

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

**I. BACKGROUND**

<b>APPLICANT:</b>	Fifteen Great Road II, LLC (the “Applicant”)
<b>PROPERTY:</b>	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”).
<b>ZONING:</b>	Residence (R) District
<b>THE PROJECT:</b>	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.
<b>PUBLIC HEARING:</b>	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 October 16, 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 <sup>1</sup> , March 5, 2012, April 12, 2012, May 17, 2012, June 21, 2012, July 12, 2012, August 16, 2012, September 13, 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.
<b>DECISION DATE:</b>	_____, 2013

---

<sup>1</sup> 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, §21 and M.G.L. c.40A, §11 before reconvening the public hearing on March 5, 2012.

**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

<b>Building</b>	<b>Floor</b>	<b>Floor</b>	<b>Floor</b>	<b>Floor</b>	<b>Elevation</b>	<b>Elevation</b>
Cover Page Date	11/30/12					
TH3A	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.2 11/30/12	A.102.3 11/30/12	A.103.4 11/30/12		A.201.5 12/18/12	A.202.6 12/18/12
TH3B3	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.7 11/30/12	A.102.8 11/30/12	A.103.9 11/30/12		A.201.10 12/18/12	A.202.11 12/18/12
TH3C	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.12 11/30/12	A.102.13 11/30/12	A.103.14 11/30/12		A.201.15 12/18/12	A.202.16 12/18/12
TH3CDU	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.17 11/30/12	A.102.18 11/30/12	A.103.19 11/30/12		A.201.20 11/30/12	A.202.21 11/30/12
TH4A3	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.22 11/30/12	A.102.23 11/30/12	A.103.24 11/30/12		A.201.25 12/18/12	A.202.26 12/18/12
TH4B3	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.27 11/30/12	A.102.28 11/30/12	A.103.29 11/30/12		A.201.30 12/18/12	A.202.31 12/18/12
TH4C	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.32 11/30/12	A.102.33 11/30/12	A.103.34 11/30/12		A.201.35 12/18/12	A.202.36 12/18/12

Building	Floor	Floor	Floor	Floor	Elevation	Elevation
TH4CDU	First Floor	Second Floor	Third Floor		Front / Right Elevation	Rear / Left Elevation
Page Date	A.101.37 11/30/12	A.102.38 11/30/12	A.103.39 11/30/12		A.201.40 11/30/12	A.202.41 11/30/12
TH5B3	First, Second, Third Floor				Front, Right, Left and Rear Elevation A.201.43 12/18/12	
Page Date	A.101.42 11/30/12					
TH6B3	First, Second, Third Floor				Front, Right, Left and Rear Elevation A.201.45 12/18/12	
Page Date	A.101.44 11/30/12					
A,B,C,D	First Floor	Second Floor	Third Floor	Loft	Front, Right, Left, Rear Elevation A.201.50 12/18/12	
Page Date	A.101.46 11/30/12	A.102.47 11/30/12	A.103.48 11/30/12	A.104.49 11/30/12		
Clubhouse	Floor Plan				Front and Right Elevation A.201.52 11/30/12	Rear and Left Elevation A.202.53 11/30/12
Page Date	A.101.51 11/30/12					
WWTF Building	Maintenance Floor				Front, Right, Left, Rear Elevation A.201.55 11/30/12	
Page Date	A.101.54 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,	November 1,	6303-CP-2

	2012	2012	
Index Plan	July 9, 2012	November 1, 2012	6303-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
Drainage Plan 1 of 2	July 9, 2012	November 1, 2012	6303-CP-8
Drainage Plan 2 of 2	July 9, 2012	November 1, 2012	6303-CP-9
Construction Details	July 9, 2012	December 4, 2012	6303-CP-10
Construction Details	July 9, 2012	December 4, 2012	6303-CP-11
Landscape Plan 1 of 2	November 1, 2012	December 4, 2012	6303-L-1
Landscape Plan 2 of 2	November 1, 2012	December 17, 2012	6303-L-2
Zoning Exception Plan	July 9, 2012	December 4, 2012	6303-ZEP
Plan of Land	December 2, 2012		6303-ANR-1

## Signs

Entrance Sign Page Date	A.201.56 11/30/12		
Rental Sign Page	A.201.57		

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:

- a. The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization;
- b. The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
- c. 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 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 Minima 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 minima 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 aforesaid 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 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 19, 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 13, 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 , 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).

