

After the public hearing closed, the ZBA made the following findings of fact:

- The Property is shown as Lot 1 containing 21.17 +/- acres of land as shown on a plan entitled "Plan of Land, Littleton: 15 Great Road, Town: Littleton, Massachusetts, Prepared for Fifteen Great Road, LLC, dated December 2, 2012". It is located within the Residence (R) Zoning District as set forth in the Littleton Zoning Bylaw. It has approximately 770 feet of frontage on Great Road (Route 2A/119).
- The zoning surrounding the Property within Littleton is exclusively residential.
- The Property is bounded westerly by an existing subdivision of single-family homes and easterly by a mixed use property consisting of approximately 900,000 square feet of office and retail use as well as 380 apartments. To the north of the Property is a parcel of land that the Applicant has proposed to develop pursuant to the Zoning Bylaw and the Town's Subdivision of Land Regulations as either a single-family open space development subdivision or a single-family conventional subdivision (said parcel and said development proposals hereinafter collectively referred to as the "Subdivision").
- The Property contains approximately 21.17 acres of land, of which approximately .87 acres are wetlands.
- The Project contains 190 rental housing units within 38 buildings, of which 48 are one-bedroom housing units, 78 are two-bedroom housing units and 64 are three-bedroom housing units for a total of 396 bedrooms. In addition, the Civil/Consent/Grant Rd/Neighborhood Agreement 2.11.13 CLEAN 34



Project will contain a WWTF and maintenance building, clubhouse/leasing office, and a recycling center.

6. The Town of Littleton does not have a municipal sewer system. As the Project contains 190 residential units with a Title 5 design flow well in excess of 10,000 gallons per day, a Wastewater Treatment Facility ("WWTF") is required pursuant to 810 CMR 15.004(1)(a) and 814 CMR 5.15. The WWTF as proposed has Title 5 design flow of 55,005 gallons per day (or 500 bedrooms). At this design flow, the WWTF has capacity to serve more residential units than are contained within the Project. The Applicant testified and submitted evidence that under DEP aggregation rules, the Subdivision must also be served by the WWTF. The Applicant has further testified that there are environmental and cost benefits associated with allowing the twelve lots identified by the Applicant on Grist Mill Road and Surrey Road<sup>5</sup>, and the lots within the Subdivision to connect to and be served by the WWTF.

7. The Applicant testified and submitted evidence that the use of the WWTF to serve both the Project and the Subdivision, as well as specified single family lots beyond the Project will have several benefits for the Project, including significantly reduced capital and operating costs for the Project and the environmental benefits of treatment of wastewater prior to disposal. The ZBA determined that the use of the Project's WWTF to enable development of the Subdivision and the specified single-family lots located outside of, and not otherwise connected with, the Project, warranted mitigation measures from the Applicant. Accordingly, a subcommittee of the ZBA and the Applicant negotiated an agreement intended to provide for the adequate mitigation of the total impacts of all development contemplated by the Applicant. At the conclusion of these negotiations, the ZBA recommended that the Applicant and the Town enter into the Host Community Agreement dated January \_\_, 2013, a signed copy of which is attached hereto as "Exhibit C."

8. The Project will be served by a driveway connecting to Great Road, a state highway. Improvements to Great Road are within the exclusive jurisdiction of MassDOT.

<sup>5</sup> These are: Lot 41A (said Lot 41A as shown on a plan entitled "PHASE II 'Apple D'Or Farms' Subdivision of Land in Littleton, Massachusetts", dated January 2, 1998, and recorded with the Middlesex South District Registry of Deeds as Plan No. 704 of 1998); Lot 20B as shown on the ANR Plan and Lots 25B, 27B, 28B, 46A, 47A, 97A, 102A, 127A and 128A (said Lots 25B, 27B, 28B, 46A, 47A, 97A, 102A, 127A and 128A all being shown on a Plan of Land entitled "Plan of Land in Littleton, Massachusetts", dated September 8, 1999, and recorded in the Middlesex South District Registry of Deeds as Plan Number 1419 of 1999), and Lot 56A (said Lot 56A shown on a plan entitled "Plan of Land in Littleton/Westford, MA" dated September 13, 2000, recorded in the Middlesex South District Registry of Deeds as Plan Number 1880 of 2000).

City/County/State Rd/Host Community Agreement 2.11.13 CLEAN 36

## VI. WAIVERS FROM LOCAL BYLAWS AND REGULATIONS

The ZBA voted to GRANT the following specific waivers:

### Chapter 173 - Zoning Bylaws

1. §173-16 to §173-19. Site Plan Review, Preparation of plans, Design requirements, Review and approval: To eliminate the requirement to submit a site plan for 8 or more units for review by the Town's Planning Board, but permit said submission and site plan review by the ZBA.
2. §173-26 A.- Principal Uses Use Regulation Schedule: To permit development of multifamily buildings, accessory structures and uses within a Residential District.
3. §173-32.C. Parking Requirements: To allow all parking spaces within the Project to be constructed without the requirement for a wheel bumper or wheel guard.
4. §173-32.C.(3) Parking Requirements: To eliminate the screening requirements for parking lots of 8 or more cars.
5. §173-32.C(5) Parking Requirements: To permit the use of grassed swales and other acceptable design standards as may be permitted by MA Department of Environmental Protection.
6. §173-32.C. (6) Parking Requirements: To permit development based upon use of those storm water control Best Management Practices and Low Impact Development techniques in the parking areas as may be permitted by State Regulations; specifically the Commonwealth of Massachusetts Department of Environmental Protection under the provisions of the Wetland Protection Act: Storm Water Management Standards per 810 CMR 10.06(6)(c), and such other applicable State Regulations.
7. §173-34. D. General Regulations: To permit the lighting of the entrance sign on a 24 hour 7 day a week basis to provide for safe recognition and access to the project and to permit lighting of the leasing sign between 6 a.m. and 9 p.m. only, 7 days a week.
8. §173-36. A. On-premises signs in residential districts: To permit the installation of 2 signs on one lot. One sign will be a monument sign indicating Address/Name/Phone and the second will provide a method for property advertisements.
9. §173-36. B. On-premises signs in residential districts: To permit the installation of one sign with 30.5 square feet each side (total 60.76 sq ft measured as a

City/County/State Rd/Host Community Agreement 2.11.13 CLEAN 37

9. The Project will also be served by an emergency access driveway to the north, which will provide access to Grist Mill Road via the Subdivision way. This access shall be posted "DO NOT ENTER-EMERGENCY VEHICLES ONLY" and shall be restricted to emergency and public safety vehicles and maintenance, including snow plowing, emergency use and temporary use for the construction of the access driveway itself and the Project.

10. The Project on the Property, as conditioned below, would not be rendered uneconomic by the terms and conditions of this Decision or the Host Community Agreement.

11. The Project will, when conforming to the conditions set forth in this Decision, adequately provide for traffic circulation, storm water drainage, sewage disposal and water without an undue burden on the occupants of the Project or on the surrounding neighborhood or the Town.

12. The Project represents a reasonable accommodation of the regional need for low and moderate income rental housing and is consistent with local and regional housing needs within the meaning of G. L. c. 40B, Section 20.

13. The Project, when conforming to the conditions set forth in this Decision, will not be a threat to the public health and safety of the occupants of the Project or the surrounding neighborhood or the Town.

14. The Project will cause the Town to satisfy the statutory minima, by bringing the Town's subsidized housing inventory to 13.97% based on the 2010 census.

