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SUDBURY, MASS

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NOAH/Sudbury Housing Trust
278 Maynard Road
November 8, 2010

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2010 00224468

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NOTICE OF DECISION
COMPREHENSIVE PERMIT
NEIGHBORHOOD OF AFFORDABLE HOUSING, INC.
278 MAYNARD ROAD ✓
SUDBURY, MA
ZONING BOARD OF APPEALS CASE NUMBER 10-08
NOVEMBER 8, 2010

I. Background

The Sudbury Zoning Board of Appeals (the "Board") received an application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23 and the regulations promulgated thereunder, as amended from time to time, from Neighborhood of Affordable Housing, Inc. (the "Applicant") on December 21, 2009 to construct six (6) dwelling units, on approximately .97 acres of land located at 278 Maynard Road. Said Property is within the A-1 Residential Zoning District, and is identified as Parcel 0400 on Town Assessor's Map E07 (the "Property"). The Property is owned by the Sudbury Housing Trust. Said application was subsequently revised to construct three (3) dwelling units on the Property.

deed: 51485-311

The application was filed by the Applicant and notice as required by law was given to all entitled to receive such notice.

The Applicant submitted evidence establishing that it is a qualified Applicant eligible to apply for a Comprehensive Permit pursuant to 760 CMR 31.01 in that:

- a) It is a non-profit corporation eligible to obtain a Comprehensive Permit pursuant to M.G.L. c.40B;
- b) It has site control over the Property; and
- c) It has received a Project Eligibility (Site Approval) Letter from MassHousing dated January 11, 2010.

The Board convened the public hearing on this application on February 1, 2010. The public hearing was continued to February 23, 2010, April 27, 2010, July 12, 2010, September 27, 2010, November 1, 2010 and November 8, 2010, and was closed on November 8, 2010. Sitting as members of the Board and present throughout the hearing, or members who have missed no more than one meeting and have certified, pursuant to M.G.L. c. 39, section 23D, that they have examined all the evidence received by the Board at the missed session, including an audio

Return to:
Neighborhood Of Affordable
Housing
143 Border Street
East Boston, MA 02128

recording of the meeting, were Jeffrey P. Klofft, Acting Chairman; Stephen A. Garanin, Jonathan G. Gossels, Nancy G. Rubenstein and Elizabeth A. Taylor, and Benjamin D. Stevenson, Alternate.

The Board has considered the recommendations of the boards and committees of the Town of Sudbury regarding the Sudbury Bylaws, and finds that reasonable conditions relative to these regulations have been incorporated herein.

In reviewing the application of Neighborhood of Affordable Housing, Inc., as well as evidence presented in written or oral form by citizens and Town Boards and departments during the course of the public hearing, the Board has determined that the Town of Sudbury does not meet the statutory criteria for availability of low and moderate income housing, as those units currently in existence constitute less than 10% of the year round housing units in the Town and are on sites which comprise less than the minimum land area necessary as defined in 760 CMR 31.04. The Board has further determined that the allowance of this application will not result in the commencement of construction of low or moderate income housing units on a site comprising more than the minimum land area necessary and as defined in 760 CMR 31.04. The Board also finds that the Project as proposed in the application, as described during the public hearing and as modified by the attached conditions, is consistent with local needs within the meaning of Massachusetts General Laws, Chapter 40B, Sections 20-23 and that it is consistent with the character of the zoning district. Finally, the Board notes that the Applicant has presented evidence of site control in its application, and evidence of Project Eligibility from MassHousing in a letter dated January 11, 2010.

Therefore, the Board finds that there is compelling evidence to support the granting of a Comprehensive Permit (the "Permit") to enable the construction of the Project described in the application and during the public hearing, subject to all of the following terms and conditions, all of which are binding upon the Applicant as conditions of this Permit.

II. Application Details

This approval is based on the following plans, reports and information submitted to the Board prior to and during the public hearing, and with the benefits of modifications required under this Permit.

1. Application for a Comprehensive Permit dated December 21, 2009 submitted by NOAH, Inc., Phil Giffie, Executive Director;
2. Site Development Plans dated October 21, 2010, prepared by Meridian Associates, containing 9 sheets:

- ◆ Sheet 1 – Cover Sheet
 - ◆ Sheet 2 – Existing Conditions Plan
 - ◆ Sheet 3 – Erosion and Sedimentation Control Plan
 - ◆ Sheet 4 – Layout and Materials Plan
 - ◆ Sheet 5 – Grading, Drainage and Utilities Plan
 - ◆ Sheet 6 – Landscape and Lighting Plan
 - ◆ Sheets 7, 8, 9 – Site Details
3. Stormwater Management Report dated October 22, 2010 (revised) prepared by Meridian Associates;
 4. Architectural Plans prepared by The Narrow Gate, dated October 6, 2010 containing 4 sheets:, consisting of:
 - ◆ Sheet A-1.1, First Floor Plans;
 - ◆ Sheet A-1.2, Second Floor Plans;
 - ◆ Sheet A-2.0, Exterior Elevations;
 - ◆ Sheet A-2.1, Axonometric Views

