



Town of Littleton  
PO Box 1305  
Littleton, MA 01460  
978-540-2401

**TOWN CLERK CERTIFICATION:**

To Whom It May Concern:

I, Diane Crory, Town Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Board of Appeals for the Comprehensive Permit & Related Attachments, as requested by the Petitioner's application for 120 Goldsmith Street, Littleton MA and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

Diane Crory  
Town Clerk  
Littleton, Mass.

August 25, 2011

Date

**A TRUE COPY**

ATTEST:

Diane Crory  
9/5/12

WESTCHESTER CO. INC.  
30 NAGOG PARK DRIVE SUITE 225  
ACTON, MA 01720  
978.263.0428



Re: Supervisor Contact Information for The Homes at Kimloch Farm

Dear Members of the Board:

May 1, 2012

Please be advised that:

Stephan Marsh, 455 Central Street, Acton, Ma is the General Contractor and Construction Supervisor for this project: Office 978.263.0428 / Cell 978-771-8935

Manager: W.D. Chisholm 978-815-0968

Stephen Marsh  
Construction Supervisor  
for The Homes at Kimloch Farms  
Westchester Co. Inc.

cc. Police Department  
Fire Department  
Conservation Commission  
Building Department  
Highway Department  
Water Department  
Littleton Conservation Trust  
Board of Health

WESTCHESTER CO. INC.  
30 NAGOG PARK DRIVE SUITE 225  
ACTON, MA 01720  
978.263.0428



Re: Anticipated Work Commencement for The Homes at Kimloch Farm

Dear Members of the Board:

May 1, 2012

Please be advised that we have initiated the work for the Homes at Kimloch Farm as of April 23, 2012. This work included meetings and or telephone conversations with the following Departments as required by the Comprehensive Permit:

Water Department for offsite work related to this project.

Highway Department for offsite work related to this project.

Board of Health for work related to onsite installation of the sewage disposal leaching area.

We are now requesting a joint meeting all Boards, Commissions and other interested parties, at your earliest convenience.

Stephan Marsh  
Construction Supervisor for The Homes at Kimloch Farms  
Westchester Co. Inc.

## Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 3/31/2025 12:06:42 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
169232	DECISION		59734/499	08/10/2012	
<b>Property-Street Address and/or Description</b>					
120 GOLDSMITH ST					
<b>Grantors</b>					
LITTLETON TOWN, ON TH RAIL FARM INC					
<b>Grantees</b>					
<b>References-Book/Pg Description Recorded Year</b>					
59734/497 DEED 2012, 60230/1 AGR 2012					
<b>Registered Land Certificate(s)-Cert# Book/Pg</b>					

JKS



2012 00169232  
Bk: 59734 Pg: 499 Doc: DECIS  
Page: 1 of 18 08/10/2012 03:38 PM

# The Homes at Kimloch Farms Littleton, Massachusetts

Comprehensive Permit Decision  
& Related Attachments

June 2011

Bovenzi+Donovan  
14 Manning Ave. Ste. 102  
Leominster, MA  
01453

TOWN OF LITTLETON  
ZONING BOARD OF APPEALS

FINDINGS AND DECISION  
ON COMPREHENSIVE PERMIT

RE: Application of Kimloch Farms, LLC  
for Comprehensive Permit (the "Application")