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 Vanasse Hangen Brustlin, 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:

1. 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).

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 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").

4. The Property contains approximately 21.17 acres of land, of which approximately .87 acres are wetlands.

5. The Project contains 190 rental dwelling units within 38 buildings, of which 48 are one-bedroom dwelling units, 78 are two-bedroom dwelling units and 64 are three-bedroom dwelling units for a total of 396 bedrooms. In addition, the 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 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 WWF 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>2</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."

---

<sup>2</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 1330 of 2000).

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.

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, 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 one hundred and ninety (190) dwelling units in 38 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.

## **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 310 CMR 10.05(6)(k), 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 59.76 sf measured as a rectangle including all sign components 4.98 ft x 6 feet) and a second sign that will be 12 sq feet (total 24 sf) 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 20A, 25B, 27B, 29B, 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 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.<sup>3</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 49 feet and the maximum height measured as aforesaid 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.

---

<sup>3</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.

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 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.

## **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**

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 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.

**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).

## **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 dwelling units, 48 shall be one-bedroom dwelling units, 78 shall be two-bedroom dwelling units, and 64 shall be three-bedroom dwelling 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.

3. 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;
- 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 Subsidizing 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 Subsidizing 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;
- e. 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, 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.

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 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.

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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

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

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

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 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 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 shall treat the Project as a single user for the purpose 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 L6303-L-1, and Landscape Plan 2 of 2, Plan Number L6303-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 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.

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 403 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.

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 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 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.

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 those 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.

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.

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. In addition, the affordable units shall have the same HVAC units as the comparable market units. The Affordable Rental Units shall to the greatest extent practicable, both initially and during the life of 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 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.

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 56.05(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 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 56.05(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 56.05(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.

## **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

## EXHIBIT A

## EXHIBIT B—EVIDENCE SUBMITTED TO THE ZBA

### **Documents received at the Zoning Board of Appeals meeting of August 18, 2011:**

- Application letter from David Hale, Manager Fifteen Great Road II, LLC dated 8-18-11
- Authorization letter from Mayel Development dated 8-18-11
- Authorization letter from JFM Realty Trust dated 8-18-11
- Comprehensive Permit Application dated 8-18-11 including:
  - a. List of exceptions and waivers
  - b. Preliminary Site Development Plans
  - c. Report and plans – existing and surrounding conditions
  - d. Preliminary architectural plans
  - e. Tabulation of buildings/ground coverage
  - f. Preliminary subdivision plan
  - g. Utilities plan
  - h. Applicant status/acceptability of site
  - i. Site control documents
  - j. Certified list of abutters
  - k. Deeds
  - l. Abutters list

### **Documents received for the meeting of September 27, 2011- Opening of the Public hearing:**

- Transmittal form to Town Boards and with copy of the application submitted to the Zoning Board on August 18, 2011 for comment and input dated 8-19-11.
- Agreement to extend time to convene public hearing until September 28, 2011 dated 9-9-11
- Public hearing legal notice rescheduling public hearing to September 27, 2011 dated 9-12-11
- Citizen comments
  - Email from resident Paul Avella, Grist Mill Road dated 8-11-11
  - Letter from resident Mark Skillings 30 Surrey Road dated 8-17-11
  - Letter from Martin Spicer, 64 Grist Mill Road dated 8-24-11
  - Letter from resident Christopher Simone, 18 Surrey Road dated 8-19-11
  - Letter from resident Daryl Baker, 71 Grist Mill Road dated 9-5-11
  - Email from resident Jo Ellen Slurzberg, 77 Grist Mill Road dated 9-12-11
  - Email from resident John Bergeron, 92 Grist Mill Road dated 9-12-11
  - Letter from resident Nancy Levine, 49 Grist Mill Road dated 9-12-11
  - Email from resident Nancy Levine, 49 Grist Mill Road dated 9-15-11
  - Letter from resident Mark Skillings, 30 Surrey Road dated 9-21-11
  - Email from resident Michelle Barry, 65 Grist Mill Road dated 9-21-11
  - Email from resident Andrew Xiang, 32 Surrey Road dated 9-21-11
  - Email from resident Paul Avella, Grist Mill Road dated 9-22-11