15. The Applicant's commitments to the Town, as memorialized in the Host Community Agreement, constitute a reasonable mitigation for the impacts of the Project.

## V. DECISION

Pursuant to M.G.L. c. 40B, §§21-23 and the regulations, 800 CMR 56.00 et seq., the ZBA, after a public hearing and findings of fact, hereby grants a Comprehensive Permit to the Applicant for the construction of one hundred and ninety (190) housing units in 98 buildings on the Property, with associated infrastructure improvements, with the following waivers and subject to the following conditions. On January 17, 2013, the ZBA voted \_\_\_ in favor and \_\_\_ opposed to approve the Application for a Comprehensive Permit, with the conditions stated herein.

City/County/State Rd/Host Community Agreement 2.11.13 CLEAN 38

rectangle including all sign components 4.98 ft x 6 feet) and a second sign that will be 12 sq feet (total 24 sq ft) on each side. Both are in excess of 9 (nine) square feet. The Applicant has stated that signs of the requested dimension are customary for this type of use and are essential for the proper functioning of the project.

10. §173-36. C. On-premises signs in residential districts: To permit the installation of lighted signs for the leasing and entrance location of the development. The Applicant has stated that lighted signs are customary for this type of use and are essential for the proper functioning of the project. As stated in Waiver No. 7, above, lighting of the entrance sign is permitted on a 24 hour 7 day a week basis, and lighting of the leasing sign is permitted between 6 a.m. and 9 p.m. only, 7 days a week.

11. §173-36. D. On-premises signs in residential districts: To permit the construction of signs having a background color other than natural wood, white, or the same color as the principal structure or its trim. The Applicant has stated that signs of the requested style and color scheme are customary for this type of use and are essential for the proper functioning of the project.

12. §173-36. E. On-premises signs in residential districts: To allow, in addition to the entrance sign, a leasing sign that contains marketing information, which information may change from time to time.

13. §173-53, 173-26 Accessory Uses: To waive all requirements of The Code of the Town of Littleton, Massachusetts v41 Part II General Legislation Chapter 173, Zoning (hereinafter "Zoning Bylaw"), including without limitation, §173-2 relative to accessory building or use, and any other provision of the Zoning Bylaw and/or any other Town of Littleton bylaw, rule, regulation or requirement, so as to allow the WWTF situated within the 40B Development to connect to and service the Lots within the Subdivision and all of these Lots: Lot 41A (said Lot 41A as shown on a plan entitled "PHASE II 'Apple D'Or Farms' Subdivision of Land in Littleton, Massachusetts", dated January 2, 1998, and recorded with the Middlesex South District Registry of Deeds as Plan No. 704 of 1998); Lot 20B as shown on the ANR Plan; and 25B, 27B, 28B, 46A, 47A, 97A, 102A, 127A and 128A (said Lots 25B, 27B, 28B, 46A, 47A, 97A, 102A, 127A and 128A all being shown on a Plan of Land entitled "Plan of Land in Littleton, Massachusetts", dated September 8, 1999, and recorded in the Middlesex South District Registry of Deeds as Plan Number 1419 of 1999), and Lot 56A (said Lot 56A shown on a plan entitled "Plan of Land in Littleton/Westford, MA" dated September 13, 2000, recorded in the Middlesex South District Registry of Deeds as Plan Number 1880 of 2000); so long as such

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connection(s) and service(s) is/are not in violation of the ground water discharge permit for the WWTF, as may be amended from time to time.<sup>4</sup>

14. §173-27.A (General Regulations) Intensity of Use Schedule (Maximum Building Height): To permit the maximum building height to exceed 32 (thirty two) feet and to be measured as follows. The Plans show the typical building heights which may vary in the field depending upon the adjacent mean grade and construction methods. The maximum height measured from lowest finished slab to the top of the roof of Buildings A,B,C,D as shown on the Architectural Elevations shall be 40 feet and the maximum height measured as above of buildings 1-33 shall be 39 feet 6 inches as shown on the Architectural Plans. No waiver was requested for the proximity to setbacks.

15. Article XIII, §173-125 to 173.128 Shared Residential Driveway: To allow the project to incorporate a unified driveway system.

#### **Board of Health Regulations**

16. Regulation 1 Permits: The ZBA finds that DEP's issuance of a groundwater discharge permit satisfies the requirements of regulation 1 and, furthermore, to the extent it may not, regulation 1 is waived.

17. Regulation 2 Professional Review: The ZBA finds that DEP's issuance of a groundwater discharge permit satisfies regulation 2 and, furthermore, to the extent it may not, this waiver is granted.

18. Regulation 7 Garbage Grinders: To allow the installation of garbage grinder because the Project is being developed with a Wastewater Treatment facility which features enhanced treatment collection.

19. Regulation 28 Two Compartment Tanks & Outlet Filters: This waiver was granted as the project will comply with the standards permitted by the Massachusetts Department of Environmental Protection.

#### **Conservation Commission Rules and Regulations**

20. The ZBA waives all local wetland regulations. The Project must comply with the Wetlands Protection Act and DEP Storm Water Quality Standards.

#### **Code of the Town of Littleton - 2011**

<sup>4</sup> The Applicant requested a waiver without prejudice to its position that such a waiver is unnecessary. The ZBA notes the position of the Applicant that this waiver is unnecessary.

## **VII. CONDITIONS**

1. This Decision permits the construction, use and occupancy of 190 rental units in the Project, and associated facilities and improvements as depicted on the Final Approved Plans to be submitted and endorsed in accordance with this Decision. Of the 190 housing units, 48 shall be one-bedroom housing units, 78 shall be two-bedroom housing units, and 64 shall be three-bedroom housing units. There shall be no additional housing units or bedrooms on the Property, and no additions beyond the building envelopes shown on the Final Approved Plans without further approval of the ZBA in the form of an amendment to this Decision.

The ZBA acknowledges that for purposes of financing the Project and/or operating the WWTF, it may be necessary or convenient for the Applicant, subject to further proceedings before the ZBA in accordance with 760 CMR 56.05(11), to further subdivide the Property by a suitable amendment of this Comprehensive Permit in the future. If said amendment to the Comprehensive Permit is allowed as aforesaid, the ZBA shall endorse the plan(s) subdividing the Project and execute such documents as necessary to record the plan(s) at the registry of deeds, so long as such subdivision plan(s) do not interfere with or adversely affect the operation of the Project or the intent of this Decision.

2. The Project shall be constructed in substantial conformance with the Approved Plans.

8. Prior to commencement of any construction concerning any portion of the Project (whether pursuant to a building permit or otherwise), unless waived by the Building Commissioner for good cause shown, the Applicant shall submit to the Building Commissioner a proposed set of final engineered plans, engineering drawings, and architectural plans showing the Project, stamped by the Applicant's design engineer or registered architect, as applicable (the "Proposed Final Approved Plans"). The Proposed Final Approved Plans shall be substantially in accordance with the Approved Plans except that they shall be updated in accordance with the requirements of this Decision. Along with this set of Proposed Final Approved Plans, the Applicant shall submit a list, prepared and stamped by the Applicant's Design Engineer, of the specific changes made to the Approved Plans to conform to the requirements of this Decision. The Proposed Final Approved Plans shall include, at a minimum:

- a. Lighting Plan;
- b. Landscaping, screening and planting plan;
- c. Grading plan;
- d. Erosion control plan;
- e. Utilities plan including water, gas, electric, telephone, waste water, and cable;
- f. Signs;

21. § 138-1 A to D (1) - (2) inclusive Electronic Plans: To allow a level 1 (one) electronic plan submittal as related to any ANR or subdivision plans required for the 40B.