DATE: June 2011

**I. PROCEDURAL HISTORY**

1. The proposed "Kimloch Farms" project is located at 120 Goldsmith Street in the Town of Littleton is currently owned by On the Rail Farm, Inc. located at 390 Goodrich Street in Lunenburg, MA 01462 and is being conveyed per a purchase and sale agreement dated June 3, 2007 to Kimloch Farms, LLC, a duly organized Massachusetts Limited Liability Corporation established with the Secretary of State's office on September 7, 2010,
2. On or about August 19, 2010, Kimloch Farms, LLC, (the "Applicant"), applied for a comprehensive permit, pursuant to G.L. c.40B, to construct eight (8) 3 and 4-bedroom single family detached homes within a condominium , two (2) of which were to be designated as "affordable" (the "Development"). As proposed, the homes are to be situated on eight (8) individual lots within a condominium. The parcel has frontage on Goldsmith and Tajlea Streets. Two homes will have direct frontage on Tajlae Street, the balance of the homes will be serviced by a private condominium access drive. The Development consists of 5.99 acres with lots ranging in size from +/- 5,400 square feet to +/-11,200 square feet. A shared septic system to service the homes is located on an adjacent Parcel (A) consisting of 24,748 square feet. A designated "Open Space" area identified as Parcel (B) consisting of 3 acres + 34,639 square feet abuts the rear of the development area. Municipal water and underground utilities will service the development.
2. A duly advertised public hearing was opened on August 19, 2010 and, with the assent of the Applicant, was continued to the following dates:

September 16, 2010  
September 29, 2010  
October 21, 2010  
November 18, 2010  
December 16, 2010  
January 20, 2011  
February 17, 2011  
March 17, 2011  
May 19, 2011

Plan # 546 of 2012  
Bk. 59734 p. 491

June 2, 2011

3. The public hearing was closed on June 2, 2011.
4. The list of documents and exhibits received during the public hearing is attached hereto as Attachment A, and is incorporated by reference into this Decision.
5. The list of requested waivers from the Littleton Zoning Bylaw and the Board of Health Regulations is attached hereto as Attachment B and is incorporated by reference into this Decision.

## **II. FINDINGS**

Following the public hearing and based upon all of the evidence submitted to the Board, the Board makes the following Findings:

1. The Applicant has standing based upon the submission of the following pursuant to 760 CMR 31.01:
  - a. it is a "limited dividend corporation" as that term is used in G.L. c. 40B, s. 21 and 760 CMR 31.01 (1) in that it will execute a Regulatory Agreement that shall require the limiting of its profit to no more than twenty percent (20%) of total development costs.
  - b. evidence of a subsidy as indicated by the project eligibility/site approval letter of Mass Housing dated January 26, 2009 pursuant to its Housing Starts Program and the New England Fund Program of the Federal Home Loan Bank of Boston.
  - c. the Applicant has "control of the site" as that term is used in 760 CMR 31.01, by virtue of a Purchase and Sale Agreement between the record owners(s) and Kimloch Farms, LLC dated June 3, 2007.
2. The Town of Littleton has not achieved the statutory minimum set forth in G.L. c. 40B, §20 and or 760 CMR 31.04 in that affordable housing does not constitute more than 10% percent of the total number of dwelling units nor is 1.5% of the Town's land area in affordable housing. The development of affordable homes consistent with the application will not result in the commencement of construction of such housing on sites comprising more than three-tenths of one percent of such land area.
3. The Property is located in the Residential District, as established in the Littleton Zoning By-law.

4. The Board received comments from Town boards and commissions and the public, all of which have been made a part of the record of this proceeding and have been taken into consideration by the Board in rendering its decision.
5. As proposed, twenty-five percent (25%) of the eight (8) units or two (2) units (the "Affordable Units") shall be reserved for sale to households earning no more than eighty (80%) percent of the Median Family Income for the Boston-Cambridge-Quincy MA- NH HUD Metro FMR Area, as determined by the U.S. Department of Housing and Urban Development (HUD) and as adjusted for household size.
6. The Development as conditioned herein is consistent with local needs.

### **III. DECISION**

Pursuant to G.L. c. 40B, the Littleton Zoning Board of Appeals, after public hearing and findings of fact, hereby grants a Comprehensive Permit to the Applicant for the construction on the Subject Property of eight (8) single family detached homes with a condominium with associated infrastructure and improvements, subject to the following conditions. This Comprehensive Permit is subject to compliance by the Applicant with the terms and conditions of this decision. The Board finds that the waivers granted, as conditioned or limited, are consistent with local needs and do not render the Mass. Gen. Laws c. 40B Project uneconomic. The terms and conditions of this Comprehensive Permit, together with the Deed Rider and Regulatory Agreement to be entered into, governing the affordable units, shall control the development of the Project. To the extent the Comprehensive Permit and Agreements are inconsistent with any other instrument document, agreement or plan submitted in connection with the Project, the Regulatory Agreement shall control. As used herein, the term "Applicant" shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Littleton Zoning Board of Appeals. Unless otherwise indicated herein, the Board of Appeals may designate an agent or agents to review and approve matters set forth herein.

