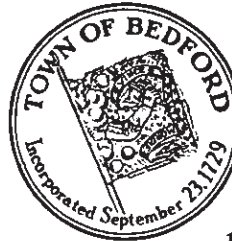


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TOWN OF BEDFORD  
BEDFORD, MASSACHUSETTS 01730



Doreen Tremblay, Town Clerk

Town Hall  
10 Mudge Way  
Bedford, Mass. 01730  
781-275-0083  
doreent@town.bedford.ma.us



Bk: 44192 Pg: 1 Doc: DECIS  
Page: 1 of 28 11/30/2004 09:39 AM

Date: November 23, 2004

Petitioner Name: Scott Dale f/b/o AvalonBay at Great Meadows

Location of Property: 57 Concord Road and 5 Davis Road  
Petitioner Number: 030-01

This letter certifies that twenty days have elapsed since the decision of the Zoning Board of Appeals was filed in the Office of The Town Clerk and no appeal has been filed.

Attest:

Doreen Tremblay  
Town Clerk

39198 / 172  
39198 / 173

RECEIVED  
TOWN OF BEDFORD  
TOWN CLERK'S OFFICE



02 JAN 11 AM 8:05

# THE BOARD OF APPEALS

TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 030-01  
PETITIONER: Scott Dale f/b/o AvalonBay at Great Meadows  
LOCATION OF PROPERTY: 57 Concord Road and 5 Davis Road, Bedford, MA  
MEMBERS VOTING: Herbert Aumann, Chairman, Charles Theobald, Clerk, Ray Ruetenik, Member, Harold Ward, Member, Caleb Warner, Associate Member

MOTION: To grant to Scott Dale, Applicant, f/b/o AvalonBay at Great Meadows (hereinafter referred to as Avalon) at 5 Davis Road and 57 Concord Road a Comprehensive Permit to construct a 139-mixed income apartment community in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of the Town of Bedford subject to the Conditions of Approval set forth in Chapter III of this Decision.

VOTING IN FAVOR

VOTING IN OPPOSITION

Herbert M. Aumann

Charles E. Theobald (ABS)

Harold R. Ward

J. Ray Ruetenik

Caleb Warner

This vote was taken on January 10, 2002. Approval of this Motion for a Comprehensive Permit requires a majority vote of the Board.

The Board voted 3 to 2 to grant ~~deny~~ this Comprehensive Permit. *ma*

The Board and the Applicant have complied with all statutory requirements for the issuance of this Comprehensive Permit on the terms hereinafter set forth. A copy of this decision will be filed with the Town Clerk and will be mailed to all parties, persons or boards as required by Massachusetts General Laws Chapter 40A.

The decision was filed in the Office of the Town Clerk on January 11, 2002. Any appeal from this decision by any party other than Avalon shall be made pursuant to Massachusetts General Laws Chapter 40B, Section 21 and must be filed within twenty (20) days after the initial filing of the Decision with the Town Clerk.

A TRUE COPY ATTEST

[Signature]  
Town Clerk

The Comprehensive Permit granted by this decision shall not take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed within said twenty (20) days or that it has been dismissed or denied, and is recorded in the Middlesex Registry of Deeds for this district. The fee for recording or registering shall be paid by Avalon. A copy of the recorded decision certified by the Registry, and notification by Avalon of the recording, shall be furnished to the Board.

# THE BOARD OF APPEALS



TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 030-01  
AVALONBAY AT GREAT MEADOWS COMPREHENSIVE PERMIT  
CHAPTER I. FINDINGS

## A. Procedural History

On 17 January 2001, AvalonBay Communities, Inc. on behalf of AvalonBay at Great Meadows, Inc. ("Avalon") applied to the Town of Bedford Zoning Board of Appeals (the "Board") for a Comprehensive Permit under M.G.L. c.40B and 760 CMR 31.00 to construct a 128-unit mixed income apartment community on property located on Davis Road, Bedford, Massachusetts and identified as Lots 5 and Lot 7 on the Assessor's Map dated December 6, 1990 [7, 8].

A public hearing was advertised in the Bedford Minuteman on 1 February and 8 February 2001 and was opened on 15 February 2001. All Town Boards were notified of the hearing and were requested to comment on the Comprehensive Permit as required by the Town of Bedford Zoning Board of Appeals Rules and Regulation for a Comprehensive Permit [3].

Over the course of public hearings, several plans were presented to the Board. Plan A was presented at the first public hearings on 15 February 2001 [5, 19]. Plan A consisted of 128 units on 9.4 acres with public access on Davis Road through Lot 7 and an emergency access through Patricia Circle. At Avalon's request [25], the continuation of the hearing initially scheduled for 22 March 2001 was held on 4 April 2001 [32]. Plan B was presented at a continuation of the public hearing on 17 May 2001 [40]. Plan B was identical to Plan A except it eliminated the Patricia Circle emergency access [30, 31]. During the initial three public hearings there were strenuous objections by abutters to the increased traffic on Davis Road and to the high housing density. In response to the concerns raised, Avalon proposed Plan C [44, 45]. There was no further discussion of Plan A or Plan B, and the Board was not asked by Avalon to reconsider Plan A or Plan but to leave them on the table.

Plan C was sufficiently different from the previous plans to require notification of new abutters and re-advertising [37, 44, 50]. On 14 June and 21 June 2001, a new public hearing for a 139-unit mixed income apartment community was advertised in the Bedford Minuteman. The first public hearing on Plan C was held on 28 June 2001 [53, 54]. Hearings were continued on 9 August 2001 [64], 4 October 2001 [87], 18 October 2001 [98], 8 November 2001 [107].

On 8 November, the Board voted to close the public hearing. On 29 November [109], the Town of Bedford requested holding off on deliberations for further discussions with Avalon, and Avalon granted the Board an extension to 15 January 2002 for filing its decision. On 20 December [114], the Board started discussion findings and to take a vote on proposed conditions. On 3 January 2002 [118], the Board met again to finalize the conditions. On 10 January the Board voted to grant / deny the Comprehensive Permit with conditions. A copy of the decision was filed with the Town Clerk on 11 January 2002.

Present at all public hearings and voting on the petition were Herbert Aumann, chairman, Charles Theobald, clerk, Ray Ruetenik, Harold Ward, members, and Caleb Warner, associate member. Robert Ellis, vice chairman, recused himself from the hearing. Associate member David Ezekiel (not voting) was present at all hearings. Associate member Jeffrey Cohen was present for all but one of the hearings.

## B. EVIDENCE

In making its findings and reaching decisions, the Board considered evidence presented at the public hearings and evidence placed in the public record prior to the closing of the public hearing on 8 November 2001. The record includes, but is not limited to, the documentation listed in Chapter II.

## C. FINDINGS

### 1. Jurisdictional Requirements

Avalon submitted a Comprehensive Permit Application on under M.G.L. Ch.40B and 760 CMR 31.00 on behalf of "Avalon at Great Meadows, Inc.". Documentation was submitted showing that Avalon at Great Meadows, Inc. had been incorporated as a limited dividend organization as defined by 760 CMR 30.02 [6, 39].

Avalon submitted letters from the Massachusetts Housing Finance Agency that the project is eligible to be funded under the MHFA 80/20 Program of the Expanded Rental Eligibility program [2, 43].

Avalon has "control of the site" as defined in 760 CMR 31.01 in that Avalon has executed Purchase and Sale agreements for the acquisition of the site from the current owners of the site [1, 41]. There was considerable discussion concerning the ownership of Patricia Circle, a paper street [9, 18, 24]. The Board agreed with Town Counsel's conclusion that the owner of Lot 7, and hence Avalon, could use Patricia Circle to access Davis Road [26].

Avalon submitted a 15-year proforma spread sheet [66] to show that Avalon at Great Meadows would meet the criteria of the MHFA that no more than 10% of the applicant's equity invested in the development would be distributed in any fiscal year to the applicant.

The Board finds that Avalon at Great Meadows has met the jurisdictional requirements to apply for a Comprehensive Permit M.G.L. c.40B and 760 CMR 30.02.