Items 1 through 4 above constitute the “Permit Plan”, and as the same may be revised, modified and/or supplemented in accordance with the provisions of this Permit and are stamped as required by a Registered Professional Engineer, Landscape Architect and Architect, (including, without limitation, with the approval of the Board where herein required), all such revisions, modifications and supplements having a result substantially similar to the Permit Plan constitute the “Endorsement Plan”. The development described or depicted in this Permit and the Permit Plan is referred to herein as the “Project”.

5. Site Approval from MassHousing dated January 11, 2010
6. Letter to the Board from the Sudbury Planning Board dated 1/22/2010
7. Letter to the Board dated 1/25/2010 fifteen Neighbors
8. Memo to the Board from Jody Kablack, Director of Planning and Community Development dated 1/27/2010
9. Memo to the Board from the Design Review Board dated 1/28/2010
10. Email to the Board from Deborah Hardy dated 1/30/2010
11. Memo to the Board from Jody Kablack dated 2/19/2010 with corner lot recommendation and map
12. Memo to the Board from Jody Kablack dated 2/19/2010 with guest parking comparison
13. Memo to the Board from Bob Leupold, Health Director dated 2/22/2010
14. Letter to Beth Rust from Cornelia Cogswell, MassHousing, dated 2/18/2010
15. Memo to the Board from Beth Rust dated 2/22/2010 regarding economic comparison analysis
16. Letter to the Board from NOAH dated 2/22/2010 with attachments
17. Email to Jody Kablack from Debbie Dineen dated 2/11/2010

18. Memo to the Board from the Sudbury Housing Trust dated 2/22/2010
19. Letter of support to the Board from Greg and Lana Comeau dated 2/22/2010
20. Letter for support to the Board from Faith in Action Committee, First Parish of Sudbury dated 2/1/2010
21. Letter of support to the Board from neighbors dated 2/23/2010
22. Letter of support to the Board from Greg Gammons, 1 Snowberry Lane dated 2/22/2010
23. Letter of support to the Board from Thomas P. Conroy, State Representative dated 2/23/2010
24. Letter of support to the Board from Congregation Beth El dated 2/25/2010
25. Letter of support to the Board from Sudbury United Methodist Church dated 2/25/2010
26. Undated letter of support received March 1, 2010 from Sudbury resident Kim Morgan
27. Letter of support to the Board received March 1, 2010 from the League of Women Voters of Sudbury
28. Letter of support to the Board from The Presbyterian Church in Sudbury dated 2/26/2010
29. Additional letter of support to the Board from Sudbury Methodist Church dated 3/31/2010
30. Memo to the Board from the Design Review Board dated 4/21/2010
31. Letter to the Board from the Citizens for Responsible Affordable Housing (CRAH) dated 4/21/2010
32. Memo to the Board from NOAH dated 4/21/2010 regarding Development Redesign Presentation with attachments
33. Additional signatures from neighbors received 4/23/2010, attach to 4/21/2010 letter from CRAH
34. Additional signatures from neighbors received 4/26/2010, attach to 4/21/2010 letter from CRAH
35. Additional signatures from neighbors received 4/27/2010, attach to 4/21/2010 letter from CRAH
36. Memo to Jody Kablack from Debbie Dineen dated 4/27/2010 re: determination of no wetland jurisdiction areas
37. Letter to the board from Ralph S. Tyler dated 4/27/2010
38. Extension letter dated 7/12/2010
39. Memo to the Board from NOAH, Inc., dated 9/23/2010 re: Revised Development Plan for Three Units with attachments
40. Memo to the Board from the Design Review Board dated 9/27/2010
41. Email to the Board from Steve Tripoli dated 10/5/2010 with attached letter to the Sudbury Town Crier
42. Email to the Board from Doris Grandinetti dated 10/13/2010
43. Email to the Board from Steve Tripoli dated 10/15/2010
44. Letter to the Board from the Planning Board dated 10/18/2010

45. Memo to the Board from NOAH dated 10/25/2010 re: 2nd Revised Development Plan for Three Units with attachments
46. Memo to the Board from Bill Place, DPW Director, dated 10/28/10
47. Memo to the Board from Jody Kablack dated 10/29/2010
48. Memo to the Board from the Design Review Board dated 10/29/10
49. Memo to the Board from Bob Leupold, Health Director dated 10/29/10