### **IV. CONDITIONS**

#### **A. Administrative**

1. The Development shall be constructed in substantial conformance with the following plans and documents of record (collectively referred to as the "Plans"), except as revised by the Board herein.

A. Plan set entitled "***THE HOMES AT KIMLOCH FARM, a proposed comprehensive permit project under MGL Chapter 40B***". Plan set consists of 7 sheets with an initial date of December 12, 2009 and a scale of 1" = 20 feet. Plans were prepared and certified by Mr. Scott Hayes of Foresite Engineering in Stow, MA. Attached is a reduced version of these plans; full scale copies are to be in ZBA files.

The specific pages are as follows:

- Sheet 1 - Title Sheet (dated December 12, 2009)
- Sheet 2 - Record Plan (dated December 12, 2009 with final revision date of May 24, 2011)
- Sheet 3 - Site Development Plan (dated December 12, 2009 with final revision date of May 24, 2011)
- Sheet 4 - Detail Sheet 1 of 2 (dated December 12, 2009)
- Sheet 5 - Detail Sheet 2 of 2 (dated December 12, 2009)
- Sheet 6 - Erosion & Sediment Control Plan 1 of 2 (dated December 12, 2009 with final revision date of May 24, 2011)

Sheet 7 – Erosion & Sediment Control Plan 2 of 2 (dated December 12, 2009 with final revision date of May 24, 2011)  
Sheet 8 – Landscape & Traffic Pattern Plan (dated February 14, 2011)

B. Architectural Plans for the two proposed home styles, a Colonial design and a Cape design. The plans were prepared for Westchester Corp by Integrity Design of Acton, MA. The plan layouts shall remain generally consistent, however the plans shall be updated to reflect and comply with all applicable building codes.

- The Colonial designs (8 sheets) are included as Attachment C.
- The Cape designs (5 sheets) are included as Attachment D.

Applicant shall provide a "Final" plan set to the Board prior to the issuance of the first building permit for the project. It is intended the final plan will reflect approved septic plans from the Littleton Board of Health and/or DEP and final architectural plans.

2. This comprehensive permit is granted to Kimloch Farms, LLC and shall not be sold or transferred without prior written approval by the Board. Written approval by the Board for a transfer of the comprehensive permit shall also be required in the event that control of the subject LLC results in the current owner(s) having less than a 50% interest therein.
3. The Board shall have the power, at a public meeting and without further public hearing to modify or amend the terms and conditions of this Comprehensive Permit on the application of the Applicant, or upon its own motion, to correct technical errors in this Comprehensive Permit.
4. In the event the Applicant seeks any change in the Comprehensive Permit after this decision is final, whether deemed by the Board to be an "insubstantial change" or a "substantial change" in the Project as herein defined, any such change must be presented to the Board for approval and for modification of this decision. Any substantial changes or modifications to this Comprehensive Permit shall only be made upon written request and upon the holding of a public hearing after which the Board may approve or disapprove the requested modifications or amendments to this decision, in accordance with the provisions of Mass. Gen. Laws c. 40B, §21 and the provisions of 760 CMR 31.03. The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such a substantial change, and will then determine whether the change or requested relief is to be approved and the decision amended accordingly. "Substantial change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 31.03 (2)(a). If it deems necessary the Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed changes.