#### **Town of Littleton Low Impact Design/Best Management Practices Manual (May 2007)**

22. To permit development based upon use of those storm water control techniques as permitted by State Regulations; specifically the Commonwealth of Massachusetts Department of Environmental Protection under the provisions of the Wetland Protection Act: Storm Water Management Standards per 810 CMR 10.05(5)(k). Development will adhere to the practices and techniques as defined by the State of Massachusetts.

Notwithstanding the grant of the foregoing specific waivers, it is the intention of the ZBA by this Comprehensive Permit to authorize construction of the Project as shown on the Approved Plans. If, in reviewing the Applicant's building permit application(s), the Building Commissioner determines that any additional waiver from local zoning, wetlands, health or subdivision or other regulations is necessary to permit construction to proceed as shown on the Final Approved Plans, the Building Commissioner shall proceed as follows: (a) any matter of a de minimis nature shall be deemed within the scope of the waivers granted by this Comprehensive Permit and shall not require further proceedings before the ZBA in accordance with 760 CMR, 56.05(11); and (b) any matter of a substantive nature having a substantial potential adverse impact on public health, safety, welfare or the environment shall be reported back to the ZBA for expeditious disposition of the Applicant's request for a waiver therefrom. If a matter is shown on the Final Approved Plans, it shall be deemed de minimis.

The ZBA voted to **DENY** the following waivers:

#### **Code of the Town of Littleton - 2011**

1. § 64-7 A, (1) to (15) Building Permit Fees.
2. § 64-8 A to D (1) - (2) inclusive Plumbing and Gas Fees.
3. Electrical Fees.
4. §171-3. Fees/Charges: The ZBA denied the Applicant's request (1) of a waiver of any application fees associated with a submittal to the Littleton Conservation Commission for the Project and (2) that the Project peer review by the Littleton Conservation Commission is to be completed by the same consultant as the ZBA retained as part of its review process (Graves Engineering).

- g. Stormwater Management;
- h. Landscaping Plan;
- i. Site Layout Plan, including sidewalks; and
- j. Architectural plans and specifications.

The Building Commissioner shall review the Proposed Final Approved Plans and the list of changes to ensure that they are consistent with and in conformity with this Decision. Upon the Building Commissioner's positive finding, the ZBA shall endorse the Proposed Final Approved Plans which shall thereupon constitute the "Final Approved Plans" under this Decision.

4. In the event the Building Commissioner determines that the Applicant's construction drawings submitted with its building permit application(s) materially deviate from the Final Approved Plans in such a manner that, in his professional opinion, they do not conform to the requirements and conditions imposed by this Comprehensive Permit Decision, the Building Commissioner shall so notify the Applicant of the specific deviations, and the Applicant shall either bring the construction drawings into conformity with this Decision or seek modification of this decision in accordance with 760 CMR 56.05(11). In the event of a disagreement between the Building Commissioner and the Applicant with respect thereto, they shall notify the ZBA which shall thereupon determine whether the building permit construction drawings conform to this Decision. Upon finding that the building permit construction drawings (with any necessary revisions) do conform to this Decision, the ZBA shall endorse those construction drawings as consistent with the Decision, if so requested by the Applicant. Otherwise, the Applicant shall follow the procedures set forth in 760 CMR 56.05(11).

5. No construction activity other than site work shall occur until the Applicant shall have:

- a. Obtained Final Approval of its Subordinating Agency and presented evidence of same to the Building Commissioner as part of the Building Permit Application;
- b. Delivered to the Building Commissioner a copy of any determination by the Applicant's Subordinating Agency that the organization qualifies as a non-profit or limited dividend organization within the meaning of the Act and what the limitation on dividend is;
- c. Delivered to the Building Commissioner and the Town Clerk certified copies of the Regulatory Agreement for the Project, and recorded said Regulatory Agreement with the Middlesex South District Registry of Deeds;
- d. Obtained and filed with the Building Commissioner a copy of all federal, state and local permits and approvals required for the Project including, without limitation, Groundwater Discharge Permit issued

- by the Department of Environmental Protection ("DEP") for the construction and operation of the WWTF. Obtained all necessary building, electrical, plumbing and associated permit(s) for the proposed work on the Project required by state law; and
- f. Properly marked the limits of disturbance on the Property.
6. Prior to commencement of any construction activities, including site work, the Applicant shall submit to the Building Commissioner and the ZBA a Construction Phasing Plan. Such plan shall be subject to the approval of the Building Commissioner. Each phase shown shall include two means of access from an existing public way for emergency vehicles, and the second means of access shall be available for use before an occupancy permit is requested for any residential building. In addition, prior to commencement of construction activities, the Applicant shall submit to the Building Commissioner a construction schedule in order to provide guidance and facilitate inspections. Such construction schedule shall, at a minimum be revised quarterly to reflect work completed and changes in construction timing.
7. Prior to the commencement of construction activities, the Applicant shall submit a Trucking Plan to the Building Commissioner. The Trucking Plan shall specify: (i) planned truck routes (ii) estimated volumes of any imported and exported materials (iii) estimated truck trips and (iv) construction period mitigation measures consistent with the conditions stated herein, including without limitation details and locations of crushed stone entrance pads, street sweeping protocols and dust control measures to be implemented on the Property.
8. All construction activity shall adhere to applicable local, State and Federal laws and regulations regarding noise, vibration, dust and sedimentation. The Applicant shall use reasonable means at all times to minimize inconvenience to residents in the vicinity of the Property.
9. Construction activities on-site shall only occur between 7:00 a.m. and 7:00 p.m., Monday through Friday and between 8:00 a.m. and 5:00 p.m. on Saturday. No work shall be allowed on-site on Sundays or on Holidays as recognized by the Commonwealth of Massachusetts, unless the Building Commissioner has provided advance written authorization for such work to occur. For the purposes of this condition, the term "construction activities" shall be defined to include start-up or operation of equipment or machinery, delivery of building materials and supplies, removal of trees, grubbing, clearing, grading, filling, excavating, import or export of such materials, installation of utilities both on and off the Property, demolition of existing structures, removal of stumps and debris, and the erection of new structures.
10. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP's Dust Regulations at 810 CMR 7.09, as amended, as directed by the Building Commissioner. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.
11. The Applicant shall implement measures to ensure that noise from project construction activities does not exceed levels, as set forth by Federal and State regulatory agencies, including without limitation DEP's Noise Regulations at 810 CMR 7.10, as amended, and DEP's DAQC Noise Policy No. 90-001 (2/1/90), as amended. The Applicant shall cease any noise which does not comply with applicable regulations when directed by the Building Commissioner to comply therewith.
12. The Applicant is responsible for the sweeping, removal of snow, and sanding of the internal roadways permitting access to residents and emergency vehicles during construction. The Applicant shall maintain all portions of any public road used for construction access free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.
13. During construction of the Project, the Applicant shall implement necessary traffic safety controls as required or requested by the Littleton Police Department, to ensure a safe and convenient vehicular access in and around the Property and on Great Road. Any traffic problems that occur as a result of site operations and construction shall be mitigated immediately.
14. 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.
15. 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.
16. Soil material used as backfill for pipes, and/or structures (i.e. detention basins) shall be certified by the Design Engineer to the Building Commissioner as meeting design specifications.
17. The Applicant shall notify the relevant Town departments of installation of utilities and infrastructure for inspections prior to backfilling.
18. The Applicant shall comply with any Order of Conditions issued with respect to the Project.