### 2. Statutory Minimum for Low and Moderate Income Housing

Avalon asserts that the Town of Bedford has not met the statutory minimum 10 percent threshold for low and moderate -income housing as defined by M.G.L. c.40B and 760 CMR 31.04. At the 15 February public hearing, Mr. Gordon Feltman, Town of Bedford Selectman, confirmed that the town's affordable housing was approximately 4.6 percent [19].

The Board finds that the Town of Bedford has not met the statutory minimum affordable housing required by M.G.L. c.40B.

### 3. Project Description

The project site as described in the latest version of Plan C [100], consists of three parcels, designated as Lot 4, Lot 5 and Lot 2 (Lot 7 on prior plans) on an Existing Conditions Plan [46]. Lot 4 contains 29.4 acres, Lot 5 contains 8.7 acres, and Lot 7 contains 0.7 acres.

The site contains a total of 38.8 acres, of which 24.6 acres are wetlands and 14.2 acres are upland [80]. The major part of Lot 4 is in wetlands. Lot 5 is primarily uplands. Lot 7 contains no wetlands. The wetland boundaries were verified by the Bedford Conservation Commission [21, 80]

Access to the site is available through 157 feet of frontage (Lot 4) on Concord Road, through 125 feet of frontage (Lot 7) on Davis Road and through 90 ft frontage on a paper street marked as Patricia Circle (Lot 5) on Davis Road [100].

Avalon proposes to sell or develop Lot 7 on Davis Road as shown on a Conceptual Layout Plan dated October 26, 2001 [100].

Avalon proposes to subdivide, sell or develop two lots on Patricia Circle as shown on a Conceptual Layout Plan dated October 26, 2001 [50, 100]

On the remainder of the site, Avalon proposes to build 139 apartment homes contained within 19 buildings ranging in size from 4 to 12 apartments per building [4]. Avalon proposes to build 52 one-bedroom apartments, 76 two-bedroom apartments and 11 three-bedroom apartments [62].

Avalon proposes a single public access to the development on Concord Road and a gated emergency access on Patricia Circle [44]

#### 4. Affordable Housing

Avalon proposes to provide 25% of the apartment units to low and moderate-income families as defined by the MHFA Expanded Rental Affordability Program.

The Board found that there is a shortage of affordable one-bedroom and two-bedroom rental housing in Bedford, in particular for young families [12]. Therefore, the Board finds that market-rate and affordable rental housing should be available in perpetuity and that the apartment size should be limited to two-bedroom units.

Avalon proposes to subdivide, sell or develop two lots on Patricia Circle. The Board finds that the lots are in a 60,000 sq.ft. residential zone, but have only 30,000 sq.ft. in area. Furthermore, the frontage of the lots is approximately 90 feet and should be 125 feet. The Board found that this subdivision can only be approved in connection with a Comprehensive Permit [58]. Therefore, if the two-lot subdivision were the only aspect of this Comprehensive Permit proposal, one of the lots should be sold or developed as an "affordable" lot [40]. In exchange for the right to develop the two lots as market rate lots, Avalon proposes to fund the Bedford Housing Partnership to develop off-site affordable housing [29, 81] which would also count towards Bedford's affordable housing inventory [60].

The proposal to develop off-site affordable housing has been endorsed by the Bedford Housing Partnership, the Town of Bedford Selectmen and by the DHCD. The Board approves of the proposal in that it makes truly affordable housing available.

#### 5. Density

At the public hearings on 15 February [19] and 4 April [32] Avalon proposed to build 128 apartment units on 8.9 buildable acres with a density of 14.4 units/acres [7]. Concerns over the impact of such a high density were voiced by the town government, by various town agencies [12, 17] and by numerous abutters [9, 15, 20]. The Planning Board recommended a maximum density of nine units/acre but would prefer even fewer units [17]. Currently, the highest density in Bedford is ten units per buildable acre at Bedford Village [12,

17].

To reduce the overall density, Avalon acquired control over an abutting parcel of land [41]. In Plan C, Avalon proposes to build 139 apartment units and three single-family dwellings on 14.2 buildable acres for a density of 9.8 units per buildable acre [44].

The Board finds that a density of ten units per buildable acre was reasonable and substantially consistent with other similar development in Bedford.

Avalon proposed a mix of one-bedroom, two-bedroom and three-bedroom units. The Board accepts the recommendation of the Bedford Housing Partnership eliminating three-bedroom units to encourage ownership of available single family housing stock [12]

#### 6. Exceptions from Local By-Laws

Avalon requested that the Board grant blanket exceptions from Bedford zoning by-laws, subdivision regulations, wetlands by-laws and other local by-laws and regulations so long as the development is constructed substantially as shown on the final site plan dated October 26, 2002 [100]. The Board denied this request.

The Board finds that under both 760 CMR 31.02 and the Town of Bedford Zoning Board of Appeals Rules and Regulations for a Comprehensive Permit, Avalon is required to provide to the Board a complete list of exceptions from local by-laws. The Board is only obligated to rule on requested exceptions.

On October 29, 2001, Avalon provided a list of exceptions from local regulations [102]. The exceptions were discussed at the public hearing on November 8, 2001 [107]. The findings and decisions of the Board are summarized in the Decisions below.

#### 7. Building Setbacks

Plan A had 37 ft high buildings within 14 feet of abutting property. The Board found such setbacks inconsistent with good planning and with other Comprehensive Permit developments in the Town of Bedford.

The Planning Board recommended maintaining a 50-foot buffer between the apartment development and abutting residential property. In Plan C, Avalon proposed to maintain a 40-foot setback to existing abutters, and a 20-foot setback to future abutters on Lot 7 and on the two lots off Patricia Circle.

The Board found that a 50-foot setback cannot be implemented due to the presence of wetlands. The Board found that a 40-foot setback is adequate to protect abutting residential property and maintain open space.

#### 8. Access and Traffic Issues

##### 8.1. Emergency Exit

Originally, Avalon proposed a single public access to the development via a 24-foot wide driveway from Davis Road through Lot 7 (Plan A). Emergency only access would have been provided via the Patricia Circle right-of-way [5]

In response to the legal concerns over the ownership of Patricia Circle [9, 18, 24, 26], Avalon proposed Plan B by eliminating the Patricia Circle emergency exit and proposing a 34-foot wide divided driveway through Lot 7 [31].

In Plan C, Avalon proposed a public access on Concord Road and an emergency access on Patricia Circle [45, 100].

The Bedford Fire Department noted that the National Fire Code mandates two distinctly separate routes of ingress and egress, each located as remotely from the other as possible [33]. Plan B proposed only a single driveway. The Board finds that Plan B would create an unacceptable safety risk for a 139-unit development. The Board also felt that in an emergency Plan A was only marginally better in that primary and emergency access were both on Davis Road and only 240 feet apart.

The Board found that safety considerations required that the project should have two widely separated points of entry or exit as shown on Plan C.

### 8.2 Traffic Studies

Traffic impact and access reports for Plan A and Plan C were provided by VHB/Vanasse Hangen Brustlin (VHB) for Avalon. The first report, dated February 2001 [23], concluded that the proposed development would have "negligible impact on the study area". The second traffic report for Plan C, dated June 2001 [48], came to the same conclusion.

Abutters, members of town government and the Board voiced serious concerns with both vehicular and pedestrian safety on Davis and Concord Road in the vicinity of the site [20, 28, 51, 61, 63, 69]. The Board found that there was considerable doubt in the traffic study's data regarding current and predicted traffic volume, current traffic speeds and available sight distances both on Concord Road and Davis Road.

As a result, the Board requested an independent review of traffic issues associated with the proposed development [34]. Bruce Campbell & Associates (BCA) were contracted to review the traffic study. In response to issues raised by BCA [68, 73], VHB collected additional data and revised its estimates [74, 76, 83, 92]. The Board found that the traffic volume may have been underestimated, that sight distances had been over estimated, and that actual traffic speeds were significantly higher.