III. Exceptions

The Board hereby grants exceptions to the following local bylaws, regulations and rules and regulations promulgated thereunder in approving this Project:

1. Zoning Bylaw, Article IX of the Sudbury Bylaws, Sections 1210 and 1310 to allow development of the Project which is not in conformity with the Zoning Bylaw.
2. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 2230 to allow for the construction of a three-family dwelling, which is not an allowed use.
3. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3300 and 3310, to allow a common driveway to serve 4 residential units.
4. Zoning Bylaw, Article IX of the Sudbury Bylaws, Sections 3130 and 3145, to allow the driveway serving the project to be 18 feet wide.
5. Zoning Bylaw, Article IX, of the Sudbury Bylaws, Sections 4241 and 4251(e) allowing construction of the plans as depicted on the Site Plans within Zone 3 of the Water Resource Protection District.
6. Sudbury Board of Health Regulations, sections III, IV, V, VI and X, to the extent necessary, to allow the construction of a Presby soil absorption system in compliance with Title V requirements.

IV. General Conditions

This Permit is granted subject to the following conditions:

1. The Applicant shall submit site control of the Property prior to issuance of a building permit. The Property shall be owned by a single entity, or shall be subject in its entirety to the provisions of MGL c. 183A (the "Condominium Statute").
2. This Permit is granted to the Applicant and may not be transferred or assigned to any party without the Board's approval. Any change in control of a voting majority of the members of the Applicant shall constitute a transfer or assignment.

3. This Permit shall become void if the Applicant does not commence with the Project as approved herein within two (2) years of the filing of this Permit with the Town Clerk. Commencement of the Project shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under the building permit. The Board may grant extensions for good cause, including appeals of this Permit, in accordance with 760 CMR 56.04(12).
4. All construction of the Project, including landscaping, shall be completed within two (2) years from the date of issuance of the building permit, unless otherwise noted herein, and a request is filed with, and approved by, the Board extending such time for good cause.
5. Any changes to the Project must be reviewed and approved by the Board in accordance with 760 CMR 56.05(11).
6. Any material changes to the architectural plans shall require review by the Design Review Board and the Board.
7. This Permit approves the construction of the Project, consisting of one 3-unit structure, with associated infrastructure, utilities and landscaping, all as shown on the Permit Plan, as modified by this Permit. Unit sizes and mix of units, including the number of bedrooms, shall be substantially consistent with the Permit Plan.
8. No construction activities, except the installation of hay bales or other barriers around the perimeter of the areas, for the Project shall commence on the Property until the Permit Plan has been revised according to Condition XI of this Permit, the Endorsement Plan is endorsed by the Board, and the limits of disturbance around the Property are properly marked. The Director of Planning and Community Development shall be called to inspect the site prior to disturbance.
9. Building permits for the Project shall not be issued until the Endorsement Plan has been submitted for review and approval of the Board for consistency with the Permit Plan and this Decision, and final building plans have been submitted and approved by the Building Inspector.
10. The Applicant shall be permitted to remove no more than 1,000 cubic yards of earth from the Property incidental to the construction of the building, the construction of the wastewater disposal system, and the construction of the roadway and drainage system, without further review and approval by the Board. Appropriate measures shall be taken during construction

to prevent the tracking of material onto any public way. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.

11. Exterior construction activities shall be confined to the hours between 8:00 am and 5:00 pm, Monday through Friday and between the hours of 8:00 am and 4:00 pm on Saturday. There shall be no construction on state or federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to or after the times stated herein. For this condition, construction activities shall be defined as: 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; removal of stumps and debris; and the erection of structures.
12. The Applicant shall be permitted to locate one (1) temporary enclosure or construction trailer on the Property for the duration of the construction. The enclosure shall be located in an area slated for disturbance, shall not require the need to remove any additional vegetation and shall not obstruct sight distance entering or exiting the Property. No further approval shall be necessary.
13. Addresses for the dwellings shall be 282, 280 and 278 Maynard Road (units 1, 2 and 3, respectively), as determined by the Director of Public Works.
14. Automatic fire protection sprinkler systems shall be installed in all units and shall be designed in accordance with the applicable provisions of NFPA. The installation of the fire protection systems shall comply with the provisions of 780 CMR 906.0. The systems shall be installed so as to be jointly maintained by the condominium association, and not by individual homeowners.
15. Sight distance at the driveway shall meet the minimum engineering standards for safety at the posted speed limit of the adjacent roadway. Prior to the issuance of any occupancy permit, the DPW Director shall inspect the conditions at the entrance to the Project and certify that the actual conditions comply with the design specifications for sight distance. If actual conditions do not comply with these specifications, the DPW Director shall notify the Board and the Board may require additional reasonable improvements by the Applicant as necessary to satisfy the design specifications consistent with the Permit Plan.
16. Eight (8) parking spaces shall be provided, as shown on the Plan. The parking is allocated as two (2) parking spaces for each unit, and two (2) spaces for visitor parking.
17. 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.