10. The Emergency Access Driveway shall not be used by any construction vehicles including, but not limited to, tractor trailer trucks, dump trucks, heavy equipment trailers, low-bed trucks or pick-up trucks in the construction of the Project after (i) the completion of the internal road from Great Road which crosses the wetlands on Property, and that provides access to all of the Project and is serviceable for all construction purposes, including use by the aforesaid described trucks and equipment, or (ii) the excavation for any footing of any building in the Project where crossing the wetlands or access from Grist Mill Road is necessary to access said building, whichever occurs earlier. In addition, the Emergency Access Driveway shall not be used in connection with the removal of any earth materials (i.e. soil and trees) from the 40B Development.

11. The Applicant shall be responsible for mitigating all construction-related impacts, including erosion, siltation and dust control.

12. The Applicant shall regularly, but not less than bi-weekly, remove construction trash and debris from the Property in accordance with good construction practice. No tree stumps, demolition material, trash or debris shall be burned or buried on the Property. However, material intended for future use may be stockpiled on the Property and maintained in a neat and workmanlike manner.

13. All potential safety hazards that may exist on the Property from time to time during the period of construction shall be adequately secured prior to the end of each workday.

14. Only earth products that are intended for use on the Property shall be delivered to the Property. No earth shall be stripped or excavated and removed from the Property except in connection with road, infrastructure or permitted construction activities. No earth processing operations shall occur on the Property, unless such earth products are to be combined and/or mixed for use on the Property. All piles of stockpiled earth shall be stabilized with adequate dust and erosion controls. All piles of stockpiled earth shall be removed from the Property upon completion of construction of roads and infrastructure.

15. A licensed blasting professional shall do any necessary blasting on the Property after proper pre-blast inspections have been conducted and all required permits have been obtained from the Littleton Fire Department. Pursuant to G. L. c. 148 §19, before the issuance of a permit to use an explosive in the blasting of rock or any other substance as prescribed by the State Fire Marshall at the Property, the applicant for the permit shall file with the Littleton Town Clerk a bond running to the Town, with sureties approved by the treasurer of the Town, in the penal sum as the officer granting the permit shall determine in accordance with G. L. c. 148, §19 to be necessary in order to cover the risk of damage that might ensue from the blasting or its keeping therefor.

25. The fire alarm system including the location of various components shall be located in areas acceptable to the Littleton Fire Chief or his designee; and shall be tied to the Littleton dispatch system.
26. The Applicant shall construct and maintain a locked and gated emergency access driveway as shown on the Final Approved Plans to connect to Grist Mill Road for use (except as provided for in Condition 11, above) only for maintenance and in the event of emergencies by Littleton police, fire, ambulance or other emergency services. The Applicant shall provide appropriate keys or other means of access to the Town Administrator, Littleton police, fire, ambulance and other emergency services. The design and construction of the emergency access shall be acceptable to the Littleton Fire Chief or his designee. The Applicant shall provide for the maintenance of this emergency access over time such that it shall be appropriately passable in the event of an emergency. Upon completion of construction, the Emergency Access Driveway, will be sign-posted: "DO NOT ENTER-EMERGENCY VEHICLES ONLY." The Applicant shall further provide and record, in a form to be reviewed by Town Council, a covenant limiting use of the driveway to emergency access, installation and maintenance of utilities of every name, nature and description, and temporary construction consistent with Condition 10 above.
27. All fire lanes, emergency access driveways 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, and all signage shall be maintained in good order.

28. In the event that the snow storage areas designated on the Approved Plans are inadequate for a particular storm or events, any excess snow must be removed from the Property.

29. Traffic signage shall be consistent with the requirements of the current edition of the Manual for Uniform Traffic Control Devices (MUTCD), the Massachusetts Amendments to the Manual on Uniform Traffic Control Devices and the Standard Municipal Traffic Code, and the site plans.

30. There shall be a bus waiting area as shown on the Approved Plans.

31. All utilities, including but not necessarily limited to electric, cable and telephone shall be located underground.

32. The Applicant shall install vertical curbing for all areas where a sidewalk is adjacent to an interior way, as shown on the Approved Plans.

33. The Applicant has elected to treat the Project as a single user for the purposes of metering the water service from the Littleton Water Department. If the

Applicant subsequently becomes something other than a single user, the new water metering shall be subject to the approval of the Littleton Water Department, and will not need approval by the ZBA. The Applicant shall bear the costs associated with providing the additional meter(s).

34. The Applicant shall show on the proposed Final Approved Plans, and construct on the Property, fire hydrants in amounts and locations as agreed to by the Littleton Water Department and the Fire Chief or his designee.

35. The Final Approved Landscaping Plans are listed above in Section I under Civil Plans as Landscape Plan 1 of 2, Plan Number L6308-L-1, and Landscape Plan 2 of 2, Plan Number L6308-L-2, both dated November 1, 2012 and Last Revision Date December 4, 2012. The landscaping shall, at a minimum, be as shown on these Final Approved Landscaping Plans, provided, however, that nothing contained herein shall prevent the Applicant from providing additional landscaping or buffering on the Property.

36. The Applicant and subsequent owners shall maintain all landscaped areas of the Property as shown on the Final Approved Plans. Dead or diseased plantings shall be replaced as soon as possible in accordance with growing and weather conditions.

37. Storm water shall be managed in accordance with the Massachusetts Stormwater Handbook, as amended from time to time, as prepared by the DEP and Massachusetts Office of Coastal Zone Management.

38. The Applicant shall prepare a plan for the operation, maintenance and repair of the drainage structure and storm water management system on the Property as shown on the Final Approved Plans, subject to the approval of the ZBA or its designated agent. In the event that a management company is engaged, the guidelines shall be incorporated by reference in the management contract.

39. The Applicant will revise basin design for Basins A, B and C to provide for at least one foot of freeboard.

40. The Project shall contain 408 parking spaces for on-site parking as shown on the Approved Plans.

41. No parked vehicle may encroach on an interior way or sidewalk, and parking of oversized vehicles shall be limited to the designated spaces to be shown on the Final Approved Plans.

42. Outdoor Lighting shall be in accordance with the Final Approved Plans.

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guaranty to secure the complete construction of the remaining infrastructure, as shown on the Final Approved Plans, for the phase of the Project as shown on the Construction Phasing Plan required pursuant to Paragraph 6 above for which the occupancy permit is sought. Said performance guaranty shall be secured by one or in part by one and in part by another, of the methods set forth in clause: (1), (2) and (4) of M. G. L. c. 41, §81U, which method or combination of methods may be selected and from time to time varied by the Applicant. The security provided as aforesaid shall be administered in accordance with the provisions of G. L. c. 41, §81U, relative to such security; provided, however, that wherever the Planning Board is referred to in M. G. L. c. 41, §81U, the ZBA is substituted.

49. In the event that the Building Commissioner determines that seasonal weather considerations have reasonably delayed the completion of the final "top coat" paving, landscaping improvements and/or plantings shown on the Final Approved Plans, the Building Commissioner may in his discretion issue the final occupancy permit; provided that the Applicant shall complete the final paving and landscaping improvements and plantings as soon as seasonal weather conditions permit, and the Applicant shall post sufficient cash surety with the Town Treasurer for the completion of these improvements should the Applicant fail to do so.