### 8.3 Davis Road Exit

At the request of the Board, VHB calculated Intersection Sight Distances for the intersection of Patricia Circle/Davis Road with the sidewalk on Davis Road [93]. Sight distances were also calculated for a driveway on Lot 7. The Board agreed with VHB that an exit in either location would be safe with a sidewalk in place and for actual traffic speeds on Davis Road (30-35 mph).

The Board noted that several abutters on Davis Road objected to any public entrance or exit to the development on Davis Road [90, 104, 110].

### 8.4 Davis/Concord Road Intersection

Avalon proposed to reconfigure the intersection of Davis and Concord Road into a more typical T-intersection [93]. The Board agreed that this measure would slow down traffic exiting Concord Road onto Davis Road and improve the safety of an exit to the development on Davis Road.

### 8.5 Concord Road Exit

Avalon proposed a single, 24-foot wide, unrestricted public entry and exit driveway to the development on Concord Road as shown on Plan C. The Board found that under present traffic conditions (43 mph), the proposed driveway on Concord Road does not meet the Intersection Sight Distance (ISD) requirement



looking east (512 ft required - 391 ft available) [92]. Avalon maintained that a single exit on Concord Road was adequate [107]. The Board noted that achieving the required east looking ISD would require relocating several telephone poles and clearing vegetation on the Concord Road right-of-way and possibly on private property.

Until the actual traffic speeds on Concord Road have been reduced and/or adequate sight distances have been provided, the Board had a serious concern about the safety of a single public entry and exit driveway on Concord Road. The Town's traffic consultant [73,101], the Department of Public Works [98], the Fire Department [33] and the Town's Police Department [69] stated the same concern. Therefore, the Board voted for two unrestricted, public full-access entry and exit driveways to the development: one on Concord Road and one on Davis Road [98, 116].

The Board has taken into account concerns by abutters on Concord Road and on Davis Road over increased traffic. The Board understood that the Concord Road driveway was likely to be the primary entry and exit. The Board felt that a public access on Davis Road would provide an alternate route if the Concord Road access were deemed unsafe.

The Board requested [107], but did not receive a site plan showing two public exits. The Board offered Avalon the option of either widening the emergency access on Patricia Circle as shown in Plan C, or implementing a driveway through Lot 7 as shown on Plan A.

#### 8.6. Sidewalk on Davis and Concord Road

Avalon proposed to build a sidewalk from the exit of the development on Patricia Circle and from the exit on Concord Road to the intersection of Davis and Concord Road. The Board agreed that a sidewalk was required to provide pedestrian access from the development to schools and to the town center.

Many abutters on Davis Road came out in favor of building a sidewalk along Davis Road to reduce the impact of the development on Davis Road [56]. Other abutters on Davis Road have objected to any public entrance or exit to the development from Davis Road [104]. The Board felt that such a sidewalk only made sense if the development had public access to Davis Road.

#### 8.7 Pedestrian Crossing at Davis/Concord Road

Avalon proposed a crosswalk at the intersection of Davis/Concord to connect the sidewalk on Davis Road to an existing sidewalk on the southerly side of Concord Road. It was the consensus of abutters, the Planning Board [17, 38, 63], the town traffic consultant [73, 101] and the Board that it was currently not safe for pedestrians to cross Concord Road [53].

At the request of the Board, VHB calculated stopping distances at the proposed crossing location [93]. The Board found that for actual traffic speeds of 40 mph, eastbound traffic does not meet the safe stopping distance (SSD) requirement (required 324 ft - available 221 ft)

The Board believes that the safest way to implement a crosswalk at the intersection of Davis and Concord Road would be to install a pedestrian actuated stoplight and to reduce the actual traffic speed on Concord Road to less than 30 mph. However, the Board recognizes that such a stoplight does not meet the necessary vehicular and pedestrian warrants at the present time. The Board finds that a flashing warning light shall be installed at this

intersection until a full, pedestrian actuated traffic signal becomes warranted.

#### 8.8 Parking and Interior Driveways

The Code Enforcement Department and Planning Board recommended that no relief should be granted from the Town of Bedford Zoning Bylaw requirements for maneuvering aisle width and parking stall sizes [11]. The Board accepted this recommendation, considering the trend towards larger sports utility vehicles.

The Board accepted the recommendation of the Fire Department requesting a minimum 30-ft. turning radius for all interior roadways.

#### 8.9 Traffic Mitigation

The Board found that reducing the traffic speed on Concord Road to less than 30 mph would solve some of the traffic and pedestrian safety issues. Unfortunately, the Board was not presented with a practicable way for slowing down the traffic on Concord Road.

##### 8.9.1 Signalization

The Planning Board recommended a pedestrian signal or a full traffic signal at the intersection of Davis and Concord Road [17, 63]. The traffic studies by VHB concluded, and the Town's traffic consultant agreed, that the intersection of Davis and Concord Road currently did not meet volume-based warrants for full traffic signalization. The Board was informed that signalization could not be installed without a warrant.

##### 8.9.2 Speed Limit

The posted speed limit on Concord Road in the vicinity of the development is 30 mph. The Board was informed by the traffic consultant and the Board of Selectmen that the speed limit is set by the 85th percentile of actual travel speed. The Board of Selectmen cannot arbitrarily set a lower speed limit. However, the Board was in favor of the selectmen's recommendation for two advisory 25 mph curve signs.

##### 8.9.3 Raised Crosswalk

To slow Concord Road traffic down closer to the posted speed limit of 30 mph, BCA recommended and VHB proposed a raised sidewalk with appropriate signage and a flashing beacon at the intersection. The Board agreed with the Department of Public Works that considering the high traffic speed and the curve, a raised sidewalk would create a hazard for motorists on Concord Road [107].

##### 8.9.4 Warning Signage

The traffic consultants agreed that the Board could request a flashing beacon and appropriate signage at the intersection of Davis and Concord Road. Considering the precarious traffic situation, the Board found that a flashing beacon is required for vehicular safety. The Board also found that a pedestrian actuated stoplight was the best way of protecting pedestrian safety.

The Board felt that a pedestrian actuated stop light was absolutely required to insure the safety of children walking between the Avalon development and the town's schools, library, and play grounds. The requirement for a school

crossing traffic signal was not addressed by the Avalon traffic studies [23, 48]. However, the Board felt that the requirements of MUTCD 2000, Section 4C.06, Warrant 5, School Crossing would be met when the Avalon development is fully occupied. Avalon had stated that there would be about twenty to thirty children living in the development [107]. These children must cross Concord Road to reach the Bedford Junior and Senior High Schools during the morning rush hour. The sight distance at the Davis Road pedestrian crossing has been shown by the traffic study to be marginal when measured to the center of the crosswalk, and is about 30 percent short when measured to the east end of the cross walk [93]. The Board felt that warning signs alone would not insure the safety of these children. Therefore, the Board requested that Avalon should post a bond which would be adequate to cover the cost of installing a pedestrian actuated traffic signal at the intersection of Concord and Davis Road if and when it can be established that warrents for such a signal have been met.

#### 8.9.5 Wilson Park Traffic Study

The traffic studies and traffic counts indicate that most of the traffic from the development would be heading towards the center of Bedford. Although the development would not create a failing traffic situation at the intersection of Concord Road and North Road, traffic from the development would certainly make the problem incrementally worse. The Board agrees with the Selectmen's recommendation [86] that Avalon should incrementally contribute to the eventual solution.

#### 9. Patricia Circle

Avalon proposes to develop Patricia Circle as a subdivision road to provide access to two lots at the end of Patricia Circle and to provide a gated emergency access to the development.

The Planning Board and the department of Public Works recommended that Patricia Circle should be built to Town of Bedford standards for a subdivision road. Avalon requested exception from the Bedford subdivision rules and regulations regarding procedure, planning requirements, performance bond, curbing, tree plantings and street lighting. The Board agreed to Avalon's request provided that Patricia Circle remains a private way.

The Board requested a site plan showing an unrestricted entry and exit to the development on Davis Road. None was provided. Avalon maintained that a single entry and exit on Concord Road was adequate. However, it was the Board's consensus that vehicular safety required two separate, public entrances and exits to the development.