**B. Housing**

1. The Development shall be limited to eight (8) single family detached homes within a condominium in substantial compliance with the Plans. The homes shall be located within the condominium with an Exclusive Use Area (EUA) identified for the eight (8) homes. Four of the homes shall have three bedrooms; 4 of the homes shall have four bedrooms. The project includes 2 affordable homes, identified as a three (3) bedroom home on EUA 5 and a four (4) bedroom home on EUA 4.
2. Subject to the approval of the Subsidizing Agency and DHCD regulations, the price for such Affordable Unit shall be set at a price affordable to a household earning not more than seventy percent (70%) of the Median Family Income in the Boston-Cambridge-Quincy MA- NH HUD Metro FMR Area, adjusted for household size. The 70% of Median Family Income number shall be calculated by dividing the applicable 80% of Median Family Income number by 80% and then multiplying the result by 70%. Twenty five percent (25%) of the total units in this development shall be available in perpetuity for purchase and occupancy by households whose income is no more than 80% of the Median Family Income for the Boston-Cambridge-Quincy MA- NH HUD Metro FMR Area or applicable jurisdiction in the event of a change, adjusted for household size and as determined by the United States Department of Housing and Urban Development. These Affordable Units shall be indistinguishable on the exterior from the market value units in the project. Applicant shall submit to the Board the proposed form of Deed Rider/Affordable Housing Restriction and Resale Certificate issued by the project administrator to be attached to and recorded with the Deed for each and every affordable unit in the project which shall restrict each unit in accordance with this requirement in perpetuity in accordance with the requirements of M.G.L. Chapter 184, sections 31-33. Each Deed Rider/Affordable Housing Restriction for the Affordable Units in the Project shall set forth the period of affordability to be in perpetuity.
3. Subject to the approval of the Subsidizing Agency and DHCD regulations each Affordable Unit shall be sold for no more than the Maximum Initial Sales Price established in the Regulatory Agreement. The maximum initial sales price for the Affordable Units shall be set at a price no greater than "that which can be afforded by a qualified household paying no more than 30% of annual household income as defined under applicable program guidelines" (including principal and interest payments based upon a zero points, 30 year fixed interest rate amortizing mortgage loan, realistic condominium fees that accurately project the anticipated costs of operating and maintaining the Project including operating, maintenance and replacement reserve requirements for the wastewater treatment plant, property insurance, real estate taxes, and private mortgage insurance) by households earning no more than seventy percent (70%) of the applicable Median Family Income as determined above, adjusted for household size. The Maximum Resale Price shall be established in accordance with the terms of the approved Deed

Rider. The form of Deed Rider to be used is the so-called Universal Deed Rider/Affordable Housing Restriction, which Deed Rider has been approved by Fannie Mae and is designed to preserve the Chapter 40B Affordability Requirement in the instance of a foreclosure by a lender.

4. Subject to the approval of the Subsidizing Agency and DHCD regulations and to the extent permitted by law, preference for the sale of up to seventy percent (70%) or one (1) of the Affordable Units shall be given to persons or families who satisfy all eligibility requirements and who are either (a) current Littleton residents; (b) Work in the Town of Littleton and (c) employees of the Town of Littleton or its school system. The aforementioned limitations for local preference may be revised or amended by the Board as needed to expand the pool of applicants. The Applicant shall designate a Lottery Agent and shall submit a final Lottery plan to the Board of Appeals for its approval. Approval shall not be unreasonably withheld and shall be deemed granted if not reviewed by the Board or their Agent within thirty (30) days of submission by the Applicant. The Lottery Agent for the property shall be MCO Housing Services of Harvard, Massachusetts. The Lottery plan must include the proposed sales price for the Affordable Units and an explanation of the assumptions used to calculate the proposed initial sales price, including a realistic condominium budget.
5. Prior to the issuance of any building permit, the Applicant shall submit to the Board a Regulatory Agreement and a Deed Rider/Affordable Housing Restriction. Such documents shall be in the form approved by the Subsidizing Agency and DHCD regulations, and subject to its approval, contain, at a minimum, the following terms:
  - a. The Affordable Units shall be reserved for sale in perpetuity to households earning not more than eighty percent (80%) of the Median Family Income for the Boston-Cambridge-Quincy MA-NH HUD Metro FMR Area adjusted for household size and the price for such Affordable Unit shall be set at a price affordable to a household earning not more than seventy percent (70%) of the Median Family Income in the Boston-Cambridge-Quincy MA- NH HUD Metro FMR Area as determined above, adjusted for household size, or applicable jurisdiction in the event of a change.
  - b. The right of first refusal to purchase an Affordable Unit on resale shall be granted to the Town of Littleton.
  - c. The actual Affordable Units shall be identified in the Regulatory Agreement, if required.
  - d. The Affordable Units shall be owner-occupied only; provided, however, that the Board may authorize the temporary rental of such unit to a household satisfying all applicable eligibility

