

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. Keilty, as Trustee of Littleton Holding Realty Trust u/d/t dated April 8, 2010, John R. Keilty, as Trustee of Nashoba Place Realty Trust u/d/t dated December 22, 2011, recorded with Middlesex South District Registry of Deeds in Book 58154, Page 117, and Leslie J. French, as Trustee of JFM Realty Trust u/d/t dated February 24, 2005, 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

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 trends¹, 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

¹ 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.

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 §§173-93 to 173-118 inclusive and §§173-16 to 173-19 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 §§173-93 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 1330 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

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, 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), 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. Keilty, 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 54533, Page 583 and Lot 56A is owned by John R. Keilty, 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 58154, 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 54533, Page 583 and a deed dated December 11, 2011 and recorded in the Middlesex South District Registry of Deeds at Book 58154, 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 58154, Page 123; 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 44725, 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 54533, Page 583; (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 58154, Page 123; 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 44725, 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.

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-140736 and the tax title judgment dated May 31, 2012 in Land Court Case 10-TL-140737, 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 facilities² 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.

² For purposes of this Agreement, “other appurtenant facilities” shall mean cleanouts, manholes, markers, magnetic marking tape, insulation for the sewer lines, posts 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.

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 authorizes all land and lots within the Subdivision Property, the Easement Lots³ 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 services 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 3, 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 3, 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 3 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.

³ 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.

(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 3 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

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 Grist 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

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, becomes 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 services 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 3.5% 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

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

- (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 \$19,350.00 or 3.5% 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 maybe permitted by 760 CMR 56.03(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

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.

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
37 Shattuck Street, P.O. Box 1305
Littleton, MA 01460

with a copy to:

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

If to the Developer to:

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

With a copy to:

Louis N. Levine, Esq.

D'Agostine, 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/Omni/Great Rd/Host Community Agreement 2.11.13 CLEAN

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 Orchards 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 3(c) above.

[Remainder of page intentionally left blank]

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

DEVELOPER:

Fifteen Great Road, LLC

By: _____
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, 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:

[Remainder of page intentionally left blank]

Fifteen Great Road II, LLC

By: _____
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:

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:

John R. Keilty, Trustee
NASHOBA PLACE 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 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.

Notary Public:
My Commission Expires:

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:

TOWN:

TOWN OF LITTLEON
By its Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

On this ____ day of _____, 2013, before me, the undersigned notary public, personally appeared:

_____,
as Members of the Board of Selectmen of the Town of Littleton, and proved to me through satisfactory evidence of identification, which were _____, 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.

Notary Public:
My Commission Expires:

EXHIBIT A

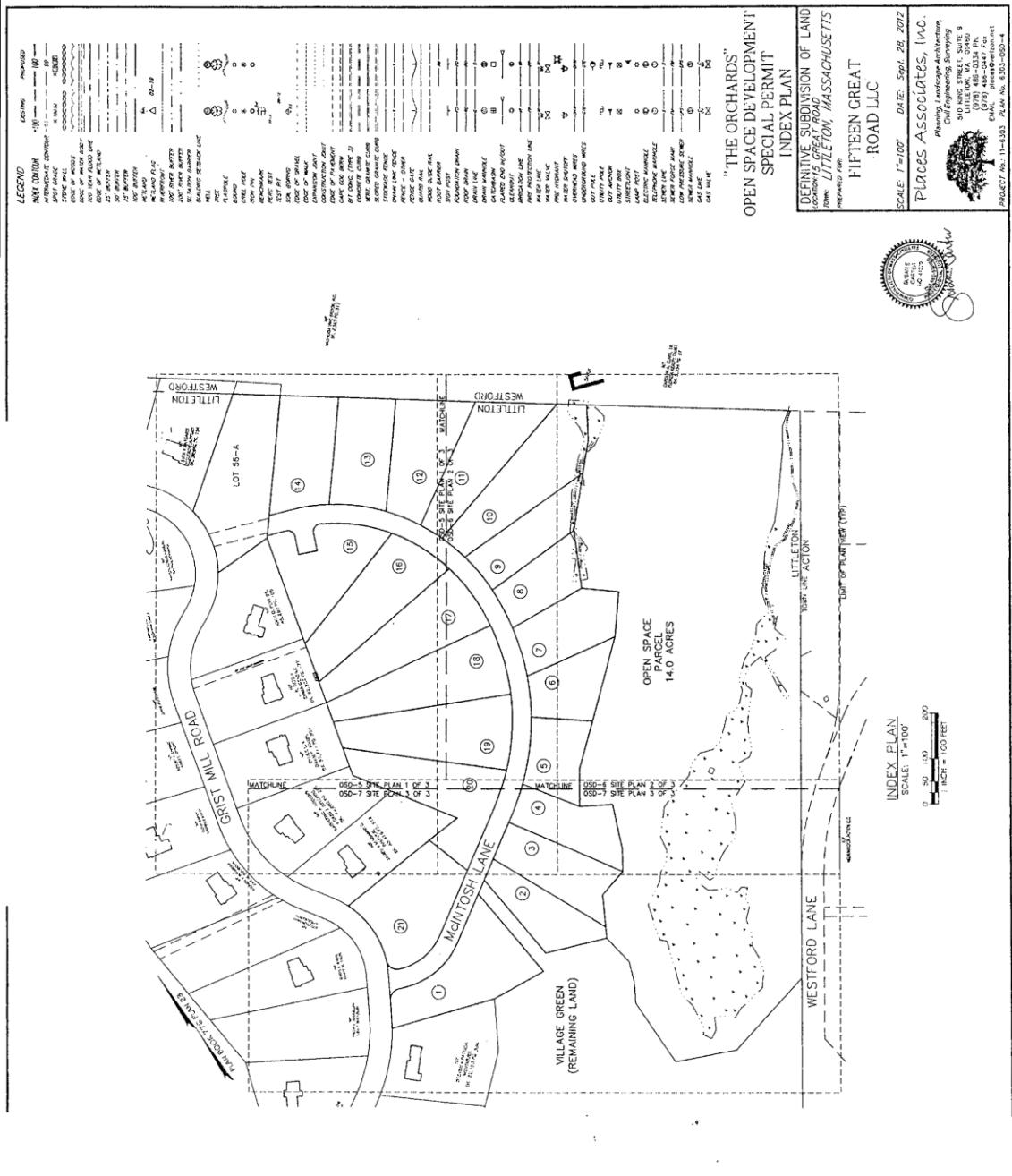


EXHIBIT B

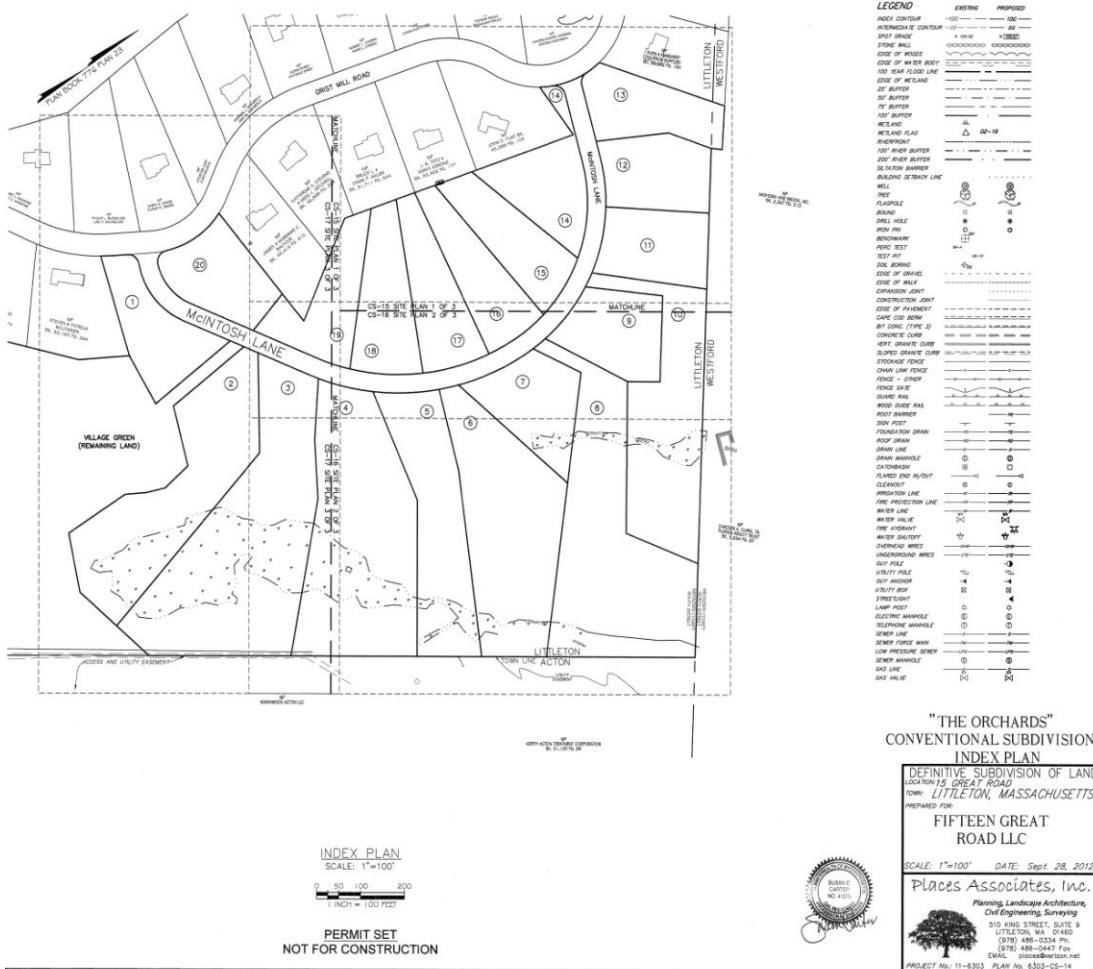


Exhibit C Easement Lots

Lot	Address
U01-32-102	10 Surrey Road
U01-32-46	13 Surrey Road
U01-32-47	15 Surrey Road
U01-32-128	17 Surrey Road
U01-32-127	19 Surrey Road
U01-32-97	20 Surrey Road
U01-1-41	69 Grist Mill Road