The Board felt that a second public access could be achieved by simply widening of the emergency access road and thus connecting Patricia Circle to the interior driveways of the development. Avalon agreed [113]. However, Avalon and the Board recognized potential complications with the use of Patricia Circle [9, 18, 24, 26]. Therefore, the Board allowed Avalon the discretion either to use Patricia Circle for the second public access, or to eliminate the access on Patricia Circle, and implement a second public access driveway through Lot 7 as shown on the original Plan A [5].

#### 10. Storm Water Management and Wetlands Impact

##### 10.1 Lot Coverage

The Board accepted the recommendation of the Bedford Conservation Commission [16] that considering that the development is almost surrounded by wetlands,

no substantial exception to local wetlands protection Bylaws should be granted.

The Bedford wetlands protection By-law limits impervious coverage in the 100-foot buffer zone to 25 percent. Avalon requested 26 percent coverage in the 100-foot buffer zone. The Board agreed that this was not a substantial exception.

The Board noted that Plan C [100] has 47 percent of upland lot coverage. The Board accepted the recommendation of the Conservation Commission and the Drainage consultant that all runoff from buildings be directed towards dry wells.

#### 10.2 Drainage

Avalon requested constructing un-vegetated drainage structures within the 50-foot buffer zone. Avalon also requested constructing some of the catch basin outfall channels within the 25-foot buffer strip. Since there is no reasonable alternative, the Board agrees.

The Board requested and Avalon agreed to construct all detention basins as "infiltration detention basins".

#### 10.3 Mosquito Control

Citizens and the Board of Selectmen expressed concern about the development being surrounded by wetlands and White Cedar Swamp, and the spread of mosquito borne diseases [67, 85, 91, 117].

The Board requested comments from the Town Health inspector and the State [70, 108, 112]. No specific recommendations regarding mosquito borne diseases and this development were received. The Board finds that vigilance in this matter was appropriate.

The engineering consultant for the developer and engineering consultant for the town, Camp Dresser & McKee (CDM) agreed that the proposed development would not significantly impact runoff and water levels in the wetlands.

Avalon agreed to channel roof runoff into dry well and to channel storm water runoff into dry detention basis. However, CDM was concerned about standing water in the detention basis due to low separation between the floor of the basins and the high ground water table [74, 115]. The Board re-iterated it's finding that the detention basins shall of the nominally dry type.

#### 11. Town Services

The Department of Public Works expressed concern over the adequacy of the Town's Pollard Lane sewage pumping station once the development is connected [14, 61]. The Board finds that Avalon should contribute to maintaining the currently available excess pumping capacity at that station.

#### 12. Residential Development Rate Limitation

The Bedford Zoning By-law limits the number of building permits for new developments to one hundred units in any calendar year. Avalon requests exception from the residential development rate limitation.

The Board finds that a residential rate limitation cannot be sustained in view of the lack of affordable housing.

PETITION NUMBER: 030-01  
AVALON AT GREAT MEADOWS COMPREHENSIVE PERMIT  
CHAPTER II. DOCUMENTS

- [1] Purchase and Sales Contract between Murray, Rich Realty Trust and Avalon Bay for Lot 5 and 7, Davis Road, Bedford Massachusetts, dated February 1, 2000.
- [2] Avalon at Great Meadows, MHFA #SA-00-004, Letter by Steven Pierce, Commonwealth of Massachusetts Housing Finance Agency to Scott Dale, Avalon Bay, dated October 11, 2000 (Financing eligibility for 144 rental units)
- [3] Comprehensive Permit Rules of the Town of Bedford Zoning Board of Appeals as revised November 9, 2000
- [4] Avalon at Great Meadows Comprehensive Permit Application, Building Plans by Niles Bolton Associates, Inc., dated January 9, 2001 (Building Plans)
- [5] Avalon at Great Meadows by Vanasse Hangen Brustlin, Inc. dated January 16, 2001 (Site Plans C2 to C-9)
- [6] Avalon at Great Meadows Bedford, Massachusetts Comprehensive Permit Application by Vanasse Hangen Brustlin, Inc., Report dated January 16, 2001
- [7] Application for Ch.40B Comprehensive Permit to the Town of Bedford Zoning Board of Appeals, by Avalon at Great Meadows, dated January 17, 2001 (128 units)
- [8] Avalon at Great Meadows, Comprehensive Permit Application, Letter by Scott Dale, dated January 17, 2001
- [9] Avalon at Great Meadows, Letter by Joel Werrick et al, dated January 23, 2001 (Ownership of Patricia Circle)
- [10] Avalon at Great Meadows, Letter by David Black, Director, Town of Bedford Board of Health, dated February 7, 2001 (Comments on swimming pool)
- [11] AvalonBay Apartment Proposal, 5 Davis Road, Letter by Ronald Wetmore, Director of Code Enforcement, Town of Bedford, dated February 1, 2001 (Comments on CPA - parking spaces)
- [12] Avalon at Great Meadows, Letter by Eugene Clerkin, Bedford Housing Partnership, to the Selectmen of the Town of Bedford, dated February 5, 2001 (Comments on CPA - 10 units/acre)
- [13] Town of Bedford Issues for Consideration re AvalonBay, Table by Joanna Nickerson, Assistant to the Town Administrator, dated February 5, 2001
- [14] Avalon at Great Meadows, Comprehensive Permit Application, Letter by Adrienne St. John, Town of Bedford Department of Public Works, dated February 7, 2001 (Comments on CPA)
- [15] Letter by Citizens for a Sensible Approach to Housing, dated February 8, 2001 (Comments on multiple CPA applications in Bedford)
- [16] Comprehensive Permit Application, Avalon at Great Meadows, Letter by Lisa Hainline, Town of Bedford Conservation Commission, dated February 13, 2001 (Comments on CPA)
- [17] AvalonBay Comprehensive Permit, Memo by Richard Joly, Planning Director, Town of Bedford Planning Board, dated February 13, 2001 (Comments on CPA)
- [18] Avalon at Great Meadows, Letter by Steven Schwartz, Goulston & Storrs, dated February 13, 2001 (Comments on ownership of Patricia Circle)

- [19] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, February 15, 2001
- [20] Presentation to Town of Bedford Zoning Board, By Janna Hoiberg, Citizens for Sensible Approach to Housing, dated February 15, 2001 (Viewgraphs)
- [21] Comprehensive Permit Application, Avalon at Great Meadows, Letter by Elizabeth Bagdonas, Conservation Administrator dated February 15, 2001 (Wetlands and floodplain maps)
- [22] Drainage and Stormwater Quality Report, Avalon at Great Meadows, Report by VHB/Vanasse Hangen Brustlin, Inc. dated February 2001
- [23] Traffic Impact and Access Study, Avalon at Great Meadows, Report by VHB/Vanasse Hangen Brustlin, Inc. dated February 2001
- [24] Letter by Richard Reed, Town Administrator, to Michael Lehane, Town Counsel, dated February 26, 2001 (Request for opinion on ownership of Patricia Circle)
- [25] Avalon at Great Meadows Comprehensive Permit Application, Letter by Scott Dale, dated March 16, 2001 (Request to continue ZBA hearing scheduled for March 22)
- [26] Avalon Bay Application, Letter by Michael Lehane, Town Counsel, Murphy, Hesse, Toomey & Lehane, dated March 20, 2001 (Ownership of Patricia Circle)
- [27] Avalon at Great Meadows, Response to Comments, Letter by Vanasse Hangen Brustlin, dated March 28, 2001
- [28] AvalonBay Traffic and Drainage Study, Letter by Richard Joly, Planning Director, Planning Board, Town of Bedford, dated March 29, 2001 (Comments on Traffic Impact and Drainage Study - traffic signal and pedestrian signal)
- [29] Avalon at Great Meadows (Davis Road), Letter by Eugene Clerkin, Bedford Housing Partnership to the Selectmen of Bedford, dated March 30, 2001
- [30] Avalon at Great Meadows, Letter by Scott Dale, dated March 30, 2001 (Site plan with single access on Davis Road)
- [31] Avalon at Great Meadows, Revised Site Layout by Vanasse Hangen Brustlin, dated March 30, 2001 (Plan B)
- [32] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, April 4, 2001
- [33] AvalonBay, Letter by Lt. David Grunes, Fire Department, Town of Bedford, dated April 4, 2001 (Requesting two distinctly separate routes of ingress and exit)
- [34] Letter by Herbert Aumann, Chairman, Bedford Zoning Board of Appeals to Richard Reed, Town Administrator dated April 17, 2001 (Requesting an independent traffic study)
- [35] Letter by Herbert Aumann, Chairman, Bedford Zoning Board of Appeals to Richard Reed, Town Administrator dated April 17, 2001 (Requesting an independent drainage study)
- [36] Copy of a letter by Scott Dale, AvalonBay, to Ann Kiesling, abutter, dated April 25, 2001 (Requesting comments on revised site plan)
- [37] 40B Application, 5 Davis Road, Letter by Joanna Nickerson to Scott Dale, Avalon Bay, dated April 26, 2001 (Application requirements for revised site plan)
- [38] Avalon at Great Meadows, Letter by Richard Joly, Planning Director, Planning Board, Town of Bedford, dated May 8, 2001 (Comments on revised site plan)