requirements at a price, including utilities, affordable to a household earning not more than 70% of median family household income, as determined above, where the owner demonstrates that there is a bona fide reason for same, such as an illness in the family, military duty, or the like.

- e. The Applicant's profits shall be limited to no more than twenty percent (20%) of total development costs exclusive of the development fee. All cost certification and requirements shall be prepared in conformance with Mass. Gen. Laws c. 40B limited dividend guidelines and reporting requirements.
- f. A Monitoring Agent for overseeing the lottery process and buyer qualifications ("Affordability Requirement") shall be a suitable entity as approved by the Subsidizing Agency. All costs associated with monitoring shall be borne by the Applicant. The Littleton ZBA has requested the Littleton Housing Authority be established at the Monitoring Agent for the Affordability Requirement.
- g. All financial information submitted by the Applicant to the Subsidizing Agency for the required cost certification shall be provided by certified mail to the Board at the same time.
- h. The final cost certification will be conducted in accordance with the standard regulations of the Subsidizing Agency.
- i. As a "Limited Dividend Organization," the Applicant's profit shall not exceed 20% of its development costs in the Project exclusive of the development fee. Any profit in excess of such amount shall be paid to the Town, in a form that will allow the Town to use such funds to facilitate the development of affordable housing. Review of the Applicant's limited dividend obligations shall be done in accordance with the Regulatory Agreement. All cost certification and other reporting requirements shall be prepared in conformance with M.G.L. Chapter 40B limited dividend guidelines and reporting requirements. All revenue and expenses attributable to upgrades and/or options purchased by unit buyers must be included in the cost certification documents.

6. Applicant shall obtain building permits, construct and secure a Certificate of Occupancy at a ratio of one Affordable Unit for every three market rate units.

### C. Construction

1. During construction, the Applicant shall comply with all local, state and federal laws regarding noise, vibration, dust, drainage, runoff mitigation and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence before 7:00 a.m. and shall not continue beyond 6:00 p.m. on Monday through Saturday. There shall be no construction on any Sunday or major holidays. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures, but excluding any activities which are required by an emergency situation. The Applicant agrees to the keep the site in a clean and orderly state and shall keep all roadways clear of any debris.
2. If any damage to Town or State ways occurs from construction activity, the Applicant shall repair such damage and restore the way to its prior condition to the Town's reasonable satisfaction and at the Applicant's expense.
3. All signage, including signs to promote sales, unless waived herein, shall comply with the Zoning By-law and shall be maintained in a sightly condition by the Unit Owners Association in conformance therewith.
4. Upon receipt of the necessary septic permits from Littleton Board of Health and/or DEP, the Applicant shall submit a copy of said permits and the plan to the Board or its designee.
5. The Applicant has proposed, and the Board hereby requires, that the following aspects of the Development shall be and shall remain forever private, and that the Town of Littleton shall not have, now or ever, any legal responsibility for operation, maintenance, repair or replacement of same:
  - a) All roadways and parking areas
  - b) Storm water management facility, including detention basins
  - c) Snow plowing of access drive
  - d) Landscaping of common areas and all EAU's
  - e) sewage disposal system;
  - f) all on site external light fixtures, poles and street lighting