18. A temporary construction sign no greater than 20 sq. ft. in size may be erected on the Property at the time of issuance of a building permit.
19. The Applicant shall not cause congestion on the abutting public ways due to construction parking. To the extent possible, construction vehicles shall be parked on the Property and not on the abutting public ways.
20. 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 Board shall have the right to review such determination for accuracy using the same standards as the subsidizing agency. The Board shall be permitted to independently enforce the Applicant's limited dividend obligations in the event the final determination shows noncompliance and the Monitoring Agent fails to pursue compliance in a timely manner. In such event and in order to facilitate the Board's rights, the Applicant shall permit the Board, or its duly authorized representatives, to examine the Applicant's records during normal business hours and shall, upon the Board's request, explain the methods of keeping the records.
21. The Applicant shall comply with all local regulations and bylaws, except for those which are waived in accordance with the Exceptions granted in Section III above.
22. Copies of all plans or documents submitted to other Town departments or Boards as required by this Permit, including the Building Inspector and Director of Public Works/Town Engineer, shall be submitted to the Board.
23. If any provision of this Permit or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of this Permit (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.
24. The terms, provisions and conditions of this Permit shall burden and benefit the successors and assigns of the Town and the Applicant with the same effect as if mentioned in each instance where the Town or the Applicant is named or referred to.
25. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant, including, but not limited to, any Condominium Association created relative to the Project.

V. Construction Details

1. Final design and approval of the wastewater disposal system shall be obtained from the Sudbury Board of Health prior to the issuance of building permits.
2. Final design and approval of the stormwater management system shall be obtained from the Director of Public Works prior to commencement of construction.
3. All utilities serving this Project shall be installed underground. Existing utilities shall be removed.
4. Installation of water mains shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief. No drinking water wells shall be permitted on the Property.
5. Building plans shall conform to the Massachusetts Building Code.
6. The Applicant shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.0 et. seq).

VI. Lighting

1. Exterior lighting within the Project shall be residential in scale and nature, and shall be designed and installed to prevent glare and light spilling over to neighboring properties or any public way.
2. The Condominium Documents (hereinafter defined) shall contain a provision prohibiting light spilling over to neighboring properties.

VII. Landscaping/Screening

1. A Final Landscape Plan shall be submitted for review and approval of the Board prior to issuance of any occupancy permit, with revisions based on the recommendations of the Design Review Board memo dated October 29, 2010.
2. Final landscaping on the Property shall be installed in substantial conformance with the Landscaping Plan.
3. The Applicant shall maintain the landscaping within the common areas and shall ensure that the Condominium Documents (hereinafter defined) provide for such maintenance in perpetuity.

4. Trees proposed for preservation shall be flagged and appropriately protected, and the Director of Planning and Community Development shall be called to inspect the Property to determine compliance with this condition, prior to commencement of any construction activity on the Property.
5. The Board shall inspect the site prior to the time of substantial completion of the Project to determine if additional screening vegetation is necessary along abutting Property lines. If, in the opinion of the Board, additional screening is required to fill any obvious gaps in screening of abutting residential properties, the Applicant shall forthwith rectify such complaint with the planting of additional vegetation.
6. The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within one year of planting.

VIII. Legal Requirements

1. The Applicant has proposed, and the Board hereby requires, that the following common facilities and services of the Project, to the extent located on the Property, shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same.
 - a. All internal driveways, walkways and parking areas;
 - b. Stormwater management system, including roof drains;
 - c. Snow plowing;
 - d. Landscaping and landscape maintenance;
 - e. Exterior lighting;
 - f. Utilities;
 - g. Wastewater disposal system;
 - h. Water system for both domestic use and fire protection, including automatic fire sprinkler systems.
2. As used herein, "Condominium Documents" shall mean such documents (a) as the Condominium Statute requires establishing a lawful condominium in the Commonwealth of Massachusetts, and (b) as have been reviewed by the Town's legal counsel. Prior to the issuance of any certificate of occupancy, the Applicant shall provide documentation verifying that the Condominium Documents are in conformance with this Permit and M.G.L. c. 183A to the Town.