- [39] Avalon at Great Meadows, Letter by Steven Schwartz, Goulston & Storrs, dated May 14, 2001 (Comments on site control and limited dividend organization)
- [40] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, May 17, 2001
- [41] Purchase and Sales Contract between Cimino and Avalon Communities for lot 7 on Concord Road, Bedford, Massachusetts, dated May 17, 2001
- [42] Site Approval Application, Avalon at Great Meadows, Letter by Scott Dale to Nancy Anderson, Massachusetts Housing Finance Agency, date May 18, 2001
- [43] Avalon at Great Meadows, MHFA #SA-00-004, Letter by Steven Pierce, Commonwealth of Massachusetts Housing Finance Agency to Scott Dale, Avalon Bay, dated May 25, 2001
- [44] Avalon at Great Meadows Comprehensive Permit Application, Letter by Scott Dale, dated May 31, 2001 (CPA for revised site plan)
- [45] Avalon at Great Meadows, Layout and Materials Plan C-1 by Vanasse Hangen Brustlin dated June 4, 2001 (Plan with 136 units)
- [46] Avalon at Great Meadows, Existing Conditions Plan C-4 by Vanasse Hangen Brustlin, dated June 4, 2001
- [47] Letter by Citizen for Sensible Approach to Housing to Scott Dale, AvalonBay, dated June 11, 2001 (Comments on revised site plan)
- [48] Traffic Impact and Access Study, Avalon at Great Meadows, Report by VHB/Vanasse Hangen Brustlin, Inc. dated June 2001
- [49] Drainage and Stormwater Quality Report, Avalon at Great Meadows, Report by VHB/Vanasse Hangen Brustlin, Inc. dated June 2001 (139 units)
- [50] AvalonBay Comprehensive Permit, Letter by Scott Dale, AvalonBay, dated June 18, 2001 (Revised site plan)
- [51] Letter by Doris Bieren, dated June 26, 2001 (Comments on traffic)
- [52] Comprehensive Permit Application, Avalon at Great Meadows, Letter by Elizabeth Bagdonas, Conservation Commission, Town of Bedford, dated June 27, 2001 (Comments on revised site plan - increased wetlands impact)
- [53] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, June 28, 2001
- [54] Avalon at Great Meadows, Bedford, MA, Presentation by Scott Dale, AvalonBay, dated June 28, 2001
- [55] Letter by Ann Cooper, abutter, dated 28 June 2001 (Comment on revised site plan)
- [56] Letter by Gary Edmonds, abutter, dated 16 July 2001 (Sidewalk on Davis Road)
- [57] Avalon Bay, Letter by Lt. David Grunes, Bedford Fire Department dated July 24, 2001 (Written agreement on emergency access to buildings)
- [58] Avalon at Great Meadows, Letter by Steven Schwartz, Goulston & Storrs, dated July 31, 2001 (Subdivision of lots off Patricia Circle)
- [59] Comprehensive Permit Application, Avalon at Great Meadows, Letter by Elizabeth Bagdonas, Conservation Administrator, Town of Bedford, dated August 1, 2001 (Comments on increased density)
- [60] AvalonBay's "Avalon at Great Meadows" Ch.40B Development and BHT's Affordable Duplex Housing Conversion Project, Memo by Eugene Clerkin, Bedford Housing Trust, dated August 2, 2001

- [61] Avalon Bay Project Issues, Letter by Adrienne St. John, Town of Bedford Department of Public Works, dated August 6, 2001
- [62] Avalon at Great Meadows Revised Building Program, Letter by Scott Dale, AvalonBay, dated August 8, 2001 (Summary of building types)
- [63] Comments on Avalon at Great Meadows, letter by Richard Joly, Planning Director, Planning Board Town of Bedford, dated August 8, 2001 (Comments on the latest site plan - pedestrian signal and traffic signal)
- [64] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, August 9, 2001
- [65] Bedford Housing Trust, Local Initiative Program Application, Report by Eugene Clerkin, Bedford Housing Partnership, dated September 2001
- [66] AvalonBay Pro Forma, Fax by Mike Jacobs, MHJ Associates, dated September 11, 2001
- [67] Letter by Dan Hurwitz et al, dated September 13, 2001 (Environmental issues)
- [68] Peer Review of Avalon at Great Meadows, MA, Letter by Bonnie Polin, Bruce Campbell & Associates, dated September 13, 2001 (Request for additional traffic information)
- [69] AvalonBay, Letter by James Hicks, Chief of Police, Town of Bedford, dated September 17, 2001 (Comments on public safety issues)
- [70] Position Statement, Letter by David Black, Health Director, Town of Bedford, dated September 18, 2001 (Comments on mosquito-borne diseases)
- [71] AvalonBay, Letter by Lt. David Grunes, Fire Department, Town of Bedford, dated September 19, 2001 (Emergency access to buildings)
- [72] Avalon at Great Meadows NHESP File No. 00-7258, Letter by Patricia Huckery to the Bedford Conservation Commission dated September 19, 2001 (No rare wildlife species)
- [73] Peer Review of Avalon at Great Meadows, Report by Bonnie Polin, Bruce Campbell & Associates, dated September 20, 2001 (Review of VHB traffic report)
- [74] Sight Distance Evaluation Driveway on Concord Road, Plan prepared by VHB/Vanasse Hangen Brustlin, Inc. dated September 27, 2001 (Partial evaluation)
- [75] Avalon at Great Meadows Subdivision Drainage Peer Review, by Camp Dresser & McKee, Inc., dated September 28, 2001 (Elevated ground water issue)
- [76] Avalon at Great Meadow, Bedford - Response to Traffic Comments, letter by VHB/Vanasse Hangen Brustlin, Inc. dated September 28, 2001 (Acknowledge request for two public exits - 42 mph)
- [77] Operation and Maintenance Plan, Avalon at Great Meadows, prepared by VHB/Vanasse Hangen Brustlin, Inc. dated October 2001
- [78] AvalonBay Hydrant Flow Test, letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 2, 2001
- [79] Avalon at Great Meadow, Bedford - Response to Drainage Review, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 3, 2001
- [80] Notice of Intent Avalon at Great Meadows, DEP File# 103-0515, Letter by Vanasse Hangen Brustlin, Inc. to Lisa Hainline, Chair of the Bedford Conservation Commission, dated October 3, 2001 (Uplands and wetlands acreage)