6. The access drive within the development shall be a minimum width of 18 feet.
7. The Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the common or private facilities set forth above until the sale of the last dwelling unit. Thereafter, such facilities shall be conveyed to a Unit Owners Association and such operation and maintenance shall be the responsibility of said Association. The detention basins shall be inspected at least two (2) times semi-annually (Spring and Fall), and immediately after heavy rainfall events to ensure that they are operating as intended. Inspection and maintenance of the detention ponds shall include inspection of the inlet and outlet structures, and the removal of any accumulated sediment. Detention basins shall be mowed at least twice a year, and all brush leaves and clippings shall be removed immediately from the site. Catch basins shall be cleaned once a year, with a vacuum truck and the street swept annually, in the early spring after the street sanding is likely to have ended.
8. In the event that the Town determines that the Applicant or the Association has materially failed in its obligation to maintain the drainage system in accordance with an operations and maintenance plan to be submitted by the Applicant, the Town shall have the right, but not the obligation, upon written notice to the Applicant or the Association, (and the Applicant's or the Association's subsequent failure to remedy the maintenance issue within fifteen (15) days of notice thereof,) to enter upon the Site to perform the required maintenance. All costs and expenses, including reasonable attorney's fees, incurred by the Town in connection with its performance of such required maintenance on the Site shall be reimbursed by the Applicant or the Association to the Town within thirty (30) days of Applicant's or the Association's receipt of the Town's invoice for such costs.
9. Prior to the issuance of the first certificate of occupancy, the Applicant shall establish a Unit Owners Association. Membership in said Unit Owners Association shall be required by a deed restriction prepared by the Applicant and approved as to form by the Board's legal counsel prior to execution thereof. The Board's legal counsel shall approve such document as to form after determining that the document is consistent with this decision. Approval shall not be unreasonably withheld and shall be deemed granted if no comments are received from the Board or their Agent within forty five (45) days of submission by the Applicant. Such Unit Owners Association shall maintain the facilities set forth above in Condition D(1). The Board of Appeals shall notify the Building Commissioner, in writing, of such approval and provide a copy of the approved documents.
10. The Applicant's professional engineer has prepared guidelines for the operation and maintenance of the stormwater management system and the wastewater disposal system. Such guidelines shall be incorporated by reference in the organizational documents of the Unit Owners Association. In the event a

management company is engaged, the guidelines shall be incorporated by reference in the management contract.

11. The Board or its agents may enter onto and view and inspect the Property during regular business hours, with reasonable notice to the Applicant, to ensure compliance with the terms of this Decision, subject to applicable safety requirements. The Building Inspector is the Board's designated agent.
12. The certificate of occupancy for any building or phase shall not be issued until the infrastructure or common facilities or common improvements specified in this decision and set forth on the plans of record are constructed and installed so as to adequately serve said building or phase, or adequate security has been provided, reasonably acceptable to the Board of Appeals, to ensure the completion of such improvements. The choice of performance guarantee shall be governed by the provisions of G.L. c. 41, s. 81U (excluding the statutory covenant which shall not apply in this matter) and shall be approved as to form by the Board's legal counsel. The Board of Appeals shall notify the Building Commissioner, in writing, of such completion or performance guarantee.
13. In determining the amount of the bond or surety, the Board shall be guided by the following formula in setting the sum of the security:
  - a. The Board's estimate of the cost to complete the work; plus
  - b. A ten percent margin of error; plus
  - c. An appropriate rate of inflation over a five-year period.
14. The construction site shall be secured in a manner so as to prevent injury or property damage to the residents of the Town.
15. Blasting, if any, shall be performed in accordance with regulations of the Commonwealth of Massachusetts, 527 CMR. 13.00, and in accordance with any local Fire Department requirements for blasting.
16. Landscaping related to the grading and screening of the septic area shall be installed prior to the issuance of a Certificate of Compliance from the Littleton Board of Health.
17. Landscaping and fencing related to the buffering of other common areas as shown on the record landscaping plan dated Feb 14, 2011 shall be completed prior to the issuance of the 5<sup>th</sup> Certificate of Occupancy for homes on the property.
18. It is agreed the Applicant shall place a conservation restriction limiting the usage of the area identified as Parcel B, consisting of approximately 165,319 square

feet. Such agreement shall be executed in conjunction with the Littleton Conservation Commission and/or the Littleton Conservation Trust. A final copy of the Conservation Restriction shall be recorded at the Middlesex County Registry of Deeds and be reflected within the Condominium Documents for the property.