50. As this Comprehensive Permit Decision grants permission to build the Project on the Property under the Act, and as the Applicant has obtained the benefits of a comprehensive permit including the right to construct and use the Project in a manner that is not in compliance with the Town of Littleton's zoning requirements which otherwise would be applicable to the Property and the Project, but for the Comprehensive Permit's override of local bylaws to promote affordable housing, no use shall be made of the Property or of any building or unit on the Property erected pursuant to this Comprehensive Permit, except as permitted by this Decision and any and all accessory uses normally incidental thereto.

51. As long as this Comprehensive Permit is in force and effect, no business or commercial use shall be conducted on the Property or in any building or unit on the Property except for (a) necessary rental and management activities with respect to the Project, (b) accessory concierge services for residents of the Project including but not limited to such services as an automatic teller machine, a dry cleaning pick-up and drop off location, one or more express mail pick-up and drop off boxes, a photocopy or fax machine, exercise/yoga classes and similar accessory concierge services for the convenience of the residents of the Project and (c) "Zip Car" or similar services for use by residents of the Project.

52. **Perpetual Rental Restriction:** All residential units within the Project shall remain rental units in perpetuity.

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43. The WWTF serving the Project shall be designed and constructed as approved by the DEP and in accordance with the terms and conditions of the Groundwater Discharge Permit issued to the Applicant.

44. Prior to the issuance of an occupancy permit for any residential unit in the Project, the WWTF shall have received an approval for such operation from the DEP.

45. The Applicant shall provide to the Building Commissioner, the ZBA and the Littleton Board of Health or its agent copies of all permits received by the Applicant from the DEP concerning the WWTF and/or the related groundwater discharge permit, and shall upon request make available to the Board of Health or its agent copies of any other written communications, reports, submissions, or other documents sent by the Applicant or the DEP concerning the wastewater treatment facility.

46. The applicant shall irrigate the project landscape with either irrigation wells or if permitted by DEP, by use of water processed by the sewage treatment facility.

47. Except as approved by this Decision, any additional directional signs for the Project shall conform to the sign requirements of the Littleton Zoning Bylaw unless the ZBA grants a minor modification to this Decision to allow additional temporary or directional signs requiring a waiver therefrom.

48. Without limitation, as security for the ongoing completion of the common facilities and infrastructure for the Project as shown on the Final Approved Plans, no certificate of occupancy shall be issued for any building or unit in the Project, and no rental of any unit in the Project shall be permitted until:

- a. All sewage treatment and disposal facilities serving such building and units as shown on the Final Approved Plans have been approved for operation by DEP.
- b. All public water supply facilities serving such building and units as shown on the Final Approved Plans have been completed.
- c. The base and binder course for the roadways, driveways, sidewalks and parking areas serving such building and units as shown on the Final Approved Plans have been installed.
- d. All storm water management and drainage facilities serving such building and units as shown on the Final Approved Plans have been installed.
- e. All electric utilities and heat serving such building and units as shown on the Final Approved Plans have been installed.
- f. For an occupancy permit for any building or unit in the Project, the Applicant shall have provided to the ZBA a performance

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53. The Applicant (or its successors and assigns) shall either self-manage or shall establish or shall contract with a qualified management entity that shall be subject to and governed by the provisions of this Decision.

54. **Number of Affordable Rental Units:** At the option of the Applicant, either (i) twenty percent (20%) of the units within the Project are to be restricted for occupancy by persons or households whose aggregate family income does not exceed 50% of the Median Family Income ("MFI") for the area, adjusted for household size, or (ii) twenty-five percent (25%) of the units within the Project be restricted for occupancy by persons or households whose aggregate family income does not exceed 80% of the MFI for the area, adjusted for household size, as established by the United States Department of Housing and Urban Development, all in accordance with the applicable rules, regulations and guidelines of the Applicant's Subsidizing Agency.

55. **Affordable Rental Prices:** Subject to the specific income percent requirements of the Applicant's Subsidizing Agency, the Affordable Rental Units shall be rented to households whose aggregate adjusted family income conforms to the applicable requirements of Condition 54 above.

56. **Perpetual Affordability Restriction:** As the Decision grants permission to build the Project under the Act, and as the Applicant has obtained the benefits of a comprehensive permit, the Project shall remain subject to the restrictions imposed by the Act and the Affordable Rental Units shall remain affordable so long as the Project is not in compliance with the Town of Littleton's zoning requirements which otherwise would be applicable to the Property and the Project but for the Comprehensive Permit's override of local bylaws to promote affordable housing. Accordingly, subject to the approval of the Subsidizing Agency, the Affordability Requirements of this Decision shall restrict the Project so long as the Project is not in compliance with the Town of Littleton's zoning bylaw, so that those units continue to serve the public interest for which the Project was authorized in perpetuity.

57. To ensure the survival of this affordability restriction, subject to the approval of the Subsidizing Agency, this Comprehensive Permit Decision shall be recorded ahead of any mortgage or other instrument capable of being foreclosed upon, such that its provisions, including without limitation the within Affordability Requirements, shall survive any foreclosure on all or any portion of the property comprising the rental component of the Project. In the alternative, to satisfy this condition, the Applicant may provide for recording a duly executed Subordination, Nondisturbance and Attornment Agreement which provides equivalent protection and which is in a form satisfactory to the Applicant's Subsidizing Agency.

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58. **Regulatory Agreement:** To the extent permitted by the Subsidizing Agency, the following provisions shall be included in the Regulatory Agreement:

**Local Preference:** To the maximum extent permitted by law and by the requirements of the Applicant's Subsidizing Agency, a provision that preference for the rental of seventy percent (70%) of the Affordable Rental Units shall be given to households that meet one or more of the following preference criteria:

- (i) at least one member of the household is currently a legal resident of the Town of Littleton. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as an Littleton resident with the Littleton Town Clerk pursuant to G. L. c. 51, §4, and would be considered a resident under the United States Census Bureau's residency guidelines;
- (ii) at least one member of the household is an employee of the Town of Littleton, the Littleton Public Schools; or
- (iii) at least one member of the household is currently privately or publicly employed within the Town of Littleton.

The Local Preference provisions of this section are intended to complement and not to override or supersede any applicable income eligibility rules and regulations of the Applicant's Subsidizing Agency, or any applicable fair marketing regulations of the Department of Housing and Community Development, the Massachusetts Commission Against Discrimination, the Applicant's Subsidizing Agency, MassDevelopment, MassHousing or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

59. **Phasing-in of Affordable Rental Units:** Consistent with the requirements of the Applicant's Subsidizing Agency, Affordable Rental Units shall be constructed and rented contemporaneously with the market-rate units in the Project.

60. **Monitoring:** In accordance with the Applicant's Subsidizing Agency's guidelines, a Monitoring Agent or Monitoring Agents shall be retained at the expense of the Applicant to monitor (a) compliance with Chapter 40B Limited Dividend Requirements as defined in the Regulatory Agreement, and (b) monitor compliance with resident eligibility requirements for the affordable units.

61. **Style and Distribution of Affordable Rental Units:** The exterior of all of the Affordable Rental Units shall be indistinguishable in terms of construction and finishes from the Market Rate Units in the Project. The Affordable Rental Units shall to the greatest extent practicable, both initially and during the life of

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Bylaw; and reference to this Comprehensive Permit Decision shall be incorporated in every deed conveying all or a portion of the Property.

69. Pursuant to 760 CMR 66.06(12)(c), if construction authorized by this Comprehensive Permit has not begun within three years of the date on which the permit becomes final except for good cause, the permit shall become void. This time shall be tolled for the time required to pursue or await the determination on any appeal on any other state or federal permit or approval required for the Project. The ZBA may grant an extension of the three-year limit for good cause shown, including without limitation economic conditions affecting the Project.