Email from resident Marybeth Magnuson dated 9-27-11

Email from James Vash and Angela Munoz-Avila, 85 Grist Mill Road dated 9-27-11

- Town agencies comments

Memo from Building Inspector dated 8/25/11

Memo from Chief of Police dated 9/8/11

Letter from Board of Selectmen dated 9/16/11

Letter from Fire Prevention Officer dated 9-26-11

Email from Littleton Conservation Commission dated 9/27/11

Letter from Littleton Planning Board dated 9/27/11

**Documents received at the meeting September 27, 2011:**

- Power point presentation by Fifteen Great Road LLC dated 9-27-11

**Documents received for the meeting of October 12, 2011:**

- Citizen comments

Email from Phillip and Lisa Buckellew date 10-11-11

- Town agencies comments

Letter from Littleton Highway Department dated 10/10/11

Letter from Littleton Historic commission dated 10/12/11

**Documents received at the meeting October 12, 2011:**

- Power point presentation from Attorney Daniel Hill representative for the Grist Mill abutters

**Documents received for the meeting of October 20, 2011:**

- Traffic Study Comments

Draft of request for proposal (RFP) by Town Counsel for Traffic Impact and Access Study

Sample RFP Bancroft Elementary School

List of questions from Planning Board member Richard Crowley re: traffic report

Letter from Ted Doucette re: methodology used in the traffic study dated 10-20-11

Email of traffic review consultants from whom to solicit bids dated 10-17-11

Email from Attorney Dan Hill with his RFP comments dated 10-17-11

Reply from Green International Affiliates Inc. dated 10-20-11

Reply from Nitsch Engineering

Reply from Fay Spoffard dated 10-19-11

Reply from PSC

Reply from Vanesse Hangen Brustlin, Inc.

Proposed contract for services prepared by Town Counsel

Certificate of Compliance with tax laws

Certificate of Non Collusion

Traffic Impact and Access Study dated 10/19/11 and Appendix dated 10/19/11

**Documents received for the meeting of November 17, 2011:**

- Emergency Access Plan thru 27-28 dated November 14, 2011
- Traffic Study Comments

Email from Mark Skilings dated 11-2-11  
Email from John Bergeron dated 11-14-11  
FST Peer Traffic Study Proposal  
Green International Peer Traffic Study Proposal  
MDM Peer Traffic Study Proposal  
Nitsch Engineering Peer Traffic Study Proposal  
PSC Peer Traffic Study Proposal  
VHB Peer Traffic Study Proposal

**Documents received at the meeting of November 17, 2011:**

- ZBA Subcommittee Report to the Board dated November 17, 2011
- Vote by the Board to contract VHB to conduct the Peer Review of Traffic Impact/Access Study
- List of issues from Apple D'Or abutters dated 11/16/11
- Letter from Concord Public Works dated 11/17/11

**Documents received at the meeting of December 15, 2011:**

- Agreement to extend time to conduct public hearing signed 12-15-11
- Draft copy of the RFP for Civil Engineering Peer Review