D. Condominium:

1. The Affordable Units shall constitute a percentage (beneficial) interest in the condominium which shall be equal to that of the market-rate units.
2. The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.
3. The Association shall be responsible for the maintenance of:
  - a) All roadways and parking areas
  - b) Storm water management facility, including detention basins
  - c) Snow plowing
  - d) Landscaping of all common areas; including all screening identified on the approved landscape plan (not EUA's)
  - e) sewage disposal system;
  - f) All on site external light fixtures, poles and Street lighting
  - g) Unit Owners shall submit to the Condominium Association copies of any applications for building permits which may be submitted to the Town of Littleton departments.
4. The condominium documents shall provide that:
  - a. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this decision without Board of Appeals approval.
  - b. Conditions set forth in the decision concerning condominium governance must be set forth in the documents (it does not suffice to simply reference the decision); in the event of any conflict between the condominium document and the decision, the terms of the decision shall control.

- c. The number of bedrooms in each unit is identified and that the addition of bedrooms to the units or the retrofitting of existing space for use as additional bedrooms is prohibited.
- d. The Master Deed shall provide that in the event of condemnation or casualty, proceeds above the resale price of the Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing in the event that the unit is not rebuilt or is rebuilt and there are excess monies available.

**E. Monitoring:**

- 1. Subject to the approval of the Subsidizing Agency, in determining whether the Applicant has conformed to the Limited Dividend requirements of the Regulatory Agreement, the Subsidizing Agency shall be required to certify that:
  - a. The Applicant's profit shall not exceed the established Limited Dividend noted above;
  - b. The Developer has not made unreasonable or excessive payments (i.e. payments in excess of reasonable industry standards applicable to an arm's length transaction) to the Applicant or to its parents, subsidiaries, affiliates, successors, and assigns, or to their respective partners, limited partners, shareholders, managers, or other owners, or to the relatives of the same in connection with work performed on the Project in order to artificially inflate the costs of development of the Project or for any other reason;
  - c. In the event a market rate unit is sold for a price below market value or by other than an "arms length transaction", any such sale shall be reported and accounted for at fair market value for purposes of cost certification.
  - d. There have been no commissions charged on the affordable units which are required to be sold pursuant to a lottery selection process as provided by this Comprehensive Permit with the exception of a reasonable Lottery Agent service fee of 3% of the approved sales price; and
  - e. The Subsidizing Agency has been provided access by the Applicant to any reasonable financial information necessary to make these determinations and to verify whether the income and expenses of the Project, including without limitation land acquisition costs, construction costs, landscaping costs, and other expenses, represent fair market value for such items, with particular attention to those arrangements between parties with overlapping ownership to owners of the Applicant.

**F. Regulatory Agreement**

1. Prior to applying for the first building permit for the Project, the Applicant shall submit to the Board a copy of Regulatory Agreement between the Applicant and the Subsidizing Agency consistent with standard forms issued by MassHousing, which, subject to the approval of the Subsidizing Agency, shall include, without limitation, provisions to:
  - a. The applicant agrees to designate the Littleton Housing Authority as the Monitoring Agent for the Affordability Requirement, subject to the Subsidizing Agency approval. If this entity is determined to not be acceptable, the Applicant shall identify another suitable entity.
  - b. The Applicant shall also submit an executed Monitoring Services Agreement for the Limited Dividend Requirement with Mass Housing or other agency as determined by the subsidizing agency.