70. In the event a clerical or typographical error in this Decision, upon the request of the Applicant, the ZBA shall correct such clerical or typographical error and the correction of such clerical or typographical error shall not require further proceedings before the ZBA in accordance with 760 CMR 66.06(11).

71. All outstanding invoices for peer review and consultant costs incurred prior to issuance of the Comprehensive Permit shall be paid by the Applicant.

72. The Applicant shall deposit in escrow the amount of Two Thousand dollars (\$2,000.00) to reimburse the Town in connection with the completion of review of the Final Plans by its consultants. Following the completion of such review, excess funds in the escrow account shall be returned to the Applicant or its successor in interest.

73. Utility allowance for affordable units shall match the utility charges for market rate units of equivalent bedroom size.

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the Project, be distributed evenly among all building types and unit types in accordance with the requirements of the Applicant's Subsidizing Agency.

62. The Applicant shall prepare a fair housing plan acceptable to its Subsidizing Agency.

63. 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 ZBA shall have the right to review such determination for accuracy using the same standards as the Subsidizing Agency.

64. If, between the date the Decision is filed in the office of the Littleton Town Clerk and the completion of the Project, the Applicant desires to change in a material way and/or to a significant degree the proposed Project as reflected in and approved by the Decision, such changes shall be governed by 760 CMR 66.06(11). Without limitation, in the event any subsequent permitting process (such as the state wetlands review of the Project by the Conservation Commission or DEP, the groundwater discharge permit review of the Project by DEP, or other state or federal governmental approvals) results in a change to the Final Approved Plans which triggers the need for further waivers from local bylaws, rules or regulations, any such matter shall be treated as a project change and the procedures in 760 CMR 66.06(11) shall be followed.

65. Prior to substantial completion of the Project, this Comprehensive Permit may not be transferred or assigned to any party without the approval of the subsidizing agency and written notice to the ZBA, as required by 760 CMR 66.06(12)(b).

66. The Applicant and subsequent Owner(s) of all or any portion of the Property shall be bound by all conditions and requirements set forth in this Decision. Any sale or transfer of rights or interest in all or any part of the Property shall include a condition that the grantee and its successors and assigns shall agree to be bound by the terms and conditions of this Decision.

67. The terms, provisions and conditions of this Decision shall burden and benefit the successors and assigns of the Applicant, with the same effect as if mentioned in each instance where the Applicant is named or referred to. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant.

68. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant and the Applicant's successors and assigns for as long as the Project and the use of the land does not strictly and fully conform to the requirements of the Littleton Zoning Ordinance/Grant Rd/Neighborhood Agreement 2.11.13 CLEAN 52

## CONCLUSION

The Application for a comprehensive permit for the Project as shown on the Final Approved Plans is granted for the reasons stated above, subject to the conditions provided herein. The ZBA disposes of the Applicant's requests for specific relief from local bylaws, rules and regulations in accordance with this Decision and its conditions.

## LITTLETON BOARD OF APPEALS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 2013.

## CERTIFICATION

I, \_\_\_\_\_, Town Clerk of the Town of Littleton, Massachusetts do hereby certify that twenty days have elapsed since the above referenced Decision of the Zoning Board of Appeals which was filed in the office of the Town Clerk on \_\_\_\_\_ and no appeal has been filed with the Town Clerk.

\_\_\_\_\_  
Town Clerk  
Littleton, Massachusetts

City/Council/Grant Rd/Neighborhood Agreement 2.11.13 CLEAN 54

**EXHIBIT A--"Plan of Land, Littleton: 15 Great Road, Town: Littleton, Massachusetts, Prepared for Fifteen Great Road, LLC, dated December 2, 2012"**

**EXHIBIT B--EVIDENCE SUBMITTED TO THE ZBA**

Civil/Court/Town Rd/Host Community Agreement 2.11.13 CLEAR 55

Civil/Court/Town Rd/Host Community Agreement 2.11.13 CLEAR 56

Bk: 01667 Pg: 558

**EXHIBIT F  
PARTIAL DISCHARGE AND RELEASE OF HOST COMMUNITY AGREEMENT**

The Town of Littleton ("Town"), its party to that certain Host Community Agreement dated \_\_\_\_\_, 2013, 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: \_\_\_\_\_

Civil/Court/Town Rd/Host Community Agreement 2.11.13 CLEAR 57

**EXHIBIT E—WILDFLOWER MEADOW UNIT OPTIONS**





33	N	3	G Under	2	X	X	X					O				
34	Y	2	G Under	1	O	X	X									
Unit #	Affordable	Bedrooms for Unit Style on Plan	Maximum Foundation Option	Garage	Pesto Cottage	Foxglove	Rosebud	Aaron Solo	Aaron Prime	Gairloch	Shetland	Laughing Tiger	Auroa	Cupcake	Shortcake	Biscotti
35	N	3	G Under	2	X	X	X					O				
36	N	3	G Under	2	X	X	X					O				
37	Y	3	G Under	1	X	X	X					O				
38	N	3	G Under	2	X	X	X					O				
39	N	3	G Under	2	X	X	X					O				
40	N	3	G Under	2	X	X	X					O				
41	N	3	Slab	2	X	X	X	X	X	X			O	X	X	
42	N	3	Slab	1	X	O	X									
43	N	3	Walk out	1	X	O	X									
44	Y	2	Walkout	1	O	X	X									
45	N	3	Walkout	2	X	X	X	X	X				O			
46	Y	3	Walkout	1	X	O	X									
47	N	3	Walkout	2	X	X	X	X	X				O	X	X	
48	N	3	Slab	2	X	X	X				O					
49	Y	3	G Under	1	X	O	X					X				
50	N	3	G Under	2	X	X	X					O				
51	Y	3	G Under	1	X	O	X									
52	N	3	G Under	2	X	X	X					O				
53	N	3	Walkout	2	X	X	X	X	O				X	X	X	
54	N	3	Walkout	2	X	X	X	X	X				O	X	X	X
55	N	3	Walkout	2	X	X	X	X	O				X	X	X	
56	N	3	Walkout	2	X	X	X	X	O				X	X	X	

#### KEY TO CHART

O -Denotes unit style shown on Site Plan

X-Denotes the alternative units that fit Building Area Envelope and may be constructed pursuant to the Amended Comprehensive Permit

#### Garage Key

1- single garage

2- two car attached

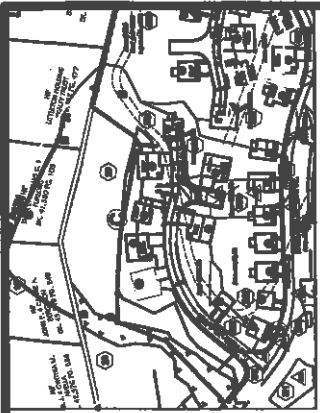
D-Detached garage space

**Plans:**

Village Green 40B Comprehensive Permit Amended Application, February 4, 2014, Places Associates, Inc