**Documents received for the meeting of January 19, 2012:**

- Email from Dan Hill dated 12-16-11 re: Civil Engineering Peer Review
- Memo from ZBA dated 12-27-11 to selected firms re: Civil Engineering Peer Review Services
- Email response to ZBA memo dated 12-27-11 from S.J. Mullaney
- Email response to ZBA memo dated 12-27-11 from Hancock Associates
- Email response to ZBA memo dated 12-28-11 from BSC Group
- Email response to ZBA memo dated 12-28-11 from Graves Engineering
- Email response to ZBA memo dated 1-3-12 from PSC
- Email response to ZBA memo dated 1-3-12 from Whitman & Bingham
- Email response to ZBA memo dated 1-3-12 from Beals & Thomas
- Email response to ZBA memo dated 1-3-12 from Green International
- Email response to ZBA memo dated 1-4-12 from Nitsch Engineering
- Email response to ZBA memo dated 1-4-12 from CEI
- Email response to ZBA memo dated 1-4-12 from VHB
- Final Draft of Civil Engineering Peer Review RFP dated 1-13-12
- Traffic Study Review – letter from VHB dated 1-11-12
- Alternative Layout Plan dated January 19, 2012
- January 2012 Progress Plan

**Documents received for the meeting of February 16, 2012:**

- Progress Print January 26, 2012 showing the original layout with the proposed alternative layout overlaid received in ZBA office 1-26-12
- Amended Comprehensive Permit Application:

[Application Letter 2 16 12.pdf](#)

[Contents Fifteen Great Road Comprehensive permit Application Amended 2 16 12.pdf](#)

[Item \(a\) - Requested Waivers Amended 2 16 2012.pdf](#)

[Item \(b\) Site Development Plans Amended 2 16 2012.pdf](#)

[Item \(c \) Report Amended 2 16 2012.pdf](#)

[Item \(c1\) Attachment Adjacent Buildings and Uses.pdf](#)

[Item \(d\) Preliminary Architectural Plans Amended 2 16 12.pdf](#) [Item \(e\) -](#)

[Chart of Impervious and Open Space Areas Amended 2 16 12.pdf](#)

[Item \(e\) Building Footage Amended 2 16 2012.pdf](#)

[Item \(g\) Utility Plan Amended 2 16 2012.pdf](#)

[Item \(h\) - Applicant Status.pdf](#)

[Item \(h\) - Project Eligibility Letter.pdf](#)

[Item \(i\) Site Contol Documents.pdf](#)

[Item \(j\) Certified Plan of Land Amended 2 16 2012.pdf](#)

[Item \(k\) Deeds Amended 2 16 2012.pdf](#)

[Item \(l\) Abutters List 2012 Acton.pdf](#)

[Item \(l\) Abutters List 2012 Littleton.pdf](#)

[Item \(l\) Abutters List 2012 Westford.pdf](#)

**Documents received for the meeting of March 5, 2012 –**

**Opening of the public hearing on the amended Comprehensive Application for 15 Great Road.**

- Legal Notice of Public Hearing published in Lowell Sun 2-20 and 2-27-12
- Email to Town Boards for comment dated 2-23-12on the Amended Comprehensive Application
- Memo from Littleton Board of Health dated 2-3-12
- Letter from the Littleton Board of Selectmen dated 3-5-12
- Email from resident Christopher Simone, 18 Surrey Road dated 2-16-12
- Email from Robert Nagi, VHB re: meeting with Mass DOT dated 2-3-12
- Letter from Bayside Engineering re: traffic peer review comments dated 2-27-12
- Email from ZBA to selected firms RFP Civil Engineering peer review dated 2-23-12
- Power point presentation by Omni dated March 5, 2012

**Documents received for the meeting of April 12. 2012:**

- Civil Engineering Peer Review proposal from Beals and Thomas dated 3-8-12
- Civil Engineering Peer Review proposal from BSC dated 3-8-12
- Civil Engineering Peer Review proposal from Tetrartech dated 3-8-12
- Civil Engineering Peer Review proposal from Green International dated 3-8-12
- Civil Engineering Peer Review proposal from CEI Inc. dated 3-8-12
- Civil Engineering Peer Review proposal from PSC dated 3-8-12
- Civil Engineering Peer Review proposal from VHB dated 3-8-12
- Civil Engineering Peer Review proposal from Graves Engineering dated 3-8-12
- Email from Attorney Dan Hill re: Civil Engineering RFP dated 3-9-12
- Letter from the Littleton Planning Board dated 3-9-12
- Email from abutter Robert Haigh dated 3-9-12
- Letter from abutter Carol Pikcilingis Acton Barn Cooperative dated 3-29-12