3. The common facilities shall be maintained in perpetuity by the association of unit owners established pursuant to the Condominium Documents (the "Condominium Association"). The roadway within the Project shall not be dedicated to or accepted by the Town.
4. The Applicant shall cause the Condominium Documents to provide that the Condominium Association shall maintain and repair all common areas and facilities, including but not limited to the wastewater disposal system, stormwater management system, landscaping, driveways, roof drains and other improvements within the Property and each owner shall be a member thereof. The Condominium Documents shall reference the affordability requirements upon which the Permit is conditioned. The Condominium Association shall adopt rules and regulations and a copy shall be provided to the Board.
5. The Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the common facilities and services until the transfer of the last dwelling unit, to the extent that such installation, operation and maintenance is a condition required in this Permit. Upon the recording of the Master Deed, the operation and maintenance obligations shall be joint and several with the Condominium Association until the transfer of the last dwelling unit. Thereafter, such operation and maintenance shall be the responsibility of the Condominium Association. In the event that a management company is engaged, the Applicant or the Condominium Association shall, at the Board's request, provide the Board with a copy of the contract.
6. Condominium Documents shall be subject to the review of the Board to confirm compliance with the terms and conditions of this Permit. The Applicant shall submit copies of the Condominium Documents for review to Town Counsel and the Director of Planning and Community Development at least thirty (30) days prior to the issuance of the first occupancy permit. Comments from this review shall be submitted to the Board.
7. The Association and purchasers of all units shall be forever bound by all conditions and restrictions contained herein.
8. 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 Permit which are inconsistent with the provisions of this Permit, the Deed Rider or the Regulatory Agreement without Board approval.
 - b. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
 - c. All votes shall be one unit one vote.
 - d. Condominium fees shall be based on the square footage of each unit, unless otherwise provided by law.

- e. 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.
9. The Applicant shall assure that the proper covenants are included in the Condominium Association's documents as well as the deeds to each of the units to address the following:
- a. There shall be no additions beyond the building envelopes shown on the Endorsement Plan.
 - b. There shall be no conversion of interior space into additional bedrooms. The total number of bedrooms in the Project shall be limited to no more than six (6).
 - c. There shall be a prohibition on the enclosing of decks/patios.
 - d. There shall be no more than one detached accessory structure, no greater than 120 sq. ft., allowed on the Property.
 - e. Restrictions on home-based businesses shall be no greater than that provided under the Sudbury Zoning Bylaw.
 - f. There shall be a provision prohibiting light spilling over to neighboring properties.
 - g. Operation and maintenance of the wastewater disposal system and stormwater management system shall be the responsibility of the Condominium Association, and if required to be maintained or repaired by the Town of Sudbury, the Association will be responsible for all reasonable expenses associated therewith, as detailed in Condition X.4 of the Comprehensive Permit.
 - h. Unit owners shall submit to the Condominium Association copies of all applications for building permits.
 - i. All lawn and deicing chemicals shall be stored under cover.
 - j. Fertilizers and pesticides shall be applied sparingly on the Property to prevent washoff.
 - k. The use of slow release nitrogen and low phosphorus fertilizers is encouraged.
 - l. No fertilization or pesticide application shall be permitted in or near any wetland resource area.
 - m. Pet waste shall be promptly removed and disposed of in the toilet or trash.
 - n. Residents shall store, use and dispose of household hazardous wastes properly.
 - o. Exterior washing of vehicles shall occur on locations that drain to pervious surfaces and away from storm drains.
 - p. Maintenance of vehicles and clean up of fluid spills/drips shall occur away from pavement areas.
 - q. The septic system shall be pumped and maintained as recommended.
 - r. Calcium chloride and magnesium chloride deicers shall be used in lieu of sodium based deicers.
 - s. No coal tar-based pavement sealants are to be used on the Property.

10. A representative from the Sudbury Housing Trust shall be a non-voting member of the Condominium Association for a five (5) year period from its initial organization.
11. A common driveway easement shall be executed between the Property owner and the abutter at 288 Maynard Road for the construction, utilization and maintenance of the common driveway serving the Project prior to issuance of an occupancy permit for any unit. The easement shall be reviewed by Town Counsel prior to execution by the parties.
12. A performance bond shall be required by the Board to ensure compliance with all conditions required by this Permit related to infrastructure, landscaping and similar improvements that are not fully completed prior to issuance of the first occupancy permit for the Project. A cost estimate for the bond shall be determined by the Director of Public Works at the then current bonding rates established by the Town. The performance bond shall be submitted to the Board prior to the issuance of occupancy permits for any unit in the Project. The type and form of such performance bond shall be submitted for review by Town Counsel prior to being accepted by the Board.
13. Evidence of MassHousing Final Approval shall be submitted to the Board prior to the issuance of occupancy permits.
14. This Permit shall be recorded at the Middlesex South Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of records and existing mortgages, which shall be discharged or subordinated to this Permit, prior to issuance of a building permit. Recording information shall be submitted to the Board prior to the issuance of building permits.
15. If at any time during construction, the Director of Planning and Community Development, Building Inspector, Director of Public Works or the Board determines that a violation of the approved Plan or this Permit has occurred, the Town, through the Building Inspector or the Board, shall notify the Applicant by certified mail and the Applicant shall be given 30 days (or lesser time period if in the sole opinion of the Town that said violation creates an emergency condition) to rectify any violation or construction activities shall be ordered to cease until the violation is corrected.