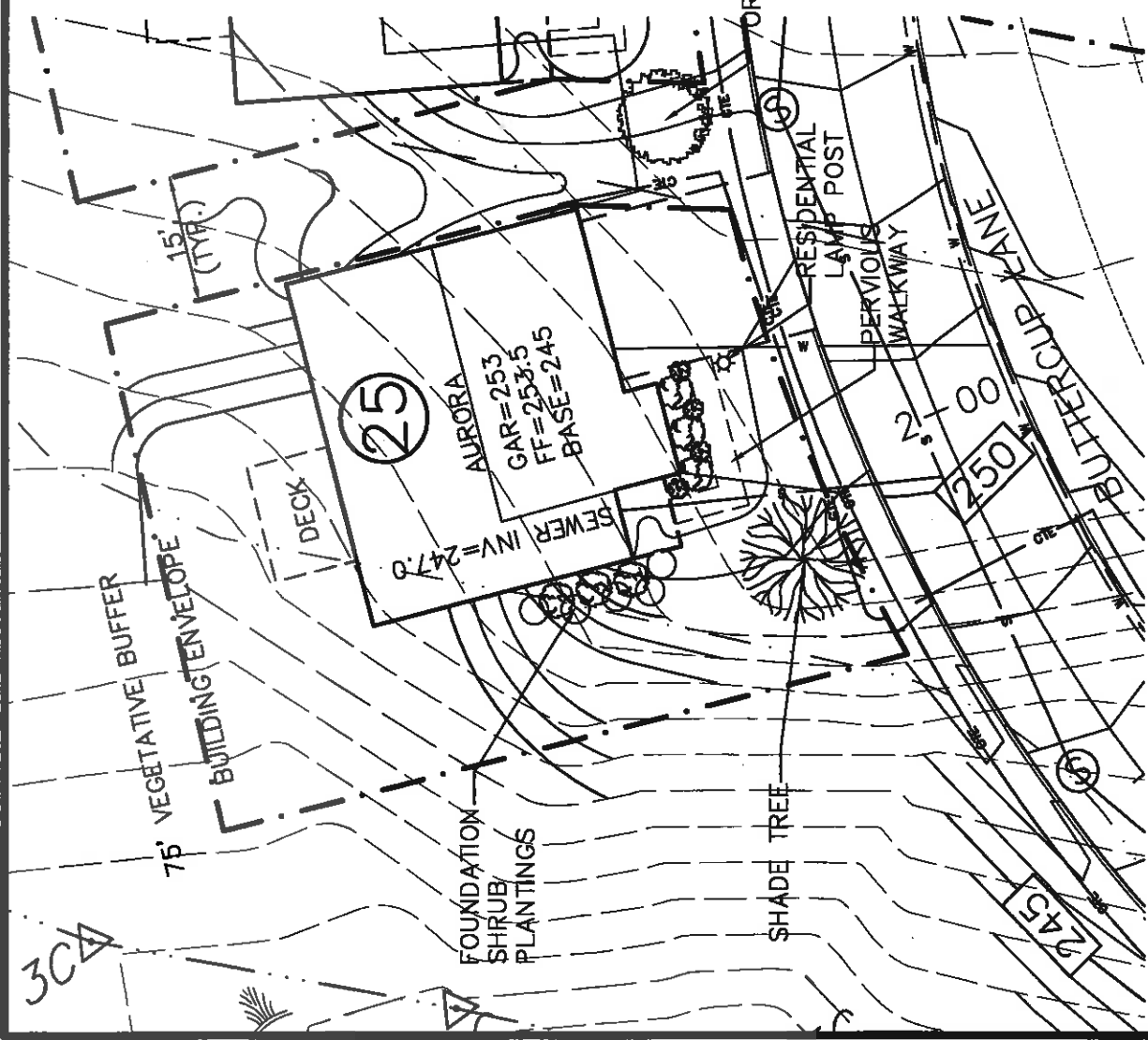
Wildflower Meadow Home Plans, January 24, 2014, Artform Home Plans, Wendy Welton Art Form Architecture, Inc.

**EXHIBIT F—SAMPLE UNIT DEVELOPMENT PLAN**



LOCUS MAP - N.T.S.

PLAN BOOK 776 PLAN 23



# SAMPLE UNIT DEVELOPMENT PLAN

## "WILDFLOWER MEADOW" UNIT DEVELOPMENT PLAN

LOCATION: UNIT 25 - BUTTERCUP LANE  
TOWN: LITTLETON, MASSACHUSETTS  
PREPARED FOR: SEAL HARBOR  
CUSTOM HOMES  
SCALE: 1"=20' DATE: FEB. 4, 2014

Places Associates, Inc.

Planning, Landscape Architecture,  
Civil Engineering, Surveying  
256 GREAT ROAD, SUITE 4  
LITTLETON, MA 01460  
978.486.0334 Ph.  
978.486.0447 Fax  
places@placesassociates.com  
PROJECT No.: 11-6303 PLAN No. 6303-UDP-25



**EXHIBIT G—SPECIFICATIONS FOR WILDFLOWER MEADOW,  
LITTLETON, MASS.  
JANUARY 24, 2014**

**Specifications for Wildflower Meadow, Littleton Mass**  
**January 24, 2014**

**FOUNDATION AND CONCRETE FLOORS:**

**Footings:** All footings are constructed and poured with 2000 lb mix, continuous 10" deep x 20" wide

**Walls:** As per plans 10" poured concrete walls, 2500 lb mix, rebar placed per code.

**Floors:** As per plans; 4" concrete floors poured in place 3000 lb mix swirl finish.

**Columns:** Concrete filled steel Lally columns, 3-1/2" diameter with caps and bases located on the footings as per foundation plan.

**FLOOR CONSTRUCTION:**

**Floor Joists:** 2 X 8 floor joists framed 16" on center per plans, using KD Fir or Equiv  
2 X 10 floor joists 16" on center per plans, using KD Fir or Equiv

**Decking:** 3/4" Advantech 4x8 sheets, Tongue & Groove structural flooring glued to the Joists and nailed to the joists as well.

**WALL CONSTRUCTION:**

**Wall Height:** As per plans, typically 8'0" unless noted on plans

**Exterior Walls:** 2x6 construction using KD lumber at 16" on center

**Interior Walls:** 2x6 or 2x4 construction using KD Lumber at 16" on center

**SHEATHING AND EXTERIOR FRAMING FINISH:**

**Weather Barrier:** ZIP Plywood taped in place

**Exterior Sheathing:** 7/16" ZIP plywood structural sheathing in 4x8 sheets applied with metal fasteners

**Insulation:** R-21 Wall Insulation

**Exterior Finish:** All Side Vinyl siding style mechanically applied to exterior of building including "J" channel in white and "F" channel for attachments

**Facia:** 6" Aluminum mechanically attached, vinyl vented soffit

**Shutters:** Contrasting color shutters where shown on plans. Color selected by buyer from builders samples.

**Corner Posts:** 4" vinyl corners, mechanically attached white in color unless specified on plans.

### **EXTERIOR DOORS:**

**Exterior Door:** Stanley Steel front door as per plans, self sealing door with sill guard And flashing system.

**Locksets:** Non Mastered Schlage brand locksets or Equiv.

### **WINDOWS AND GARAGE DOORS:**

**Windows** Installed per plan, double hung vinyl windows, white; Alside or equiv. Thermo pane low E glass, argon filled with grilles between glasses as shown on plan.

### **ROOF CONSTRUCTION:**

**Roofs** : 9/12 pitch unless detailed on plans

**Ceiling Insulation:** R-49 blown in insulation per plans

**Roof Sheathing:** 1/2" ZIP sheathing

**Ice Guard:** 25 Year Weatherlock waterproofing Ice and Water Shield, 3' or 1 row up on the roof.

**Roofing:** 30 Year, "architectural" fiberglass shingle, mechanically attached from builder's samples

**Roof Vent:** 10" continuous vent, eave and overhangs per drawings.

**Ridge vent:** 25 Year-roll ridge vent

**Drip Edge:** White Galvanized

### **INTERIOR FINISH:**

**Interior Finish:** 1/2" Blue Board mechanically attached and skim coated with veneer plaster. Painted with 2 coats of paint, color "Dover white" throughout the home.