**Documents received at the meeting of April 12, 2012:**

- Report of the Civil Engineering Subcommittee meeting of 4-2-12
- Agreement to extend time to conduct public hearing signed 4-12-12

**Documents received for the meeting of May 17, 2012:**

- Email from Littleton Water Department re: revised plan comments dated 5-10-12
- Revised plans dated 5-2-12:  
[ALL UNITS.pdf](#)  
[Building Unit List Summary.pdf](#)  
[Progress Plans - May 2 2012 - GRADING.pdf](#)  
[Progress plans May 2 2012 - SETBACKS.pdf](#)  
[ZBA Letter May 1.pdf](#)
- Revised plans and list of waivers dated 5-9-12  
[15 Great Road - revised list of requested waivers and exceptions 5-15-12.pdf](#)  
[All units 5 8 2012.pdf](#)  
[Building type W X Y.pdf](#)  
[Building type Z - a201.pdf](#)  
[Building type Z a 202.pdf](#)  
[ZBA Letter May 9.pdf](#)  
[ZBA-15 Great Road - Wastewater Tr. memo 5-15-12.pdf](#)
- Townhouse elevation plans 5-17-12:  
[40B-DESIGN-60 setbacks-5-17-12.pdf](#)  
[Building type TH3B3.pdf](#)  
[Building type TH4B3.pdf](#)  
[Building type TH5B3.pdf](#)  
[Building type TH6B3 a201.pdf](#)
- [Letter to ZBA May 17.pdf](#)
- Memo to the ZBA from Omni re: WWTP dated 5-14-12

**Documents received at the meeting of May 17, 2012:**

- Power point presentation by Omni dated 5-17-12

**Documents received for the meeting of July 12, 2012:**

- Email from David Hale dated 5-18-12 attaching memo from Highway Superintendant to Planning Board re: WWTP dated 5-6-12, response letter from Omni to memo from Highway Superintendant dated 5-9-12
- Progress Print dated 6-29-12
- Revised Traffic Impact and Access Study w/appendix dated 7-9-12
- Email from Savas Danos Littleton Water Department dated 7-17-12

**Documents received at the meeting of July 12, 2012:**

- Power point presentation by Omni dated 7-12-12
- Revised plans and waivers submitted at the meeting:  
[1-ZBA July 12 Cover Letter.pdf](#)  
[Fifteen Great Road Full set 2012-7-11 Cp1-11 and LA1&2.pdf](#)  
[Sight line Cross Section-7-11.pdf](#)

[TH3A.pdf](#)  
[TH3B3.pdf](#)  
[TH3C.pdf](#)  
[TH3CDU.pdf](#)  
[TH4A3.pdf](#)  
[TH4B3.pdf](#)  
[TH4C.pdf](#)  
[TH4C-Building 29.pdf](#)  
[TH4CDU.pdf](#)  
[TH4CDU- Building 17.pdf](#)  
[TH5B3.pdf](#)  
[TH6B3.pdf](#)  
[Truck Turns SU-30- 7-12-12.pdf](#)  
[Truck Turns WB-50.pdf](#)  
[Unit Building -12 units.pdf](#)  
[Village Green Entry sign.pdf](#)  
[Village Green Street Scapes.pdf](#)  
[Waiver Plan.pdf](#)  
[Waivers 7-11-12 Final.pdf](#)  
[ZBA-revised Traffic Study -TIAS 070912 F w Appendix.pdf](#)  
[ZBA-revised Traffic StudyTIAS 070912 No Appendix.pdf](#)