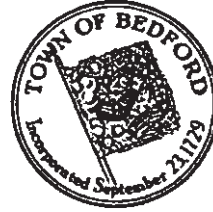
- [81] Avalon at Great Meadows, Comprehensive Permit Application, Letter by Scott Dale, AvalonBay, to Eugene Clerkin, Bedford Housing Partnership, dated October 3, 2001 (Offer of \$200,000)
- [82] Avalon at Great Meadows - Response to Comments, Letter by Pamela Brown, Counsel for Avalon, dated October 4, 2001
- [83] Avalon at Great Meadows, Supplement to Traffic Memorandum, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 3, 2001
- [84] Avalon at Great Meadows, Response to Drainage Review, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 3, 2001
- [85] Letter by Ann Kiesling, Citizens for Safe Bedford, dated October 3, 2001 (Mosquito issue)
- [86] Avalon Bay Project Traffic Mitigation, Letter by Joseph Piantedosi, Selectman of the Town of Bedford, dated October 4, 2001 (Traffic mitigation at Wilson Park)
- [87] Town of Bedford Zoning Board of Appeals, Minutes dated October 4, 2001
- [88] Landscape Plan for Avalon at Great Meadows by Hawk Design, Inc. dated October 3, 2001
- [89] Avalon at Great Meadows, Comprehensive Permit Application - Response to Comments, by Pamela Brown, Counsel for AvalonBay, dated October 4, 2001
- [90] Letter by Citizens for a Sensible Approach to Housing, dated October 15, 2001 (Comments on traffic review)
- [91] Letter from Citizens for a Safe Bedford, dated October 15, 2001 (with viewgraphs on Mosquito-Borne Diseases)
- [92] Avalon at Great Meadows - Transportation Mitigation Plan, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 15, 2001 (Site distances)
- [93] Avalon Bay Group Bedford, MA Proposed Traffic Mitigation Plan C-1 by VHB/Vanasse Hangen Brustlin, Inc. dated October 15, 2001.
- [94] Avalon at Great Meadows, Progress Plans, Drainage Revisions, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 16, 2001
- [95] Avalon at Great Meadows, Photographic Simulation, received October 15, 2001
- [96] Avalon at Great Meadows, Progress print by VHB/Vanasse Hangen Brustlin, Inc. dated October 17, 2001
- [97] Avalon at Great Meadows - Stormwater Discharge Volumes, Letter by VHB/Vanasse Hangen Brustlin, Inc. to Scott Dale, AvalonBay, dated October 18, 2001
- [98] Town of Bedford Zoning Board of Appeals, Minutes dated October 18, 2001
- [99] Avalon at Great Meadows, Revision Summary, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 26, 2001.
- [100] Avalon at Great Meadows by Vanasse Hangen Brustlin, Inc. dated October 26, 2001 (Site Plans C2 to C-10)
- [101] Final Peer Traffic Review of Avalon at Great Meadows, Report by Bonnie Polin, Bruce Campbell & Associates, Inc. dated October 29, 2001
- [102] Avalon at Great Meadows - Required Exceptions to Local Regulations, Letter by VHB/Vanasse Hangen Brustlin, Inc. dated October 29, 2001
- [103] Avalon at Great Meadows Chapter 40B Comprehensive Permit Application, Letter by Richard Joly, Planning Director, dated October 30, 2001 (Open space and recreation facility)

- [104] Letter by Paul Goodrich, abutter, dated 5 November 2001 (Davis Road exit)
- [105] Letter by Bob Fagan, Bedford Planning Board, dated 8 November 2001 (Housing density)
- [106] Avalon at Great Meadows/Duplex Conversion Program, Letter by Eugene Clerkin, Bedford Housing Partnership, dated November 8, 2001 (LIP application)
- [107] Town of Bedford Zoning Board of Appeals, Minutes dated November 8, 2001

The following documents were received after the public hearing was closed on 8 November 2001:

- [108] Mosquitoes - Avalon Bay Development Proposal, Letter by David Black, Director Board of Health, dated November 14, 2001 (EEE is rare)
- [109] ZBA/Comprehensive Permit/Avalon Bay, Letter by Michael Lehane, Town Counsel, Murphy, Hesse, Toomey & Lehane to Richard Reed, Town Administrator, dated November 28, 2001 (ZBA quorum)
- [110] Town of Bedford Zoning Board of Appeals, Minutes dated November 29, 2001
- [111] Letter by Sandy Currier, dated November 29, 2001 (Davis Road exit)
- [112] Letter by Ann Kiesling, abutter, dated 10 December 2001 (Boundary issues)
- [113] AvalonBay Comprehensive Permit Request, Letter by Richard Reed, Town Administrator, dated December 13, 2001 (Proposed draft decision)
- [114] Avalon at Great Meadows, MassHousing #SA-00-004, Letter by the Massachusetts Housing Finance Agency to Dannette Gouin, abutter, dated 14 December 2001
- [115] Avalon at Great Meadows, Bedford, MA, Letter by Steven Schwartz, Goulston & Storrs, dated 19 December, 2001 (Comments on proposed Comprehensive Permit conditions)
- [116] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, December 20, 2001
- [117] Avalon at Great Meadows Subdivision Drainage Peer Review, Letter by Camp Dresser & McKee, dated December 26, 2001
- [118] Avalon at Great Meadows, Letter by Steven Schwartz, Goulston & Storrs, dated 27 December, 2001 (Comments on proposed Comprehensive Permit conditions)
- [119] Letter by Karen Wulfsberg, abutter, Citizens for a Safe Bedford, dated 28 December, 2001 (Mosquito issue)
- [120] Avalon at Great Meadows, Bedford, MA, Letter by Steven Schwartz, Goulston & Storrs, dated 2 January, 2002 (Comments on proposed Comprehensive Permit conditions)
- [121] Town of Bedford Zoning Board of Appeals Minutes dated Thursday, January 3, 2002
- [122] Letter by Connie Ganss, President Bedford Garden Club to the Town of Bedford Selectmen, dated December 11, 2001 (Davis Road/Concord Road island)

# THE BOARD OF APPEALS



TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 030-01  
AVALONBAY AT GREAT MEADOWS COMPREHENSIVE PERMIT  
CHAPTER III. CONDITIONS OF APPROVAL

Based upon the findings of the Bedford Zoning Board of Appeals (the Board), the Board grants to Scott Dale, Applicant, f/b/o Avalon at Great Meadows (Avalon) at 5 Davis Road and 57 Concord Road a Comprehensive Permit to construct a 139-mixed income apartment community in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of Appeals of the Town of Bedford subject to the Conditions and Limitations set forth in this Decision.

## A. General Conditions

1. The Comprehensive Permit is granted based on the latest issue of an Application and Site Plan titled "Avalon at Great Meadows" dated October 26, 2001 drawn by Vanasse Hangen Brustlin, Inc., including drawings C-2 through C-10 and hereinafter referred to as the Site Plan and marked as Plan C and as modified by this Decision.
2. The Comprehensive Permit incorporates the following requested exceptions from zoning, subdivision control and wetlands By-laws. In granting or denying these exceptions, the Board recognizes that the legal requirements for issuing a Comprehensive Permit have been met, and that the granting of exceptions from local zoning by-laws, subdivision rules and regulations and local wetlands by-laws may be necessary in the public interest, for the overriding need to provide affordable housing.

### Exceptions from Local Zoning By-Laws:

- 2.1 Exception from Section 9.2.2 Permissible Density: GRANTED. The Board finds that a Comprehensive Permit allows higher housing densities than permitted by local By-Laws. Bedford has not met the statutory minimum affordable housing required by M.G.L. c. 40B. A density of ten (10) units per buildable acre is not inconsistent with other Comprehensive Permit developments in the Town of Bedford.
- 2.2 Exception from Section 3.1 Table I Multi-Family Use: GRANTED. A Comprehensive permit requires allowing multi-family dwelling in the Residential B and R zoning districts.
- 2.3 Exception from Section 9.2.5 Lots Area Frontage and Yard Requirements: GRANTED. With the exception of one building located 44 feet from the property line, all other proposed multi-family buildings will meet a 50-foot setback.
- 2.4 Exception from Table II Dimensional Regulations - Minimum Lot Area: GRANTED. The two proposed 30,000 sq.ft. lots at the end of Patricia

Circle straddle the Residential B and Residential R zoning boundary. The lot sizes meet the minimum lot area requirement for Residential Zone B. In exchange for permission to develop these two market-rate lots, Avalon will make available compensatory funds which the Town will apply towards additional affordable housing as described in Section G. The Board feels that such arrangement is consistent with the State's mandate to promote affordable housing.