**G. General**

1. The Applicant has requested waivers, and the Board has granted, with the limitations set forth in this decision, the waivers from local rules set forth in Attachment B attached hereto. The Board has reviewed the plan in light of all applicable Zoning Bylaws, and Board of Health Regulations and all other Town of Littleton rules, regulations and bylaws applicable as of the date of the Applicant's filing of its Comprehensive Permit Application and hereby grants the waivers set forth in Attachment B. In the event the Applicant, the Board's consulting engineer or Agent determines, in the final design of the Development, that additional waivers, not shown on Attachment B are needed the Applicant shall be required to request such additional waivers in writing from the Board. The Board may grant such additional waivers in accordance with applicable rules and regulations.
2. The Applicant shall provide "as-built" plans of the roads, drainage, buildings, and electrical and gas distribution systems to the Fire Department, Highway Department and the Building Department.
3. If a handicapped household is selected in the affordable lottery, Applicant shall make reasonable alterations so that the unit is accessible.
4. A preconstruction conference with town departments shall be held prior to the commencement of construction. For the purposes of this decision, "commencement of construction" shall occur when the clearing and grubbing (removal of stumps and topsoil) has been initiated. The contractor shall request such conference at least one week prior to commencing construction by contacting the Board in writing. At the conference, a schedule of inspections shall be agreed upon by the Applicant, the Board, and other municipal officials or

boards.

5. Prior to commencement of construction, the Applicant shall provide, and update as necessary, the Zoning Board of Appeals, Building Department, Highway Department and the Police and Fire Departments with the name, address, and 24 hour contact information for an on-site construction manager who shall have primary responsibility for the oversight of day-to-day construction activities on the Site.
6. No tree stumps or other demolition and construction debris shall be buried on the Site. All tree stumps shall either be ground or removed from the Site.
7. All staging areas, including without limitation parking areas for construction personnel, portable toilets, temp work facilities, etc. shall be on the Site. No parking shall be permitted on town ways by Project personnel or others in connection with the construction of the Project. The Applicant agrees to at all time maintain a neat and orderly site.
8. Unless construction of the Project shall have commenced, this Comprehensive Permit shall expire two (2) years after the Applicant receives any and all permits, licenses, orders or approvals necessary to construct the project as approved herein unless tolled by the filing of an appeal of this Decision. Any request for an extension of the time as set forth herein must be made in writing to the Board at least thirty days prior to the expiration date of the Comprehensive Permit. Such extension shall not be denied unless the Applicant shall fail to establish a good cause, or fail to show continued compliance with the terms and conditions of this decision, including funding for the Mass. Gen. Laws c. 40B Project. It is further agreed the a Building Permit shall be obtained within one (1) year from when Final Approval is issued by Mass Housing,

## THE BOARD ADOPTS

The Board, by vote of 5-0, adopts the foregoing decision and hereby grants a Comprehensive Permit to construct the Project, subject to the conditions and limitations set forth herein.

The Board has complied with all statutory requirements for the issuance of this Comprehensive Permit.

A copy of this decision will be filed with the Town Clerk. Copies of this decision have been or will be mailed to all parties, persons or boards as required by the Act.

Any person aggrieved by this Decision may appeal pursuant to §21 of the Act.

The Comprehensive Permit granted by this decision shall not take effect until after the appeal period has run. Prior to any work being undertaken pursuant to this permit, a copy of the decision shall be recorded at the Middlesex South District Registry of Deeds. A copy of the decision certified by the Registry, including recording information, shall be furnished to the Board.

## RECORD OF VOTE

The following members of the Board voted to grant a comprehensive permit, pursuant to MGL 40B subject to the above-stated terms:

Alan Bell  
Alan Bell

Cheryl Hollinger  
Cheryl Hollinger

Sherrill Gould  
Sherrill Gould

William Farnsworth  
William Farnsworth

Jeffrey Yates  
Jeffrey Yates

Filed with the Town Clerk on July 27, 2011.

Dane Crouse  
Town Clerk

**A TRUE COPY**

ATTEST: Dane Crouse  
August 7 2012

TOWN CLERK CERTIFICATION:

To Whom It May Concern:

I, Diane Crory, Town Clerk of the Town of Littleton hereby certify that twenty days have elapsed since the filing of this decision by the Board of Appeals for the Comprehensive Permit & Related Attachments, as requested by the Petitioner's Application for 120 Goldsmith St, Littleton, MA and that no appeal concerning said decision has been filed, or that any appeal that has been filed has been dismissed or denied.

Diane Crory  
Town Clerk  
Littleton, Mass.

August 7, 2012  
Date