**Ceilings:** 1/2" Blue Board with Veneer plaster, textured ceilings

**Interior Sills:** White painted #2 Pine

### **KITCHEN AND BATH CABINETS:**

**Kitchen:** Oak Cabinets from Builders samples

**Bathrooms Vanities:** Oak Cabinets from Builders samples

### **INTERIOR DOORS:**

**Doors:** 6 Panel Masonite doors

**Knobs:**Schlage; Privacy lock sets on all bedrooms, bathrooms Privacy sets.

**MOLDING:**

**Door Casings:** Colonial casing 2-1/2" trim

**Base Molding:** Colonial Base 3-1/4" 1 piece "speed" base

**ELECTRICAL:**

**Panel Box:** 40 Circuit 200 AMP service

**Smoke Detectors and Co Monitors:** Per plan, battery back up.

**Switches:** Toggle, White; Switched outlets in all Bedrooms per plan.

**Receptacles:** Per code, White including one exterior weather proof receptacle located by builder.

**Ventilation Fans:** in all bathrooms without windows per plan

**Cable outlets:** Located in the family room or at the discretion of the builder.

**Fixtures:** As per plan from Builders' samples

**PLUMBING:**

**Kitchen Sink:** Deep stainless steel double bowl

**Bath Sinks:** Vitreous china inserts in white.

**Toilets:** 1.6 Gallon Vitreous China with Chrome Risers, White Only

**Children's Bath Tub:** 60" Fiberglass, White only

**Master Shower:** 60" Fiberglass, White only

**Lavatory Faucets:** Chrome Single Lever

**Tub/Shower:** Anti scald chrome

**Kitchen Faucet:** Chrome Single Lever faucet with Chrome Sprayer

**Spigots:** (1) Frost free spigot is installed per plans or in locations selected by the builder on the front of the home.



**HEATING and Cooling:**

FHA- Single Zone-Gas; Energy Star quality appliance

Gas fired hot water tank.

**COUNTERTOPS:**

**Kitchen:** laminate countertops from builder's samples

**Bathrooms:** laminate countertops from builder's samples

**FLOOR COVERING:**

**Carpet:** From builder's samples in locations shown on plan

**Pad:** 6 lb ½" rebound

**APPLIANCES:**

Frigidaire dishwasher and stove white only

**LANDSCAPING/GROUNDS:**

Loam and Hydro seed all disturbed areas with 25' of the home with 4" of screened loam.

Driveway; Bituminous concrete in place 2" construction course

**DECK:**

8'x10' pressure treated deck per plans located off the rear of the home.

**EXHIBIT H—EVIDENCE SUBMITTED TO THE ZBA**

**Documents received for the Zoning Board of Appeals meeting November 21, 2013:**

11-18-13 –Received by the Applicant Fifteen Great Road II, LLC.

- Application for changes to the Comprehensive Permit
- Amended plan with no topo by Places Associates, Inc.
- Amended plan with topo by Places Associates, Inc.
- Overlay of previous approved plans by Places Associates, Inc.

11-18-13 – Email from Keith Bergman to Town department heads and Board of Selectmen

11-18-13 – Email from Savas regarding proposed modification

11-21-13 - Email from Town Counsel regarding procedural steps to review modification

**Documents received for the public hearing of December 12, 2013**

11-21-13 – Revised application letter correcting typographical error received by the Applicant

11-28-13 – Public hearing legal notice in Littleton Independent 11-28 and 12-5

12-5-13 - Received by the Applicant Fifteen Great Road II, LLC.

Cover letter

Civil plans including cover, notes and index, site plan, landscape plan, waiver plan, circulation plan and ANR plan

Rental units –

Architectural Plans including Building plans, floor plans and elevations, garages, Clubhouse, unit floor plan  
Spec sheet

Ownership

Architectural – various styles and floor plans  
Spec sheet

Unit summary and type rental and ownership

List of requested waivers

**Documents received at the meeting of December 12, 2013 - Opening of the Public hearing on the request for modification of the Comprehensive Permit:**

12-12-13 - Letter to the ZBA from Town Counsel – timetable

12-12-13 - Submitted by Fifteen Great Road LLC.

Affordable housing handout  
Preliminary home site options  
Proforma handout  
Powerpoint presentation dated 12-12-13

**Documents received for the meeting of December 19, 2013**

12-17-13 – Letter from Littleton Planning Board

12-17-13 – Email from Eric Nascimento, district 3 DOT engineer

12-17-13 – Letter from Kenneth Cram Bayside Engineering re: traffic impacts

12-18-13 – Email comments from Fire Department

12-18-13 – Email from Littleton Water Department

12-19-13 - Email comments from Conservation Commission

12-19-13 – Email comments from Board of Health

12-19-13 - Email from resident Katie Carruth

12-19-13 Draft minutes of the decision subcommittee meeting of 12-17-13

12-19-13 - Submitted by Fifteen Great Road LLC.

Wildflower Meadow Unit options list

Affordable locations plan

House plans for Shortcake, Biscotti, Cupcake, Nora Abbey, Laughing Tiger, Auroa

Village Green Site Plan 12-4-13

Revised waiver list

11

**Documents received at the meeting of December 19, 2013**

12-19-13 – Email from Robert Smith, Mass Housing re: affordable unit options and location plan

**Documents received for the meeting of January 7, 2014**

12-31-13 Email from Julie Rupp – concerned resident

1-6-14 Draft minutes of the unit mix/layout subcommittee meeting of 12-30-13

1-7-14 Draft minutes of the draft decision subcommittee meeting of 1-6-14

1-7-14 From Mass DEP, Final Permit Village Green Groundwater Discharge dated 1-3-14

1-7-14 Comments from Board of Health on the draft decision

1-7-14 Submitted by Fifteen Great Road II, LLC

Revised Wildflower Meadow Unit options list 1-6-14

House plans for Wildflower Meadow 12-23-13

Plan of Phase I and II affordable locations 1-6-14

Revised list of waivers 12-23-13

Building envelope plan 12-30-13

Front entry sign 1-7-14

Marketing sign 1-7-14

**Documents received at the meeting of January 7, 2014**

1-7-14 PowerPoint presentation dated 1-7-14

**Documents received for the meeting of February 12, 2014**

2-6-14 Draft minutes of the draft decision subcommittee meeting of 2-6-14

2-6-14 Received by Fifteen Great Road II LLC

Wildflower Meadow Home plans 1-24-14

Village Green Apartments building plans 1-24-14

2-10-14 Draft decision revised thru 2-10-14

2-10-14 Email from Fire Safety Officer Keith Dunn re: hydrant locations as shown on plan Village Green  
Layout and Utilities plan 2 of 2 dated February 4, 2014.

**Documents received at the meeting of February 12, 2014**

2-12-14 Village Green Civil Plans revised thru 2-4-14

2-12-14 Existing signs of similar sizes in other communities

2-12-14 Draft decision revised thru 2-12-14

**Documents received for the meeting of March 3, 2014**

2-14-14 Wildflower Meadow Home options revised thru 2-14-14

2-14-14 Wildflower Meadow Single family home plans Wendy Welton Architecture

2-26-14 Graves Engineering Hydrology and Stormwater Management Review

2-27-14 Places Associates, Inc. Peer Review of Drainage System

2-28-14 Specifications for Wildflower Meadow, Littleton, Mass. dated January 24, 2014