- Agreement to extend time to conduct public hearing signed 7-12-12

**Documents received for the meeting of August 16, 2012:**

- Letter from abutter Carol Pikcilingis, Acton Barn Cooperative dated 7-9-12
- Email from Omni to Rob Nagi, VHB re: traffic peer review dated 7-13-12
- Email from Littleton Light and Water dated 7-16-12
- Email from traffic peer review engineer Rob Nagi, VHB to Omni dated 7-18-12
- Memo from Littleton Planning Board dated 7-31-12
- Letter from Bayside Engineering to Omni re: traffic review dated 8-6-12
- Initial Draft Peer Review Report from Graves Engineering dated 8-9-12
- Response to Graves Engineering initial peer review letter dated 8-15-12
- Letter from Littleton Planning Board dated 8-16-12
- Memo from Zoning Officer dated 8-16-12
- Agreement and Declaration of Restrictive Covenants between developer and abutters
- Updated waivers and plans 8-16-12:
  - 40B Landscape render dated 8-15-12
  - Revised list of waivers dated 8-14-12
  - Fifteen Great Road Monument Sign
  - Fifteen Great Road Rental Sign
  - Letter from Omni to the ZBA dated 8-15-12
  - Zoning Exception plan dated 8-15-12

**Documents received at the meeting of August 16, 2012:**

- Power point presentation Village Green dated 8-16-12

**Documents received for the meeting of September 13, 2012:**

- Letter from Senator Eldridge and Representative Arciero dated 8-30-12
- Environmental Notification Form Application dated 8-30-12
- Email from abutter Bobby's Ranch to Senator Eldridge and Representative Arciero dated 9-7-12
- Letter from Miyares and Harrington dated 9-11-12
- Second Draft Peer Review report from Graves Engineering dated 9-13-12
- Email from Deidre Buckley, Notice of MEPA site visit dated 9-13-12

**Documents received at the meeting of September 13, 2012:**

- Power point presentation Village Green dated 9-13-12

**Documents received for the meeting of October 18, 2012:**

- Email from Deidre Buckley, change of MEPA site location dated 9-18-12
- Letter from Littleton Water Department to Omni Properties dated 9-19-12
- Memo from Littleton Zoning Officer dated 9-21-12
- Memo from Littleton Board of Health agent Jim Garreffa dated 9-25-12
- Email from Omni to Police Chief Kelly dated 9-28-12

**Documents received at the meeting of October 18, 2012:**

- PowerPoint presentation Village Green dated 10-18-12
- Updated waiver list dated 9-19-12
- Report of the subcommittee meeting of 9-19-12 on the draft decision

**Documents received for the meeting of November 15, 2012:**

- Revised Architectural Plans for village Green dated 11-6-12
- Revised plans for Village Green dated 11-7-12
- Final Peer Review Report from Graves Engineering dated 11-14-12

**Documents received at the meeting of November 15, 2012:**

- Report of the subcommittee meeting of 10-23-12 on unit/mix alternatives
- Report of the subcommittee meeting of 10-24-12 on draft decision
- Report of the subcommittee meeting of 11-8-12 on unit/mix alternatives
- Report of the subcommittee meeting of 11-8-12 on draft decision
- Draft decision dated 11-15-12
- Host Agreement summary page dated 11-14-12
- Agreement to extend time to conduct public hearing signed 11-15-12

**Documents received for the meeting of December 13, 2012:**

- Revised civil engineering plans dated 12-5-12
- Revised architectural plans dated 12-5-12
- Revised list of requested waivers dated 12-7-12
- Updated final peer review report from Graves Engineering dated 12-12-12

**Documents received at the meeting of December 13, 2012**

- Draft decision revised thru 12-13-12

**Documents received for the meeting of December 18, 2012:**

- Draft decision revised thru 12-18-12

**Documents received at the meeting of December 18, 2012:**

- Landscape Plan 2 of 2 dated 11-1-12
- Agreement to extend time to conduct public hearing signed 12-18-12

**Documents received for the meeting of January 17, 2013**

- Revisions to civil engineering plans 12-18-12
- Email from abutter Nancy Levine dated January 10, 2013
- Full set revised Architectural Plans 1-15-13
- Full set revised Civil Engineering Plans 1-15-13
- 40B Landscape current-LA-2 plan 2 of 2 1-7-13
- Email from Littleton Conservation dated 1-17-13
- Letter from resident Mark Lavigne dated 1-17-13