- 2.5 Exception from Table II Dimensional Regulations - Minimum Lot Frontage: GRANTED. The lot frontage of 130 feet is consistent with frontage required in Residential Zone B.
- 2.6 Exception from Table II Dimensional Regulations - Minimum Lot Width: GRANTED. The lot widths of 90 feet are short of the 100-foot minimum lot width required in Residential Zone B. However, there is no practicable alternative lot layout.
- 2.7 Exception from Parking Regulation Section 7.4.1.1 Dwelling including Multiunit: GRANTED. Avalon requests 1.94 parking spaces/unit. A Planned Residential Development would require only 1.5 parking spaces/unit. Since there is no off-site parking, the Board accepts Avalon's recommendation.
- 2.8 Exception from Building Permit Limitation Section 12.2: GRANTED. A residential development rate limitation cannot be supported when there is a public need for affordable housing.

Exceptions from Subdivision Rules and Regulations:

- 2.9 Exception from Procedural and Content of Plan Requirements: GRANTED. A Comprehensive Permit development is not subject to local subdivision regulations.
- 2.10 Exception from Performance Guarantee: GRANTED conditionally. Avalon shall provide a surety bond for the completion of Patricia Circle consistent with a two-house subdivision.
- 2.11 Exception from curb radius of no less than 30 feet: GRANTED for the Davis Road /Patricia Circle intersection. The existing property lines permits only a 25 ft turning radius.
- 2.12 Exception from vertical granite curbing on Patricia Circle: GRANTED. Patricia Circle will be maintained as a private way.
- 2.13 Exception from planting of shade trees on Patricia Circle: GRANTED. Patricia Circle will be a private way.
- 2.14 Exception from installation of street lights on Patricia Circle: GRANTED. Patricia Circle is a private way and the abutters do not want streetlights.

Exceptions from Local Wetlands By-Laws:

- 2.15 Exception from maintaining a 25-foot undisturbed buffer strip: GRANTED. Portion of rip rap velocity dissipaters are located within the 25-foot buffer strip. There is no alternate way of implementing the outfall pipes.

- 2.16 Exception from 25 percent limit of impervious surface within 100 feet of wetlands. GRANTED. The proposed impervious surface coverage of 26 percent is in substantial compliance with the by-law.
- 2.17 Exception from 50-foot setback from wetlands of all unvegetated drainage structures: GRANTED. Outfall pipes are located within 50 feet of wetlands. There is no alternate way of implementing the outfall pipes.

In all other respects, the development shall be built according to the Town of Bedford Zoning By-Laws, Rules and Regulations Governing the Subdivision of Land, and Wetlands By-Laws and this Decision.

3. The development shall contain no more than 139 apartment units and project amenities on 38 +/- acres as shown on the set of drawings entitled Site Plan "Avalon at Great Meadows" dated October 26, 2001 drawn by Vanasse Hangen Brustlin, Inc., including drawings C-2 through C-10 and hereinafter referred to as the Site Plan and marked as Plan C, and as modified by this Decision.
4. The development shall consist of no more than 52 one-bedroom unit (including 13 affordable one-bedroom units) and 87 two-bedroom units (including 22 affordable two-bedroom units). There shall be no three-bedroom units. No loft or attic space shall be designed or built as a bedroom. Each lease or rental agreement shall have a provision, which prohibits the use of loft or attic space as a bedroom.

In the event that the final plan for the development contains other than 139 units, 25 percent of the one-bedroom units and 25 percent of the two-bedroom units shall be affordable units.

5. The applicant shall obtain financing for the project through the MHFA Expanded Rental Affordability (ERA) program or other equivalent program. Any change in financing program shall require approval from the Board of Appeals. The total number of restricted affordable units within the development shall be no less than twenty-five percent (25%) of the total units. The restricted affordable units will be rented to households earning no more than 80% of the area median income. Rents for the affordable units will be established based on a calculation of thirty percent (30%) of the eighty percent (80%) of area median income for households in the area including allowance for utilities. One-bedroom and two bedroom market-rate and affordable units shall be proportionally allocated. Market-rate and affordable units shall be indistinguishable in appearance and amenities.

If there are any conflicts between the terms of this condition and the terms contained in the financing and related documents imposed upon Avalon by MHFA (or its equivalent), the terms of financing and related documents of MHFA (or its equivalent) shall prevail.

6. All market-rate and affordable rental units shall remain rental units in perpetuity, and the multi-family development shall remain under a single ownership. A covenant of this provision, approved by Town Counsel, shall be recorded in the registry of deeds prior to the issuance of occupancy permits for any unit in the development.
7. To the maximum extent permitted by law, Avalon shall market and give preference to leasing affordable units to persons with a "Bedford preference" Bedford preference is defined as including current and former residents of Bedford, municipal employees of the town of Bedford, parents or children of current Bedford residents. Prior to the issuance

of the first building permit, Avalon shall review its tenant selection procedures with the Bedford Housing partnership or its designee to insure compliance with this condition.

8. If a renter of an affordable unit no longer qualifies for the affordable unit, he/she shall be allowed to remain in that unit as a market-rate unit tenant without being required to move to a different unit. Avalon will then designate a comparable market-rate unit in the development as a replacement for the affordable unit.

#### B. Site Design

1. The site layout shall substantially conform to the Site Plans marked Plan C, noted in Paragraph A.1 and as modified by this Decision.
2. The site layout shall provide for a minimum setback of buildings from existing property lines of no less than 40 feet. Said property lines shall be determined from existing deeds, not from Plan C.
3. There shall be a maximum of 269 parking spaces. The size and layout of parking stalls shall conform to the Bedford Zoning Bylaws Section 7.4.2 entitled "Parking Dimensional Regulation."
4. Open area within the development shall be maximized and set aside for recreational use. Such space shall include a tot lot for recreational use by children.
5. All exterior siding shall consist of vinyl shingles and trim. Columns shall be aluminum and railings shall be anodized aluminum.
6. In lieu of a permitted rental sign, one (1) community identification sign shall be permitted for Avalon at one side of the entrance to the development on Concord Road. The sign shall be no more than twenty (20) sq.ft. in size and six feet in height above the surrounding ground. The sign shall be set back so as not to obstruct the sight lines on Concord Road. The illumination of such sign shall conform to the Bedford Sign Bylaw Article 38.5 entitled "ILLUMINATION".
8. A lighting plan shall be provided that adequately demonstrates to the Town of Bedford Building Inspector that lighting throughout the site will be in compliance with Article 38.5 (Illumination) of the Bedford Sign By-Law.
9. Landscaping plan shall be carried out substantially as shown on a plan by Hawk Design, Inc. dated October 3, 2001 except that landscaping shall not interfere with clear and unobstructed sight triangles at the entrances/exits to the development. Furthermore, landscaping shall be provided to mitigate the effect of automobile headlights shining on abutting property in the vicinity of the entrances/exits from the site.
10. The Developer shall install an eight (8) foot high stockade fence along the southeastern property line abutting the land referenced as N/F Mary Proctor in the Site Plan. Said fence shall extend a distance of approximately 475 feet starting from the property line on Concord Road, considering the maintenance of appropriate site distances for the exit on Concord Road.

#### C. Storm Water Management/Wetlands Impact

1. Avalon shall design and implement a storm water infiltration system and storm water detention system consisting of nominally dry retention ponds.
2. The storm water management system shall meet the State standards for control of storm water run-off as approved by the Town of Bedford Department of Public Works.
3. All unit leases shall include a notice that "the apartment complex is abutting the White Cedar Swamp and other wetlands. As such residents may be at an increased risk of exposure to mosquito-borne diseases".
4. On-site snow storage areas shall be located so as not create run-off onto abutting property or public ways. Snow removal operations shall be conducted in such a manner so as to not cause snow to be deposited on any Town ways.

D. Traffic Impact/Mitigation

1. Avalon shall consult, design, and gain approval of the Bedford Department of Public Works and construct one (1) pedestrian crosswalk on Concord Road. Said crosswalk shall be located just east of the Concord Road/Davis Road Intersection as shown on the Proposed Traffic Mitigation Plan C-1 dated October 15, 2001 [93]. Appropriate signage giving advance warning of the pedestrian crosswalk shall be provided as directed and approved by the Bedford Department of Public Works. Avalon shall bear the full cost of implementing this condition.
2. Avalon shall consult, gain approval of the Bedford Department of Public Works, and construct a flashing warning signal at the intersection of Concord and Davis Road. Avalon will bear the full cost of this condition.

Avalon shall provide a bond in an amount reasonably estimated by the Bedford Department of Public Works to carry out a traffic signal warrant analysis for vehicular, pedestrian and school crossing traffic and to install all conduits, loop detectors, wiring and traffic control cabinets for a fully actuated traffic signal including a pedestrian-activated stop light.

At a time deemed appropriate by the Bedford Department of Public Works and within five (5) years from the issuance of the first building permit, the Bedford Department of Public Works shall hire a consultant, at Avalon's expense, to carry out the above described traffic warrant analysis. If a signal becomes warranted at that intersection, Avalon shall bear the full cost of implementing such a signal. If the signal is does not become warranted, the remainder of the bond will be released.

3. Avalon shall consult and gain approval of the Bedford Department of Public Works to re-design and build the easterly intersection of Davis and Concord Road so as to accommodate a potential future traffic signal and reduce the radius of the right turning lane and realign the eastbound Davis Road curb line. Avalon will bear the full cost of this condition.
4. Avalon shall consult and gain approval of the Bedford Department of Public Works, and construct within the existing right-of-way and/or within the existing sidewalk easement, a meandering bituminous sidewalk on the north side of Davis Road from 11 Davis Road to the intersection of Concord and Davis Road. The sidewalk design shall take into account

the Scenic Road designation of Davis Road. Avalon shall bear the full cost of implementing this condition.

5. Avalon shall consult and gain approval of the Bedford Department of Public Works, and construct within the existing right-of-way a concrete sidewalk on the north side of Concord Road from the intersection of Davis Road and Concord Road to the Concord Road entrance to the development, connecting with the development's internal sidewalk system. Avalon shall bear the full cost of implementing this condition.
7. Avalon shall consult and gain approval of the Bedford Department of Public Works, and construct the Concord Road entrance and exit to the development to provide obstruction free sight lines consistent with the minimum sight distances required by the pre-development posted speed limit. Avalon will post and maintain a stop sign approved by the Bedford Department of Public Works at the exit to the development on Concord Road.
8. Avalon shall design and construct a public ~~entrance and exit~~ <sup>exit only road from</sup> to the development off Davis Road utilizing Patricia Circle and a 24 foot wide extension of Patricia Circle, connecting Patricia Circle, as shown on the Site Plan marked Plan C, to the interior driveways of the development. HMA

Patricia Circle shall also provide public access to the two lots described in Section G. Patricia Circle shall be built to Town of Bedford subdivision standards subject to the exceptions granted under Section A of this Decision, with the final design details subject to the approval of the Bedford Department of Public Works.

Avalon shall maintain Patricia Circle year-round as a private way.

9. The current driveway at the Lot 7 Davis Road may be used for temporary construction access during the construction period. Patricia Circle shall not be utilized for general construction except for the construction of the permanent entrance and exit.

In the event that the full-width extension of Patricia Circle described in Section D.8 is not feasible, Avalon may construct a public entrance and exit driveway through Lot 7, substantially as shown on a set of Site Plans by Vanasse Hangen Brustlin, Inc. dated January 16, 2001. Such driveway shall be built to Town of Bedford subdivision standards subject to the exceptions granted under Section A of this Decision, with the final design details subject to the approval of the Bedford Department of Public Works.

10. Avalon shall build a sidewalk on the easterly side of Patricia Circle connecting sidewalks in the interior of the development to Davis Road

In the event that entry and exit to the development is provided by a driveway through Lot 7, Avalon shall build a sidewalk on the easterly side of the driveway, connecting the sidewalks in the interior of the development to Davis Road

11. Avalon shall contribute the sum of \$25,000 to the Town of Bedford for an engineering study to identify recommended improvements to the Concord Road/Great Road/North Road intersection. These funds shall be transferred to the Town prior to the issuance of the first building permit.



12. Avalon shall consult, design, gain the approval of the Bedford Department of Public Works and construct two (2) LED curve warning signs on Concord Road, one east bound prior to the intersection of Concord and Davis Road, and the other one westbound prior to the entrance/exit to the development on Concord Road. The curve warning signs shall also include 25 MPH speed advisory signs.
13. Avalon shall provide and install a "Reduced Speed Ahead" advisory sign for installation on eastbound Concord Road prior to the intersection of Concord and Davis Road. Avalon shall consult, design and gain approval of the Bedford Department of Public Works for the location of this sign.

#### E. Town Services

1. Fire hydrants within the development shall be located in a way that is acceptable to the Bedford Department of Public Works and the Bedford Fire Department.
2. Avalon will comply with all Federal, State and Local requirements for the installation of fire suppression/detection systems throughout the complex.
3. Avalon will enter into a written agreement with the Bedford Fire Department that Avalon will maintain 12-feet wide with 12-feet of vertical clearance emergency access to the buildings throughout the complex.
5. Avalon will contribute the sum of \$10,000 towards the cost for improvement to the Town's pumping station at Pollard Lane to maintain the currently available excess capacity of this station. This contribution shall be made prior to issuance of a building permit.
6. Avalon will accept full responsibility for all maintenance of Patricia Circle as a private way.
7. Avalon will accept full responsibility for trash removal from the development.

#### F. Detailed Building Plan Review

1. Prior to issuance of a building permit, Avalon shall submit a detailed set of building plans acceptable to the Town of Bedford Building Inspector. Said definitive plans shall be in substantial compliance with all conditions of this decision.
2. Changes in the plans following the issuance of this decision shall be submitted to the Town of Bedford Building Inspector, who may approve minor changes. If the Building Inspector, in his opinion, determines that the proposed change is a major change, Avalon shall appear before the Board and present the change for review and approval.

Any substantial changes or modification to this Comprehensive Permit shall only be made by the Board upon written request and upon holding a public hearing in accordance with the Comprehensive Permit Rules of the Town of Bedford.

3. A construction-phasing plan shall be submitted with the final construction plans for approval by the Town of Bedford Building Inspector. Said plan shall include management of construction traffic and shall limit construction activities to normal working hours. Said

plan shall include phased availability of market-rate and affordable units.

G. Bedford Housing Trust

1. The Board permits Avalon to develop Lot 7 (referred to as Lot 2 in the Site Plans) as a 30,257 sq.ft. plus or minus market-rate lot. The Board permits Avalon to develop two (2) market-rate lots of not less than 30,000 sq. ft on Patricia Circle, substantially as shown the Site Plans marked Plan C, noted in Paragraph A.1. The Board of Appeals will take whatever action is required so as to enable Avalon to create these two new lots as legal lots of record, which may include endorsement by the Board of Appeals of a plan suitable for recording at the Middlesex Registry of deeds indicating that such lots have been approved under the Subdivision Control Laws by the Bedford Zoning Board of appeals acting for the Planning Board pursuant to the powers granted to the Board under M.G.L. c. 40B, Section 21.
2. In exchange for the above development of market-rate lots, Avalon will contribute the sum of \$200,000 for use by the Bedford Housing Trust in the development of affordable off-site duplex. The funds shall be released to the Bedford Housing Trust upon issuance of the first building permit.

This decision with its conditions shall be recorded with the Registry of Deeds. The decision shall run with the land and be binding on Avalon and/or its successors or assigns.

  
James C. Brown  
Assistant Registrar