IX. Affordability Requirements

1. One (1) unit in this Project 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 HMFA, adjusted for household size and as determined by the United States Department of Housing and Urban Development, and two (2) units in this Project shall be available in perpetuity for purchase and occupancy by households whose income is no more than 100% of the Median Family Income for the Boston-Cambridge-Quincy, MA-NH HMFA, adjusted for household size and as determined by the United States Department of Housing and Urban Development. Applicants must satisfy all other applicable eligibility requirements established under guidelines issued by the Massachusetts Department of Housing and Community Development (DHCD). Before any unit is sold, the Applicant shall submit to the Board the proposed form of Deed Rider to be attached to and recorded with the Deed for each and every unit in the Project at the time of each sale and resale, which Deed Rider shall restrict each such unit in accordance with this requirement in perpetuity in accordance with the requirements of M.G.L. Chapter 184, sections 31-33. Each Deed Rider for the Affordable Units in the Project shall set forth the period of affordability to be in perpetuity.

2. A MassHousing Regulatory Agreement (the "Regulatory Agreement") shall be executed prior to the issuance of any certificate of occupancy. This Regulatory Agreement shall set forth the terms and agreements relative to the sale and resale of the units in the Project. The Regulatory Agreement shall be submitted for review by Town Counsel and the Director of Planning and Community Development prior to its execution. A copy of the document shall be forwarded to the Board for its information.
3. Each unit shall be sold for no more than the sales price established in the Regulatory Agreement and the Deed Rider. The Deed Rider shall include provisions which are designed to preserve the Chapter 40B Affordability Requirement in the instance of a foreclosure by a lender. The affordability requirement of this Permit shall be senior to any mortgage liens on the Affordable Units.
4. The standard MassHousing Monitoring Service Agreements for Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity shall be executed prior to the issuance of any occupancy permits in this Project. The Monitoring Agreements designate the entities that monitor the Affordable Units, and set forth the responsibilities for monitoring the sale and resale of the Affordable Units, including income eligibility of prospective buyers, requirements for submittal of annual compliance reports to the Town of Sudbury, and requirement for an accounting of the Project costs and revenues after completion to determine if profits are within the limited liability requirement. The Monitoring Agreements shall be submitted for review by Town Counsel and the Director of Planning and Community Development prior to their execution by the relevant parties and prior to issuance of occupancy permits. A copy of the documents shall be forwarded to the

Board for its information.

5. To the maximum extent permitted by law, and applicable regulation, local preference for the purchase of two (2) of the units shall be given to residents of the Town of Sudbury satisfying all applicable eligibility requirements. For the purpose of this condition, and subject to any legal requirements, "residents of the Town of Sudbury" shall include but not be limited to the following: current Sudbury residents; Town of Sudbury/Sudbury Public School employees; Sudbury Water District employees; Lincoln Sudbury Regional High School District employees; Sudbury Housing Authority employees; and families of children currently enrolled in the Sudbury Public Schools or the Lincoln Sudbury Regional High School.
6. A lottery shall be held to solicit interest for the purchase of the units. The lottery must conform to the lottery procedures of DHCD then in effect, and a Lottery and Marketing Plan shall be subject to the review and approval of the Planning and Community Development Department and MassHousing.
7. The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Initial Price shall be three persons for two bedroom units, unless MassHousing requires that a smaller household size be used.

X. Maintenance/Inspections

1. Enforcement of the conditions of this decision shall be by the Building Inspector or the Board.
2. A construction schedule shall be submitted to the Board, Director of Planning and Community Development, Town Engineer and Building Inspector prior to the commencement of construction in order to facilitate inspections. Such schedule shall be revised quarterly to reflect work completed and changes in construction timing.
3. The Applicant shall notify the relevant town departments of the installation of utilities and infrastructure for inspections prior to backfilling.
4. The Applicant, and upon the establishment of the condominium, the Condominium Association created for the Project, shall be responsible for maintaining the stormwater management structures and drainage system in the Project in accordance with the Operation and Maintenance Plan submitted.
5. Snow removal, maintenance of driveways and walks, stormwater management and drainage

structures, wastewater treatment and disposal, lighting, utilities and fire protection shall be maintained by the Applicant, and upon the establishment of the condominium, the Condominium Association created for the Project. The Town of Sudbury does not accept responsibility for any infrastructure improvements or maintenance in this Project.

6. Fees for all permits and inspections by Town departments shall be paid by the Applicant directly to the issuing or inspection entity, unless otherwise waived or reduced upon request in writing by the Applicant
7. In the event of any failure to comply with the requirement to maintain the stormwater management and/or wastewater disposal systems in the Project in accordance with engineering or manufacturing guidelines for operation and maintenance or in any manner which fails to safeguard public health and safety, the Town of Sudbury, acting through its Department of Public Works, may, but is not required to, notify the Applicant or the Condominium Association, as appropriate, of the need to remedy said violation and specifying the work which needs to be done and providing for a 30 day time period in which to complete the work. In the event said work is not completed in a satisfactory manner within 30 days, the Town may enter upon the Property and remedy said defect as set forth in this notice. The Condominium Association shall be responsible to the Town for the cost of affecting the required repairs. If not paid within 30 days of billing by the town, said costs shall constitute a lien upon the premises and shall incur interest at the rate of 18% per annum, plus the costs of collection including reasonable attorney's fees. Notice of this lien shall be recorded by the Town in the Middlesex County South District Registry of Deeds, which notice shall indicate the identity of the Property owner, the amount of the unpaid assessments, the property burdened and a reference to the Book and Page in the Middlesex County South District Registry of Deeds where the Declaration is recorded. These restrictions are intended to maintain the environmental stability of the Project and shall run with the land upon which they are imposed and shall, pursuant to the provisions of General Laws Chapter 184, Section 32, not expire hereunder. The Master Deed shall include a provision for the placement of municipal liens on the Property to secure payment should the Town of Sudbury be required to maintain or repair any portion of the stormwater management or wastewater disposal system.
8. The following revisions to the Operation and Maintenance Report shall be submitted prior to commencement of construction:
 - a. The Stormwater Management Report must include calculations for the 1" storm.
 - b. Any drainage pipe dead ending at the property line shall be concrete.
 - c. The O&M Plan shall include a provision for the Town of Sudbury to enter the property at reasonable times and in a reasonable manner for the purpose of inspection; a provision

- requiring the owner of the property to maintain a log of all operation and maintenance activities, including without limitation, inspections, repairs, replacement and disposal.
- d. A Stormwater Pollution Prevention Plan shall be required.

XI. Plan Endorsement

The Board shall not endorse the Endorsement Plan until the following conditions have been complied with to the satisfaction of the Board:

1. Final Plans, stamped by a Registered Profession Engineer, Landscape Architect and Architect, are submitted, reviewed and approved by the Board for consistency with this Decision, and confirmation from the Engineer of Record that the Endorsement Plan and specifications have been prepared in accordance with standard engineering practices, comply substantially with the Permit Plan and fully incorporate all requirements of this Decision.
2. The incoming water line must be separated from other utility lines by a minimum of 10 foot.
3. The width of the driveway shall be revised to reflect 9 feet to the centerline.
4. A notation shall be added that all utilities will be installed underground.
5. Signature blocks for the ZBA, Town Clerk, Building Inspector, DPW Director and Planning Director must be added to each plan sheet for endorsement. This pertains to both the site plans and the architectural plans.
6. A typical driveway section must be added to the Detail Sheet indicating the width of the driveway, pavement depth, shoulders, etc.
7. Lighting detail for the post mounted lights must be added to the Plan.
8. The detail of the bio-retention basin must indicate the depth of coarse gravel used for the base layer.
9. Foundation drains and detail must be shown on the final plan, if proposed.
10. Unit sizes must be included on the final plans, including gross square footage of the building.
11. Construction access shall be moved to 278 Maynard Road.

XII. Building Permits

Building Permits shall not be issued until the following conditions have been complied with to the satisfaction of the Board, as well as any other conditions listed above which require action prior to the issuance of Building Permits:

1. The Final Plan has been endorsed by the Board, Town Clerk and all Town Officials.
2. Receipt of evidence of recording of this Comprehensive Permit with the Middlesex South Registry of Deeds as required by Condition VIII.13.
3. Sudbury Board of Health approval of the wastewater disposal system has been obtained as required by Condition V.1.
4. Evidence of Site Control has been submitted as required by Condition IV.1.

XIII. Construction Commencement

Construction shall not commence until the following conditions have been complied with:

1. The limits of disturbance around the site shall be properly staked and marked, and all trees proposed for preservation shall be flagged, and the Director of Planning and Community Development called for an inspection as required by Conditions IV.8 and VII.4.
2. A current construction schedule as required by Condition X.2 is submitted.
3. Changes to the Operation and Maintenance Plan have been submitted as required by Condition X.8.

XIII. Occupancy

Occupancy of the units in this Project shall not occur until the following conditions of this approval have been complied with:

1. The Condominium Association documents as required in Section VIII Conditions 1-10 have been submitted to the Board and approved by Town Counsel with respect to incorporating relevant conditions in this Decision.
2. A title opinion as required in Condition VIII.2 has been received.
3. The common driveway easement as required in Condition VIII.11 has been executed by all parties.

4. Installation of the stormwater management system has been substantially completed or incomplete portions bonded to the satisfaction of the Director of Public Works.
5. A performance bond, as detailed in Condition VIII.12 has been submitted to and accepted by the Board, if required.
6. MassHousing Final Approval has been received.
7. The Regulatory Agreement, including an approved form of Deed Rider, and Monitoring Agreement has been executed as required by Condition IX.2, IX.3 and IX.4.
8. The Lottery Plan, the proposed sales prices for the Affordable Units and the Fair Housing Marketing Plan has been submitted and approved by the Board as required by Condition IX.6.
9. Sight distance has been certified by the Director of Public Works as required by Condition IV.15.
10. As-built plans demonstrating the driveways, buildings, and infrastructure have been constructed and installed in general conformance with the approved Plan are submitted to and approved by the Town Engineer.
11. Receipt of all recorded documents, including but not limited to the Permit, Regulatory Agreement and common driveway easement.
12. Approval of the final Landscape Plan has been received as described in Condition VII.1.

XIV. Release of the Performance Bond

No request to release the Performance Bond shall be granted, or if no performance bond has been required, the last occupancy permit in the Project shall be withheld, until the following conditions have been met:

1. As-built plans demonstrating the roadways, buildings, walkways and infrastructure have been constructed and installed in general conformance with the approved Plan are submitted to and approved by the Town Engineer.
2. A preliminary cost accounting determining the profits earned on the Project has been

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completed and submitted for review of the Board, but such accounting shall not be a basis for denial of release of the performance bond or issuance of the last occupancy permit.

3. Certification of adequate landscaping as described in Condition VII.5.
4. Any damage to public roads caused by this Project shall be repaired as required in Condition IV.17.

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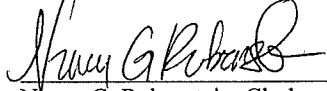
On Motion:

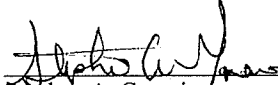
To approve the application of Neighborhood of Affordable Housing, Inc. for a Comprehensive Permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of three (3) condominium units to be sold for occupancy by low or moderate income residents at established sales prices pursuant to the Department of Housing and Community Development's Guidelines and/or other applicable requirements, on land owned by the Sudbury Housing Trust, consisting of .97 acres of land at 278 Maynard Road in Sudbury, Town Assessor's Map E07, Parcel 0400, subject to all of the conditions stated in the foregoing Permit decision:

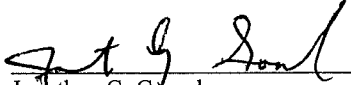
Voted:

Date: November 8, 2010


Jeffrey P. Klobbe, Acting Chairman


Nancy G. Rubenstein, Clerk


Stephen A. Garanin



Jonathan G. Gossels


Elizabeth A. Taylor T. Quirk

November 30, 2010

This is to certify that no notice of an appeal from the Zoning Board of Appeals Decision, Case #10-08 (Comprehensive Permit, Neighborhood of Affordable Housing, Inc., 278 Maynard Road, Sudbury, Massachusetts) was filed in this office within 20 days after such decision was filed on November 9, 2010.

A True Copy Attest:


Judith A. Newton
Assistant Town Clerk
Town of Sudbury


NOAH/Sudbury Housing Trust
278 Maynard Road
November 8, 2010

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

November 8, 2010

On this 8th day of November, 2010, before me, the undersigned notary public, personally appeared the above-named individuals, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, as members of the Sudbury Zoning Board of Appeals, a municipal board.



Jody A. Kablack, Notary Public
My commission expires January 6, 2017

cc: Town Clerk
Board of Health
DPW Director
Water District
Conservation Commission
Board of Selectmen
Building Inspector
Town Counsel
Fire Chief
Director of Planning and Community Development
NOAH, Inc.
Sudbury Housing Trust
Meridian Associates