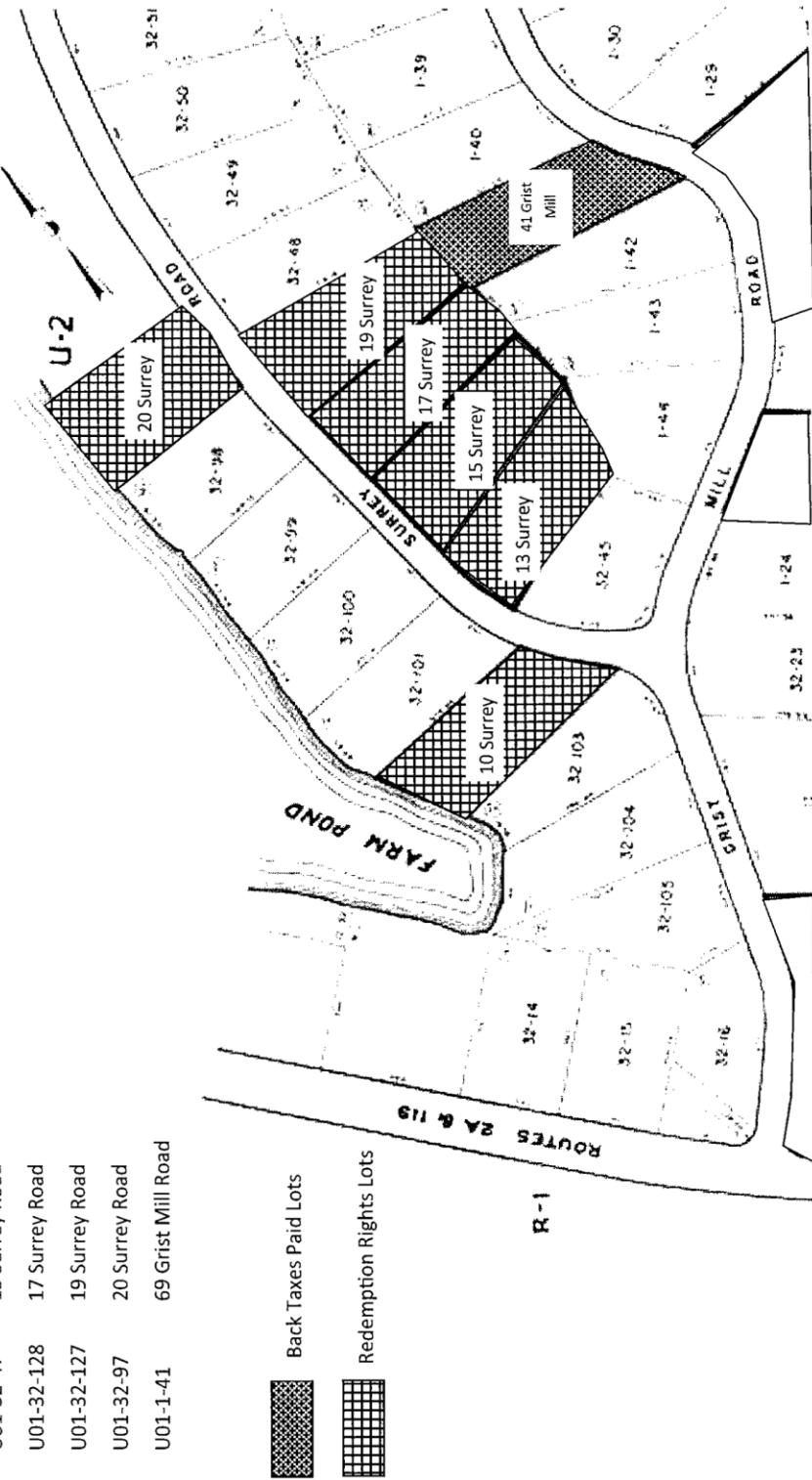


Exhibit D
STIPULATION

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

MIDDLESEX, SS.

LAND COURT DEPARTMENT
OF THE TRIAL COURT
CASE NO. 10 TL 140733
CASE NO. 10 TL 140736
CASE NO. 10 TL 140737

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:

If: (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 #370560
Newman & Newman, P.C.
1 McKinley Square
Boston, Massachusetts 02109
(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 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, 2012⁴, 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.

DECISION DATE: _____, 2013

⁴ 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

Building	Floor	Floor	Floor	Floor	Elevation	Elevation
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 A.201.25 12/18/12	Rear / Left Elevation A.202.26 12/18/12
Page Date	A.101.22 11/30/12	A.102.23 11/30/12	A.103.24 11/30/12			
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, 2012	November 1, 2012	6303-CP-2
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,	November 1,	6303-CP-7

	2012	2012	
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 Date	A.201.57 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 Civil/Omni/Great Rd/Host Community Agreement 2.11.13 CLEAN 33

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 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/Omni/Great Rd/Host Community Agreement 2.11.13 CLEAN 35

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 Road⁵, 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.

⁵ 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).

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) housing 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 Civil/Omni/Great Rd/Host Community Agreement 2.11.13 CLEAN 38

rectangle including all sign components 4.98 ftx6 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.⁶

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.

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

⁶ 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.

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 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.

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 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 has elected to treat the Project as a single user for the purpose of metering the water service from the Littleton Water Department. If the Civil/Omni/Great Rd/Host Community Agreement 2.11.13 CLEAN 47

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. 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 Civil/Omni/Great Rd/Host Community Agreement 2.11.13 CLEAN 53

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—“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

EXHIBIT F
PARTIAL DISCHARGE AND RELEASE OF HOST COMMUNITY AGREEMENT

The Town of Littleton ("Town"), as 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: