

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

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Doc#	Document Type	Town	Book/Page	File Date	Consideration
147828	DECISION		67882/210	08/25/2016	
Property-Street Address and/or Description					
526 & 528 BOSTON POST RD					
Grantors					
SUDBURY TOWN APPEALS, BPR SUDBURY DEVELOPMENT LLC					
Grantees					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					

28
Goulston & Starrs
400 Atlantic Ave
Boston, MA 02110



2016 JUL 20 PM 1:11

**NOTICE OF DECISION
COMPREHENSIVE PERMIT
Sudbury Avalon, Inc., Avalon Sudbury
526 & 528 Boston Post Road
SUDBURY, MA
ZONING BOARD OF APPEALS CASE NUMBER 16-5
July 18, 2016**

I. BACKGROUND

- APPLICANT** Sudbury Avalon, Inc. (the "Applicant")
- OWNER** BPR Sudbury Development LLC (the "Owner")
- PROPERTY** The property that is the subject of this Decision (the "Property") is a portion of the site numbered 526 & 528 Boston Post Road, Sudbury, MA (the "Overall Site"). The Property consists of Lot 3 as shown on the Definitive Subdivision Plan referenced below as item (c) in "Plans of Record", together with the new street shown on said plan, but excluding a 1.9-acre portion of Lot 3 that will be ground leased to the occupant of the existing building (the "Beltran Building") on such portion of Lot 3. Except as this Decision relates to the Definitive Subdivision Plan and the Conditions set forth in Section VIII below, this Decision does not relate to any portion of the Overall Site other than Lot 3.
- ASSESSORS**
- MAP/PARCEL** A portion of Map K07-0011 & 0013
- AREA:** 23.7 acres (approx.)
- ZONING:** Limited Industrial District (LID); Single Residence - A; Zone II of the Water Resource Protection Overlay District
- THE PROJECT:** The Applicant filed an application for approval of 250 rental apartment units in 31 structures (the "Project") and a Definitive Subdivision creating 6 lots. The Applicant also seeks the construction of a clubhouse and leasing office building containing approximately 5,500 square feet, as well as an approximately 2,000 square foot maintenance building and 1,200 square foot trash building in connection with the Project. The Project also includes accessory structures related to the wastewater treatment plant facilities, pool building and mail kiosks/bike storage.
- PUBLIC HEARING:** A public hearing by the Sudbury Zoning Board of Appeals (the "Board"), pursuant to notice duly published, posted and mailed to parties in interest in accordance with applicable law, was opened on March 7, and continued to April 4, 2016, May 9, 2016, June 29, 2016, and July 18, 2016, and was closed on July 18, 2016.

MARGINAL REFERENCE REQUESTED
BOOK 66564 PAGE 354

DECISION DATE

On July 18, 2016, it was moved and seconded, and the Board voted five in favor and none opposed to approve the Application for Comprehensive Permit, with conditions. Accordingly, the Comprehensive Permit is approved, with conditions.

PLANS OF RECORD

This decision is based on the following plans submitted for the Board's consideration:

- a) Site Plans entitled "Site Plans, Avalon Sudbury" prepared by VHB dated January 20, 2016, last revised June 20, 2016, consisting of 22 sheets: Cover Sheet; C-1, Legend and General Notes; C-2, Overall Site Plan; C-3.1 and 3.2, Layout and Materials Plan; C-4.1 and C-4.2, Grading, Drainage, and Erosion Control Plan; C-5.1 and C-5.2, Utility Plan; C-6.1 thru C-6.4, Site Details; L-1 and L-2, Planting Plan; L-3, Planting Details; Sv-1 thru Sv-6, Existing Conditions Plan of Land (6 sheets, dated January 6, 2016 last revised June 20, 2016).
- b) Architectural Plans entitled "Avalon Sudbury, Sudbury, Massachusetts, Application for Comprehensive Permit, Architectural Drawings" prepared by The Architectural Team, dated January 20, 2016, last revised June 20, 2016, consisting of 33 sheets: T0.01 Project Cover; T0.02 Project Information, Drawing List & Building Key Plan; A1.00, Buildings O & P, 1st and 2nd Floor Plans, Direct Entry 4 & 5; A1-01, Buildings J, L & N, 1st, 2nd & 3rd Floor Plans, Direct Entry 1; A1.02, Buildings C,D,E,F,G,K,M,Q,R,S,T&U, 1st, 2nd & 3rd Floor Plans – Direct Entry 2; A1.03, Building B 1st & 2nd Floor Plans Direct Entry 3; A1.04, Building B 3rd Floor Plan Direct Entry 3; A1.05, Townhomes T1 & T2, 1st, 2nd & 3rd Floor Plans; A1.06, Townhome T3, 1st, 2nd & 3rd Floor Plans; A1.07, Townhome T4, 1st, 2nd & 3rd Floor Plans; A1.08, Townhome T5, 1st, 2nd & 3rd Floor Plans; ; A1.09, Townhome T6, 1st, 2nd & 3rd Floor Plans; A1.10, Townhomes T7 and T8, 1st, 2nd & 3rd Floor Plans; A1.11, Townhomes T9 & T10, 1st, 2nd & 3rd Floor Plans; A1.12, Clubhouse, Pool House, Recycling & Maintenance Plans; A1.13, Building H, 1st, 2nd & 3rd Floor Plans, Direct Entry 6; A1.14, Building V, 1st, 2nd & 3rd Floor Plans, Direct Entry 7; A2.00 thru 2.08, Typical Unit Plans; A4.01 thru 4.06, Exterior Elevations; A4.07, Exterior Perspective Views.
- c) Definitive Subdivision of Land Plans entitled "Definitive Subdivision: "New Street Name", prepared by VHB dated May 20, 2016, consisting of 21 sheets: Cover Sheet; C-1, Legend and General Notes; C-2.1 and 2.2, Overall Subdivision Plan; C-3, Plan and Profile, Grading and Drainage Plan; C-4, Layout, materials & Utility Plan; C-5.1 and 5.2, Site Details; L-1, Planting Plan; Subdivision Plan of Land (5 sheets, dated May 6, 2016); A-1, Overall Addressing Plan; Sv-1 thru Sv-6, Existing Conditions Plan of Land (6 sheets, dated January 6, 2016, last revised June 20, 2016).

Items a-c above, and any modifications to the above plans required by this decision, shall constitute the "Plans".

In addition to the above, the Applicant, the Board's consultants, Town Officials and abutters and interested members of the public entered into evidence documents and other materials addressing matters

and questions raised during the public hearing and a list of said materials is attached hereto as Exhibit "A".

II. THRESHOLD DETERMINATIONS

Jurisdictional/Eligibility Requirements:

The December 23, 2015 Project Eligibility Letter issued by the Massachusetts Housing Partnership made the eligibility findings required under 760 CMR 56.04(1)(a)-(c) and (4) and those findings are required to be considered conclusive by the Board of the Applicant's eligibility under 760 CMR 56.04(6), unless there is an alleged failure of the Applicant to continue to fulfill the eligibility requirements. The Board has found no such failure by the Applicant to fulfill these eligibility requirements.

III. PROCEDURAL HISTORY

The Board received an application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23 (the "Act") and the regulations promulgated thereunder, as amended from time to time (the "Regulations"), from Sudbury Avalon, Inc. on February 4, 2016 to construct the Project, consisting of 31 multifamily rental apartment buildings containing two hundred and fifty (250) units on approximately 23.7 acres of land, and a Definitive Subdivision of Land creating 6 lots located at 526 & 528 Boston Post Road. Said Property is within a Limited Industrial Zoning District and Single Residence - A, and is identified as Parcels 0011 and 0013, on Town Assessor's Map K07. The Property is owned by BPR Sudbury Development LLC. The application was filed by the Applicant and notice as required by law was given to all entitled to receive such notice.

The Board convened the public hearing on this application on March 7, 2016. The public hearing was continued over several sessions on April 4, 2016, May 9, 2016, June 29, 2016, and July 18, 2016, and was closed on July 18, 2016. Sitting as members of the Board and present throughout the hearing were Jonathan F.X. O'Brien, Chair, Jonathan G. Gossels, Jeffrey P. Klofft and Benjamin Stevenson, Associate Member. Nicholas Palmer was absent at the June 29, 2016 session and, pursuant to G.L. c. 39, § 23D, has certified that he has examined all of the evidence received by the Board on this subject and is therefore eligible to vote on the subject application.

Over the course of the public hearings, the Board heard testimony and received written comments from its consultants, numerous Town boards and officials, the Applicant and its representatives and abutters and members of the public. The Board retained the following outside firms for peer review, and received and evaluated their reports: Vanasse and Associates, Inc. (traffic); Consult Econ (fiscal impacts); GeoInsight (environmental conditions); Horsely Witten Group (stormwater management).

The Board's decision is based upon the Plans, reports and information submitted to it prior to and during the public hearing. The list of Plans, reports and information submitted to the Board during the hearing is attached hereto as Exhibit A.

IV. FINDINGS OF FACT

After the public hearing closed, the Board met during open session at a duly posted meeting and made the following findings of fact. As a general matter, and as set forth in more detail below, the Board

finds that development of the Overall Site in the manner described herein is consistent with – and does a good job of balancing and addressing – important and sometimes competing local needs for, among other things, more affordable housing, proper site and building design, protection of local open spaces and historical context, promotion of overall health and safety concerns, protection of the environment, and minimized traffic congestion and increased traffic safety. The Board also finds that development of the Overall Site as set forth herein is consistent with well-established and long held local development planning goals, both for the Overall Site in particular and the town as a whole.

A. Site and Building Design and Open Space

The Overall Site is a fully developed property on Route 20, including large office and research buildings, extensive parking lots, stormwater management structures and a wastewater treatment plant which is proposed to be redeveloped into a mixed-use development consisting of the Project, a retail component, an assisted living/memory care component and an age-restricted condominium component. Route 20 is a major arterial street through the town and the uses along Route 20 include many commercial, industrial, retail, and business uses. The affordable housing will be located toward the rear of the Property, away from Route 20.

The subdivision of land contemplates division of the Property into 6 lots. Lots 1-5 shall be developed by the Owner and Applicant. Lot 6 shall be conveyed to the Town of Sudbury, and shall not be subject to the requirements, conditions and limitations contained herein.

The Project consists of 250 units of rental housing, with a total of 410 bedrooms.

There will be a combination of building types, including two and three story town house buildings, containing 54 units, and three story walk-up buildings containing 196 units. This allows for a number of smaller buildings of a size appropriate to the site. The plan includes streets with townhouses and direct entry buildings, with a sidewalk network which produces a comfortable residential scale and walkable neighborhood. Street trees and on-street parking will provide additional buffer to pedestrians. There will be landscaped courtyards to provide additional open space, and a town green center featuring a clubhouse. The overall size, massing, and layout of the buildings provides a harmonious development with a clubhouse, outdoor open space, pool, open space, and access to the amenities along Route 20.

The proposed architecture is reflective of the residential architecture in Sudbury. Front porches, bays and balconies provide architectural interest and the design, scale and finishes of the building create a residential neighborhood feel.

The proposed 578 parking spaces in garage and surface parking provides adequate parking in convenient locations.

Adjacent to the Project as part of the Overall Site development, the overall development plan calls for age restricted housing, retail including a grocery store, and memory care housing on the Overall Site. The Property also abuts an abandoned railway right of way which may in future be developed as a rail trail. Adjacent property uses include recreational and business uses compatible with the housing.

B. Health, Safety and Environment

Redevelopment of the Property has significant environmental benefits, including reduction in the amount of impervious area, upgrade of the major stormwater, wastewater and water distribution systems, and preservation of wetland buffer zones.

The Applicant has complied with the requests of the Fire Department with respect to fire protection. In addition, the small scale of the buildings do not present any extraordinary challenges for fire protection or emergency services.

The redevelopment of the Overall Site will be accompanied by the installation of significant traffic management improvements along the Route 20 corridor, as well as construction of significant pedestrian improvements in and around the Overall Site. The Property, being an integral part of the Overall Site, will benefit from the aforementioned transportation improvements.

The Stormwater Management Plan meets the current MassDEP stormwater management regulations and the Sudbury Stormwater Management Regulations, to the extent practicable.

There is an existing wastewater treatment plant on site which served the prior use of the Property. The Applicant will modify and improve the wastewater treatment plant to service the Project (and the Overall Site), which will be subject to a Groundwater Discharge Permit from MassDEP.

C. Municipal and Regional Planning

The Overall Site has been identified by the Town as Priority Development Area #288-47 on the 2012 495/Metrowest Development Compact Plan. The Overall Site is identified in the 2001 Master Plan and 2011 Housing Production Plan as appropriate for mixed-use multi-family development.

The approval of 250 rental units enables Sudbury to reach the Commonwealth's goal of 10% on the DHCD Subsidized Housing Inventory.

The housing types and styles proposed will provide diverse housing styles not currently existing in Sudbury, and which will enable smaller households and those households making less than 80% of the Area Median Income to live in Sudbury.

A town-approved redevelopment plan for the remainder of the Overall Site received Town Meeting approval on June 13, 2016.

Additional conditions of approval for the remainder of the Overall Site are contained in a Development Agreement executed by the Board of Selectmen on June 7, 2016 (the "Development Agreement"), and a Conformance Recommendation issued by the Sudbury Planning Board on June 13, 2016 (the "Conformance Recommendation").

V. EXCEPTIONS

The Applicant shall comply with all relevant laws, rules and regulations in Sudbury unless specifically waived hereunder or as referenced in the Conditions below. 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 2210, 2230, 2310, 2326 and Appendix A to allow multiple structures on a single lot, in exemption of the requirement of one principal structure per lot, and to allow the construction of multi-family apartment units, which is not an allowed use. This waiver also authorizes the construction of the Wastewater Treatment Plant structure, Leasing Office structure and other structures shown on the Plan, which constitute accessory uses not otherwise authorized. These waivers are hereby granted.
2. Zoning Bylaw, Article IX of the Sudbury Bylaws, Sections 2322 and 2324, to allow for the temporary use of construction trailers on the Property during the construction period. This waiver does not authorize the use of trailers on the Property for any purpose after the completion of construction and the issuance of an occupancy permit for the final residential building on the Property. This waiver is hereby granted.
3. Zoning Bylaw, Article IX of the Sudbury Bylaws, Sections 2600 and Appendix B to allow the following minimum setbacks and dimensional standards for structures in the Project: Side yard – 11 feet; rear yard – 41 feet; side setback from Residence Zone – 56 feet; and height of buildings to be 3 stories and up to 45 feet in height. These waivers are hereby granted.
4. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3130 to allow 90-degree parking spaces abutting 2-way traffic to be 18 feet in length. This waiver is hereby granted.
5. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3250, and 3280 to allow for the signs as shown on the Plan, including 2 monument signs of approximately 25 square feet each, way finding signs and other directional signage throughout the project (each measuring no greater than 7 square feet) and a monument sign at Boston Post Road to be combined with other users. This waiver is hereby granted.
6. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3300 to allow for one driveway to serve multiple dwellings as shown on the Plan. This waiver is hereby granted.
7. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3431 to allow for the grading of more than 30,000 square feet of area at slopes greater than fifteen percent (15%), as shown on the Plan. This waiver is hereby granted.
8. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3433 to allow the clear stripping or filling of more than two acres, to the extent applicable as shown on the Plan. This waiver is hereby granted.
9. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3440 to allow excavation within fifty feet (50') of a roadway. This waiver is hereby granted.
10. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 4200, to the extent applicable to the Project, to allow expansion of the wastewater treatment plant, to allow a diesel emergency generator for the wastewater treatment plant and pump station, and to allow redevelopment that will result in more than 15% impervious cover. This waiver is hereby granted.
11. Wetlands Administration, Article XXII of the Sudbury Bylaws, as the issuance of this Permit constitutes the issuance of a permit under the Sudbury Wetlands Bylaws. This waiver is hereby granted.

12. In-Ground Irrigation Systems, Article XXVII of the Sudbury Bylaws, to allow irrigation wells within 100' of wetland resource areas, sewage disposal systems, and existing wells, to the extent applicable. This waiver is hereby granted.
13. Demolition of Historically Significant Buildings, Structures or Sites, Article XXVIII of the Sudbury Bylaws, to allow for demolition of the existing buildings on the Property which were constructed prior to 1940. This waiver is hereby granted.
14. Board of Health Regulations Governing the Subsurface Disposal of Sewage to allow for design of the wastewater treatment facility under MassDEP regulations, including but not limited to applicable loading rates, design flow and fill requirements, and the use of pumps. This waiver is hereby granted.
15. Town of Sudbury Rules and Regulations Governing the Subdivision of Land, as the issuance of this decision constitutes the issuance of a subdivision under the Subdivision Control Law. Specific waivers of the Town of Sudbury Rules and Regulations Governing the Subdivision of Land which are included in a memorandum prepared by VHB dated June 2, 2016 and referenced in this decision are hereby granted, with the exception of the following items which are not approved:
 - a) C.3.e – indicate zoning districts within 1,000 feet of the subdivision; and
 - b) C.3.f – the name of the street shall be indicated on the endorsed Subdivision Plan.
16. Driveway Location, Article V of the Sudbury Bylaws, to allow new driveways and other access to a way without a written permit from the Town Engineer, as issuance of this decision constitutes the issuance of a Driveway Permit under the Bylaw. This waiver is hereby granted.
17. Removal of Earth, Article V(A) of the Sudbury Bylaws to allow removal of earth from the Property as noted in the Application, as issuance of this decision constitutes the issuance of an Earth Removal Permit under the Bylaw. This waiver is hereby granted.
18. Stormwater Management, Article V(B) of the Sudbury Bylaws to permit the stormwater design shown on the Plan, as issuance of this decision constitutes the issuance of a Stormwater Management Permit under the Bylaw. This waiver is hereby granted.

VI. DECISION

Pursuant to G.L. c. 40B §§ 20-23, the Board, after the public hearing and findings of fact including, but not limited to the facts stated herein, determines (i) that the valid health, safety, building design and open space concerns, collectively, do not outweigh the regional need for affordable housing with regard to the Project and that (ii) that there is sufficient evidence to support the granting of a Comprehensive Permit (the "Permit") to enable the construction of the Project, as described in the materials and Plans in the record, subject to the following conditions. Accordingly, the application of Sudbury Avalon, Inc. for a Comprehensive Permit is hereby granted with respect to the Project, subject to the following terms and conditions all of which are binding upon the Applicant as conditions of this Permit but otherwise in conformance with the Plans and materials for the Project submitted by the Applicant.

VII. GENERAL CONDITIONS

This Permit is granted subject to the following conditions:

1. This Permit is granted to the Applicant and prior to substantial completion of the Project, this Permit may not be transferred or assigned to any party without the approval of the subsidizing agency and notice to the Board, as required by 760 CMR 56.05(12)(b). After substantial completion of the Project, this Permit shall be deemed to run with the land.
2. This Permit shall become void if the Applicant does not commence the Project as approved herein within the later of three years of the filing of this Permit with the Town Clerk or within three years of the expiration of all appeals related to the Project. 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, pursuant to the requirements of 760 CMR 56.05(12)(c).
3. All construction of the Project, including landscaping, shall be completed within three years from the date of issuance of the building permit, unless otherwise noted herein, or a request is filed with, and approved by, the Board extending such time for good cause.
4. The Board recognizes that the Town, acting by and through its Board of Selectmen, and the Owner entered into the Development Agreement with respect to the redevelopment of the entire Overall Site of which the Project is a part. Pursuant to Section 5.12 of the Development Agreement, the Board of Selectmen has agreed to cooperate in the conversion of the Project (Avalon Sudbury) to a so-called Local Initiative Program ("LIP") project. Any such change in the subsidy program shall be submitted to the Board in accordance with 760 CMR 56.05(11). Pursuant to 760 CMR 56.07(4), if the Applicant elects to proceed with the conversion of the Project to a LIP, a change in the financing program under which the Applicant plans to receive a subsidy is generally an insubstantial change, if the change affects no other aspect of the proposal. The Applicant shall notify the Board upon submission of a LIP application to the Department of Housing and Community Development (DHCD) and upon approval of such application by DHCD.
5. Any changes to the Project after issuance of the Permit must be reviewed and approved by the Board as and to the extent required under 760 CMR 56.05(11).
6. This Permit approves the construction of the Project, containing a total of two hundred and fifty units of rental housing, with associated accessory structures, infrastructure, utilities and landscaping, all as shown on the Plans, as modified by this Permit. Unit sizes and mix of units, including the number of bedrooms, shall be substantially consistent with the Plans, as defined herein.
7. All units within the Project shall remain rental units in perpetuity. For purposes of this Decision, "perpetuity" shall mean for so long as the Property does not comply with applicable zoning or other local requirements without the benefit of this Comprehensive Permit.
8. Twenty-five percent (25%) of the units shall be reserved in perpetuity for rental occupancy by low or moderate income households earning no more than eighty percent (80%) of the Area Median Income (AMI) for the Boston-Cambridge-Quincy, MA-NH HMFA (HUD Metro Fair Market Rent Area), as determined by the U.S. Department of Housing and Urban Development (HUD), as adjusted for household size, and as certified annually by the Monitoring Agent (the "Affordable Units"), or as otherwise required by the Subsidizing Agency. Each of the Affordable Units shall be rented for no more than the maximum rental price established in accordance with the Regulatory Agreement, as required by the Subsidizing Agency. In the event that the Subsidizing Agency or any lender

forecloses on the Project, no less than twenty-five percent (25%) of the units shall remain affordable to households earning no more than 80% of the applicable AMI, for so long as the Project remains noncompliant with zoning.

9. Building permits for the Project shall not be issued until the Plans have been revised and submitted for review, approval and endorsement by the Board for consistency with the conditions of this Permit; final building plans have been submitted to the Building Inspector for review to confirm the consistency of such plans with the Massachusetts Building Code; and the Applicant receives Final Approval, pursuant to 760 CMR 56.04(7), from the Subsidizing Agency and submits evidence of same to the Board. No occupancy permit for the Project shall be issued until final approval of the wastewater treatment plant has been received from the Massachusetts Department of Environmental Protection (DEP) and the wastewater treatment plant is operational.
10. Exterior construction activities shall be confined to the hours between 7:00 am and 7:00 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 and 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 on the Property; removal of stumps and debris; and the erection of structures. Notwithstanding the above, the above restriction on the hours of construction activities shall not apply to any work undertaken off the Property that is normally or customarily conducted during hours other than the hours permitted for such work set forth above.
11. The Applicant shall be permitted to locate temporary enclosures or construction trailers on the Property for the duration of the construction. The enclosures/trailers shall be located in an area slated for disturbance, shall not require the need to remove any additional vegetation, shall be set back from Boston Post Road at least 200 feet, shall not obstruct visibility of traffic flow on or adjacent to the Site, and shall be removed at the completion of construction. No further approval shall be necessary.
12. Five hundred seventy-eight surface and garage parking spaces are shown on the Plan. No less than five hundred spaces shall be provided in compliance with the Zoning Bylaw.
13. 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.
14. 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.
15. All units must have similar interior amenities. Affordable and market rate units shall be comparable in accordance with applicable requirements of the Subsidizing Agency.
16. The distribution of the 63 affordable units in the Project (based on a total of 250 units) shall be set forth as follows: 31 one-bedroom units; 25 two-bedroom units; and 7 three-bedroom units. If the number of units is less than 250, the affordable units shall be in the same proportion. The locations of the units for the initial lease of each such unit only shall be indicated on a unit distribution plan and submitted to the Planning and Community Development Department for its information prior to issuance of a building permit. The affordable units shall be dispersed throughout the Project and not

segregated from the market rate units, in accordance with the requirements of the Subsidizing Agency.

17. The Applicant shall ensure that, to the extent permitted under applicable laws and regulations, the form of lease used for the rental of units within the Project contains a provision that prohibits dens or other non-designated space within the units from being used as a bedroom. The lease shall further specify that such use constitutes a violation of the terms of the lease. A copy of the form of lease shall be provided to the Board for its file.
18. A temporary construction sign no greater than twenty square feet in size may be erected on the Property at the time of issuance of a building permit. Additionally, after the issuance of a building permit for the Project, the Applicant may display, on the Property, one temporary marketing or leasing sign stating appropriate marketing information, with such temporary sign being in accordance with the sign dimensional requirements of the Zoning Bylaw.
19. Permanent freestanding signs are approved as shown on the Plan, minor changes to dimensions or locations may be approved by the Director of Planning and Community Development..
20. The Applicant has agreed to install two electric vehicle charging station in the Project for use by the residents. Users shall be responsible for utility costs. The Applicant shall be responsible for maintenance of the charging station.
21. All fire lanes, emergency access driveways and parking areas shall be kept clear at all times, and all snow shall be removed from these areas to enable unrestricted access by fire trucks and other public safety vehicles. Fire lanes shall be posted as such, and all signage shall be maintained in good order.
22. Snowmelt runoff is to be directed towards catch basins on the Property. Snow storage areas shall be designed to direct the flow to the stormwater management facilities. In the event that the snow storage areas designated on the Plans are inadequate for a particular storm event or events, any excess snow must be removed from the Property.
23. There shall be no additions beyond the building envelope shown on the Plans, and there shall be no additional parking spaces or areas constructed beyond those shown on the Plans, without compliance with 760 CMR 56.05(11).
24. Use of fertilizers and pesticides on the Property shall be applied sparingly to prevent wash off. Use of slow release nitrogen and low phosphorus fertilizers is encouraged.
25. Alternative deicers such as calcium chloride and magnesium chloride shall be used in lieu of sodium based deicers on all pavement and porous pavement areas.
26. No coal tar-based pavement sealants are to be used on the Property.
27. Prior to issuance of a building permit for the swimming pool, the Applicant shall submit plans, prepared by a licensed professional, to the Board of Health indicating compliance with all applicable codes for semi-public pools. Applicant shall provide the services of a properly Certified Pool Operator.

28. Prior to issuance of a building permit for the clubhouse, the Applicant shall submit information to the Board of Health indicating compliance with any applicable MA Department of Public Health regulations.
29. Prior to occupancy of any unit, the Applicant shall provide the Board of Health with a comprehensive list of rules and regulations for the Project, which shall include, but not be limited to, policies for resolving tenant/landlord disputes, pets, wildlife feeding, power outages, disposal of dog waste, smoking in units and noise.
30. To mitigate impacts that are related directly or indirectly to the Project from the introduction of 250 new households into the community, Section 4.2 the Development Agreement requires that the Owner make a one-time financial contributions to the Town of \$100,000, which shall be used for the following purposes:
 - (a) *\$10,000 to extend the sidewalk along Route 20 from Nobscot Road to the Sudbury Farms driveway and for creation of a new crosswalk at Nobscot Road. The Applicant's obligation is limited to the financial contribution, with the Town responsible for the design, permitting and construction of such sidewalk; and*
 - (b) *\$90,000 to the Sudbury Housing Authority for use in its discretion for the benefit of housing for low or very low income Sudbury residents.*
31. 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; provided, however that any enforcement of the limited dividend requirements shall be within the exclusive jurisdiction of the Subsidizing Agency.
32. The Applicant shall comply with all local regulations and bylaws, except for those which are waived in accordance with the Exceptions granted in Section V above or as otherwise expressly set forth in this Decision.
33. 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 for its file.
34. Where the Plans or documents submitted to support the application contain information in conflict with the wording of this Permit, the wording of the Permit shall prevail. The Applicant has requested, and the Board has granted, the exceptions from the Sudbury Zoning Bylaws and other applicable local bylaws and regulations as specified in Section V above. To the extent that the Plans reflect additional waivers at specific locations or relating to specific performance standards not expressly identified, these waivers are also granted. To the extent the Plans are silent on a particular issue, the appropriate Town Bylaw shall apply. In the event the Applicant determines in the final design of the Project that additional exceptions, not identified herein or shown on the Plans are necessary to construct the Project as approved by this decision, the Applicant shall submit a list of such additional waivers to be reviewed by the Board pursuant to the requirements of 760 CMR 56.05(11).
35. 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.

36. 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.

VIII. SUBDIVISION CONDITIONS

1. The subdivision of the Property shall be limited to six lots. Any further subdivision of the Property into more than six lots shall require a modification approved by the Board in accordance with 760 CMR 56.05(11) provided, however, that the Board's approval shall not be required for any subdivision modification, or further subdivision, approved by the Planning Board pursuant to M.G.L. c. 41, §81K-GG.
2. The Board has waived typical construction of the roadway, and hereby grants approval to construct a Private Way to serve Lots 1, 2, 3, 4 and 5. The owners of Lots 1, 2, 3, 4, and 5 shall be jointly and severally responsible for the maintenance of the Private Way; provided that such maintenance may be provided by the Lot owners pursuant to a Declaration of Covenants, Conditions and Restrictions or Reciprocal Easement Agreement ("Declaration"). The following deed restrictions regarding the Private Way and associated subdivision infrastructure shall apply to Lots 1-5 in the subdivision:
 - a) Each and every owner or owners of Lots 1-5 shall be jointly and severally responsible and liable for the costs of the maintenance, snow plowing, repair and reconstruction of the Private Way shown on the Plan and designated thereon and all services the installation of which is required in connection with this Permit, or which may be installed at any time, including, without limitation, maintenance, repair and reconstruction of roadways, water and drainage facilities and other common utilities and related equipment, curbs, monuments, sidewalks and street signs, as and whenever necessary, and including all actions of any kind or nature necessary or appropriate in order to maintain the Private Way in a good, safe and passable condition, providing access from the lots to the public way, as shown on the Plan and to provide adequate services to said lots, all in accordance with these conditions. For purposes thereof, owner shall mean the record owner of the said lots as of the date that the maintenance, repair or reconstruction work, as the case may be, is begun (provided that all the obligations set forth in this item (a) may be undertaken pursuant to the terms of the Declaration);
 - b) All maintenance, snow plowing, repairs and reconstruction required and performed hereunder shall comply with and conform to all requirements of the Town of Sudbury and other requirements imposed by law or governmental authority;
 - c) No owner or owners of Lots 1-5 shall park or cause to be parked any motor vehicle on the Private Way in such a way as to impede or obstruct the passage of pedestrian or vehicular traffic on the Private Way.
 - d) Any and all maintenance, repair or reconstruction work performed on or to the Private Way or in connection with services installed thereon or thereunder by or at the direction of any owner or owners of Lots 1-5 as provided herein shall be carried out so as to ensure that no fill material or any products or excavation or erosion resulting from or arising in connection with

such work shall be discharged into the storm drainage system, and soil and other material or debris shall be removed from the site only to the extent necessary in connection with such work.

- e) Neither the owner nor any successor owner or owners of Lots 1-5 shall at any time request that the Private Way be laid out or accepted as a public way in the Town of Sudbury unless such owner or owners, at its or their sole expense, perform and complete such work as necessary to cause the Private Way to comply with all standards and regulations of the Town of Sudbury and obtain all permits and approvals required by law. If the Private Way is accepted by the Town of Sudbury as a public way at any time, then the provisions hereof applicable to ownership and maintenance of the Private Way shall terminate.
 - f) Neither the owners nor any successor owners of Lots 1-5 shall at any time request or petition that any drainage system, water or sewer pipes or related equipment or any other improvement within the subdivision, for which design or improvement requirements have been waived by the Board, be accepted or maintained by the Town of Sudbury.
 - g) The Town of Sudbury and its designees shall have the right to enter upon the Private Way for all purposes for which ways are used, constructed and maintained in the Town of Sudbury.
 - h) The fee in the Private Way shall be owned by one or more of the owners of Lots 1-5 or as otherwise set forth in the Declaration. The right-of-way created as part of this subdivision shall not become part of any adjacent property.
3. Security satisfactory to the Board guaranteeing the construction of ways and installation of municipal services in the subdivision shall be submitted prior to endorsement of the Subdivision Plan, as required under M.G.L. c. 41, §81U.

IX. CONSTRUCTION DETAILS

- 1. Prior to the issuance of a building permit, the Applicant shall prepare a set of plans in conformance with the Massachusetts Building Code for review by the Building Inspector, including confirmation from the Engineer of Record that the final working drawings and specifications have been prepared in accordance with standard engineering practices and fully incorporate all requirements of this decision as set forth herein.
- 2. The Project disturbs more than one acre of land and falls within the NPDES Construction General Permit Program and EPA jurisdiction. Prior to the start of construction, the Contractor shall file a Notice of Intent with the EPA and prepare a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the NPDES Regulations.
- 3. The Project shall obtain approval of any required modification to the existing Groundwater Discharge Permit from the Massachusetts Department of Environmental Protection prior to the issuance of an occupancy permit. Said approval shall be forwarded to the Board. The WWTP shall comply with an effluent water quality limit of 5 mg/L of nitrate nitrogen.
- 4. All utilities within the Property for the Project shall be installed underground.
- 5. All existing structures on the Property (other than those relating to the WWTP, and the Beltran

Building) shall be demolished and removed from the Property in accordance with state and federal laws.

6. A fire suppression system designed by a certified Fire Protection Engineer per the National Fire Protection Act (NFPA) 13 or NFPA 13-R, as required, and the Massachusetts State Building Code shall be installed in all residential buildings in the Project. The Fire Department connections will be located at an accessible location on the front or side of each such building, at a minimum of eighteen inches (18") above the finished grade and not more than forty-eight inches (48") in height from the finished grade, unless otherwise authorized by the Sudbury Fire Department. Each residential building shall have a designated fire sprinkler control room access by an outside door. All buildings shall be equipped with a monitored fire sprinkler zone control valve to allow for maintenance and repair of each building's fire control system. The Applicant acknowledges that a fire detail may be required during any post-occupancy sprinkler shutdown.
7. All buildings in the Project shall have a Fire Carbon Monoxide alarm system installed per NFPA 72 and the Massachusetts State Building Code.
8. The fire suppression system shall be monitored by a fire alarm system that reports directly to the Sudbury Fire Department via a Radio Box type system installed in each building in the Project as required by NFPA 13 or NFPA 13-R and the Massachusetts State Building Code.
9. The Applicant will maintain proper emergency radio communications in all buildings for use by the Town's public safety departments pursuant to the MA Building Code.
10. The Applicant shall submit video or photographic confirmation of the installation of sewer mains and lines for the Project, and upon final installation, an as-built plan for these utilities, to the Board of Health.
11. 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, however, irrigation wells shall be permitted.
12. The Applicant shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.00 et. seq), except as such may be waived in accordance with applicable laws and regulations.
13. The Applicant's engineer shall arrange to have deep test pits dug prior to installation of the subsurface stormwater infiltration system. The Applicant shall provide documentation verifying that the subsurface infiltration system has been sized and located properly.
14. Erosion control shall be employed on the Property as shown on the Plan to stop construction runoff and sedimentation from entering the abutting public ways and wetland resources. Erosion control shall be installed prior to the commencement of any site disturbance or construction. Once installed, the Planning and Community Development Department shall be called for an inspection.
15. The final construction plans shall include a plan view of the pipe connections and location of the weirs in the subsurface infiltration system.
16. Any proposed retaining walls greater than four feet high shall require design by a structural engineer

and submittal of a stamped plan for approval by the Building Inspector prior to issuance of a building permit.

17. Prior to the issuance of the final occupancy permit for the Project, the following traffic improvements shall be implemented as detailed in the Environmental Notification Form filed with MEPA for the Overall Site, subject to any modifications required by MassDOT:
- a) Construct a new traffic signal on Boston Post Road by aligning the primary Site driveway with the westerly driveway for Sudbury Plaza and Highland Avenue (a private way). This will also include the construction of designated left turn lanes on Boston Post Road and a new actuated pedestrian crosswalk and bicycle accommodations at the intersection.
 - b) Implement improved pedestrian accommodations by widening the existing sidewalk on the north side of Boston Post Road along the Site frontage and extending the limits of the existing sidewalk on the south side of Boston Post Road from the entrance at 501 Boston Post Road (CVS) west to Highland Avenue;
 - c) Implement a time-based coordinated signal system between the new signalized Site driveway, Nobscot Road and Union Avenue intersections on Boston Post Road to better manage vehicular queues and improve progression of through-traffic at multiple intersections;
 - d) Construct a new emergency preemption signal at the fire station located along the Site frontage and integrate the signal into the new traffic signal at the primary Site driveway, and remove all existing infrastructure related to the old signal at Fire Station No. 2;
 - e) Implement paved shoulders (subject to right of way availability) on either side of Boston Post Road within the limits of the roadway improvements that may accommodate future bike lanes; and
 - f) Any other improvements required by MEPA/MassDOT and not listed specifically in the Conformance Recommendation.

X. LANDSCAPING/SCREENING/LIGHTING

1. Landscaping shall be installed at the Property substantially in accordance with the Landscape Plan. The Board or its designee shall inspect the site prior to the time of substantial completion of the Project to determine if additional screening vegetation is necessary, particularly along abutting Property lines. If, in the reasonable opinion of the Board, additional screening is required, prior to release of the performance bond for the Project, the Applicant shall forthwith use reasonable efforts to rectify any such deficiency with the planting of additional vegetation at a location mutually agreed upon by the Applicant and the Board (at a cost to the Applicant not to exceed \$15,000). In the event that such location is on the abutting property to the west, the Applicant shall make a good faith effort to obtain permission or granting of rights from the abutting property owner (at no additional out-of-pocket cost to the Applicant) for the planting of such additional vegetation on such abutting property.
2. Exterior lighting within the Project shall be residential in scale and nature, shall be designed to meet Dark Sky Initiative requirements, and shall be installed to prevent glare and light spilling over to neighboring properties or onto any public way in compliance with the Sudbury Zoning Bylaw. There shall be no building flood lighting. Pole mounted lamps shall not be greater than sixteen feet in height and shall be appropriately spaced for residential use.

3. Prior to issuance of an occupancy permit, the photometric plan for the Project shall undergo peer review by a consultant appointed by the Town, with all costs paid by the Applicant, in order to determine compliance with Condition X.2 above. If the Meadow Walk component of the redevelopment plan on the Overall Site is included in any similar review, redundant review shall not be required. Any items requiring modification in order to comply with Condition X.2 shall be completed prior to release of the performance bond.
4. The Applicant, or its successor in interest, shall maintain the landscaping on the Property and be responsible for such maintenance in perpetuity.
5. The installation of the irrigation well shall be in conformance with Article XXVII of the Sudbury Bylaws, except as specifically waived herein. To reduce water usage, any irrigation system installed for the Project shall include a rain sensor and moisture meter.
6. Irrigation shall not be sourced from the public water system supply unless otherwise authorized by the Sudbury Water District. In the event an irrigation connection to the public water supply system is sought by the Applicant, an evaluation of the fiscal feasibility of water reuse from building elements and any necessary adjustments to the landscape plans shall be filed with the Sudbury Water District for approval. The Applicant shall test irrigation well water to avoid VOC-impacted groundwater, and shall treat such irrigation water using standard technologies if required by the Board of Health.
7. All landscaping required by this Permit shall be secured for a period of one year after issuance of the final occupancy permit for the Project by a performance bond in an amount allocated to landscaping not to exceed fifty thousand dollars (\$50,000.00). The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period.

XI. LEGAL REQUIREMENTS

1. The Applicant has proposed, and the Board hereby requires, that the following 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) The subdivision road, and all internal roads, driveways, walkways and parking areas;
 - b) Stormwater management system;
 - c) Snow plowing;
 - d) Landscaping and landscape maintenance;
 - e) Exterior lighting;
 - f) Utilities;
 - g) Wastewater treatment plant and disposal system;
 - h) Water system for both domestic use and fire protection, including automatic fire sprinkler systems and hydrants; and
 - i) Trash removal and recycling.
2. A performance bond shall be submitted to ensure proper installation and functioning of the stormwater management system, roadways, landscaping, lighting, sidewalk construction, installation of erosion and sedimentation controls, repair of adjacent roadways (if necessary), and submittal of final as-built plans, as required by this Permit, 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 an occupancy permit for 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.

3. Evidence of Final Approval from the Subsidizing Agency shall be submitted to the Board prior to the issuance of a building permit.
4. This Permit shall be recorded at the Middlesex South District Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of records and existing mortgages which shall be discharged prior to issuance of a building permit. Recording information shall be submitted to the Board prior to the issuance of a building permit.

XII. AFFORDABILITY REQUIREMENTS

A. Regulatory Conditions.

1. The total number of units that may be constructed at the Premises shall be limited to 250 rental units, with a maximum of 410 bedrooms, substantially as shown on the Plan of Record.
2. As a condition of any approval hereunder, at least 25% of the dwelling units shall be and shall remain affordable and shall be marketed and leased to eligible households whose annual income may not exceed 80% of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (the "Affordable Units"); and, subject to approval by DHCD, the Affordable Units shall be and shall remain eligible to be included in the Town's Subsidized Housing Inventory ("SHI"), as maintained by DHCD.

The Applicant shall notify the ZBA and the Town Manager when building permits are issued for Affordable Units and cooperate with the preparation of request forms to add the Affordable Units to the Town's SHI. The Applicant shall notify the ZBA and the Town Manager when occupancy permits are issued for the Affordable Units and cooperate with the preparation of request forms to add the units to the Town's SHI permanently. The Affordable Units shall permanently remain affordable units, for so long as the Project is not in compliance with the Town's Zoning By-law or other local regulations, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.

A springing affordable restriction and regulatory agreement may be signed with the Town and recorded at the Registry of Deeds as set forth below.

3. The Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the subsidizing agency. The Affordable Units and the market rate units shall be constructed on substantially the same schedule. The Affordable Units shall not be readily identifiable as such and shall be equally distributed among the units.
4. The Applicant shall execute a Regulatory Agreement that shall be countersigned by the Subsidizing Agency as required under G.L. c.40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement. The Affordable Units shall be identified before building permits are sought and the Affordable Units shall not be segregated from the market rate units. If the Project is approved to be phased, then 25% of the units in each such phase shall consist of affordable units.
5. Unless the Project is converted to a LIP project in accordance with condition VII.4 above, if and

when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency, the Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Board and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Middlesex South Registry of Deeds against the Property and signed by all necessary parties, including all mortgagees and lien holders of record. The Town Regulatory Agreement: (i) shall require that the Project shall remain 25% affordable so long as the Project does not conform to local zoning; (ii) shall require that at least twenty five percent of the dwellings in the Project shall be affordable to low and moderate income households as that term is defined in M.G.L. Chapter 40B, Sections 20-23; and (iii) shall restrict the number of allowed units to not more than 250 units, with not more than a maximum of 410 bedrooms as described in this Comprehensive Permit.

The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable units shall remain affordable units in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town Zoning Bylaws.

6. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Monitoring Agent shall be responsible to monitor compliance with affordability requirements pursuant thereto; however, the Town may request and shall be provided by the Applicant with all information that is provided to the Subsidizing Agency.

7. If and when the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. Chapter 40B, Sections 20-23. However, this clause shall not be used or construed or otherwise exercised in conflict with the holdings in Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At any such time as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee.

8. A Regulatory Agreement and/or an Affordable Housing Restriction (the "Regulatory Agreement") shall be executed prior to the issuance of a building permit, in the form required by the Subsidizing Agency. To the extent an Acknowledgment is required, the Board shall not execute the Acknowledgment contained in the standard Regulatory Agreement unless such Regulatory Agreement sets forth that all units approved in this development shall remain affordable in perpetuity (as defined in Condition VII.7 above), the terms and agreements relative to the occupancy and lease of the Affordable Units in the Project, the determination and standards for rent and utility allowance, the length of the affordability restriction, Affirmative Fair Marketing, limited dividend requirements and cost certification, and annual compliance monitoring responsibilities. To the extent such Acknowledgment is required, or if the Town is a party to the Regulatory Agreement under the LIP program, the Regulatory Agreement shall be submitted for review by Town Counsel and prior to the execution of the Acknowledgment.

9. If approved as a Local Initiative Program (LIP) project, the Applicant shall annually fund the monitoring of the affordable units by the Town (through the Regional Housing Services Office or an alternate monitor reasonably agreed upon by the Board and the Applicant). An invoice shall be prepared for direct payment by the Applicant for these services.

10. 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 or the Regulatory Agreement, without Board approval.

11. To the maximum extent permitted by law, and applicable regulation local preference for the occupancy of seventy percent (70%) of the Affordable 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, to the extent not otherwise prohibited or limited by the provisions of relevant governing regulations or requirements, include, but not be limited to, the following: current Sudbury residents; employees of the Town of Sudbury, Sudbury Public Schools, Lincoln Sudbury Regional High School, Sudbury Housing Authority and Sudbury Water District; ; ; and members of the household of children attending the Sudbury Public Schools or the Lincoln Sudbury Regional High School. This Condition shall be enforceable only to the extent the local preference requirement set forth herein is approved by the Subsidizing Agency based on information that the Town shall be responsible to provide in accordance with the requirements of DHCD set forth in its Chapter 40B Guidelines.

12. A lottery shall be held to solicit interest for the occupancy of the affordable units. The lottery must conform to the lottery procedures of the Subsidizing Agency then in effect, and an Affirmative Fair Housing Marketing Plan, ("Marketing Plan") shall be submitted for review by the Planning and Community Development Department prior to issuance of an occupancy permit, which shall include a description of the eligibility requirements, the lottery and resident selection procedures and a clear description of the preference system being used for initial and on-going tenant selection. Notwithstanding anything to the contrary contained in this Condition, to the extent there is any inconsistency between the provisions of this Condition, and the rules, requirements or procedures of the Subsidizing Agency, the rules, requirements or procedures of the Subsidizing Agency shall control. The Marketing Plan shall include, but not be limited to, the following minimum information, but only to extent that the Subsidizing Agency approves the inclusion of such information in the Marketing Plan and in compliance with applicable law:

- a) The information session and the lottery shall take place in Sudbury;
- b) The Lottery Agent shall appropriately advertise to all Local Preference categories and those on the Planning and Community Development Department's 'interest' list;
- c) Only qualified eligible applicants will enter the lottery, with the requirement for preliminary income verification prior to the lottery;
- d) During the application period, the Lottery Agent will periodically provide information on the total number of applications received, and how many of those are eligible, are from local preference and are from minorities. Reasons for ineligibility shall be included;
- e) Prior to the lottery the Lottery Agent will provide information to the Planning and Community Development Department on the final applicant pool, including: category of local preference status, minority declaration, number of persons in household, ages of dependents, number of adults, number of bedrooms needed, %AMI, town currently living in;
- f) Unless DHCD's procedures differ, the lottery shall be advertised twice in a newspaper of local circulation in the Town of Sudbury for at least 3 weeks prior to the deadline to submit applications for the lottery, and all governmental and school employees noted above shall receive notice of the lottery and the availability of Affordable Units;
- g) The Marketing Plan shall comply with all Fair Housing laws; shall contain, to the extent legally allowable, a strategy for marketing units under the "local preference" described in condition IX. above; shall give preference for the 2 and 3 bedroom units to households

demonstrating that need; shall adequately describe the 'waiting list' process, including what preferences and priorities are used to lease vacant units; shall adequately describe the recertification process and timeline; and shall include the requirement to notice tenants of pending rent increases.

13. Availability for initial occupancy of the Affordable Units shall be approximately proportional to the availability of the market rate units.
14. Sewer and/or any other charges associated with the operation and maintenance of the wastewater treatment plant shall be included within the approved rent for the Affordable Units.
15. The Applicant shall submit to the Department of Planning and Community Development an Annual Certification Report from the Monitoring Agent on the compliance requirements as set forth in the Regulatory Agreement, including annual rent recalculations, tenant income recertification, waiting list compliance and applicable utility allowance.

XIII. MAINTENANCE/INSPECTIONS

1. Enforcement of the conditions of this decision shall be by the Building Inspector or the Board to the extent permitted pursuant to the terms of M.G.L. c.40B, §§20-23 and 760 CMR 56.
2. A construction schedule shall be submitted to the Board, Planning and Community Development Department, Town Engineer and Building Inspector prior to the issuance of a building permit 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 installation of utilities and infrastructure for inspections prior to backfilling.
4. All infrastructure, roadways, lighting, and utilities within the Project shall be constructed, operated, and privately maintained by the Applicant at its sole expense. The Town shall have no responsibility for such improvements unless otherwise specifically agreed upon.
5. The Applicant shall operate, maintain, monitor and repair the stormwater system in accordance with the operations and maintenance program ("O&M Program") submitted for the Project. The on-site retention basin and stormwater infrastructure within the Project shall be inspected and maintained pursuant to the O&M Program. A Stormwater Construction Site Inspection Report shall be generated by the Applicant or its representative, at a minimum, after every major storm event during construction. All reports shall be available for review by the Town at its request.
6. An Environmental Monitor hired by and reporting to the Town through the Sudbury Conservation Commission, but paid for by the developer, shall perform inspections of the Property pertaining to Stormwater Management and wetland protection throughout the construction phases of the Project. This work shall be coordinated by the Conservation Commission pursuant to the Conformance Recommendation issued by the Planning Board for the redevelopment project. At a minimum, the following work shall be performed:
 - a) A Pre-Construction Inspection shall be performed prior to the commencement of any construction in the Project.

- b) Erosion and Sediment Control Inspections shall be performed periodically to ensure erosion control practices during and after construction are in accordance with the approved Stormwater Management Plan.
 - c) Construction Inspections shall be performed prior to backfilling of any underground drainage or stormwater conveyance structures.
 - d) A final Inspection of the stormwater management system shall be performed before any occupancy permit for any building has been issued. The final Inspection shall ensure that the system is functioning as designed and approved.
 - e) Reports shall be prepared and submitted to the Conservation Commission, the Planning Board and the Sudbury Water District after each inspection, with copies provided to the Applicant.
7. The wastewater treatment plant (WWTP) serving the Project shall be operated and maintained by the Applicant as required by the Massachusetts Department of Environmental Protection pursuant to the issuance of the Groundwater Discharge Permit (GDP) in accordance with 314 CMR 5.0.
 8. The Applicant shall monitor a network of groundwater monitoring wells which are used to collect regular groundwater quality data (including total nitrate nitrogen) along with TCE and other VOCs. The locations of these groundwater monitoring wells at the Site will be selected based on their respective positions up-gradient and down-gradient of the WWTP and in conjunction with the Project to provide access for long-term monitoring activities and protection during construction activities. Groundwater monitoring well locations will be approved by MassDEP and all formal application submissions to MassDEP by the Applicant in connection with the WWTP and GDP shall also be provided to the Planning Board, Board of Health and Water District.
 9. Upon commencement of continued daily operation of the WWTP, the Applicant shall commence at least monthly, quarterly and annual monitoring of the groundwater monitoring well network associated with the WWTP in accordance with applicable MassDEP procedures and requirements. The Applicant shall provide copies of all quarterly and annual reports to the Planning Board, Board of Health and Water District.
 10. The Applicant shall allow Sudbury Water District staff, upon reasonable advance notice, the opportunity to conduct periodic inspections of the WWTP in order to provide the Sudbury Water District the opportunity to raise any concerns related to the operations or the maintenance of the WWTP with the Applicant and/or MassDEP that the Sudbury Water District believes may be inconsistent with industry best practices, applicable law, regulation and/or the terms of the GDP.

XIV. PLAN ENDORSEMENT

A Mylar Plan set of the final Plans shall be submitted for endorsement by the Board after the appeal period has expired. The Board shall not endorse the Plans until the following conditions have been complied with to the satisfaction of the Board:

1. The standard signature block is added to all Plan sheets.
2. The street name must be approved by the Fire Chief.
3. The address plan must be approved by the Town Engineer.
4. The Subdivision Plan is revised to include zoning districts within 1,000 feet of the subdivision.

5. The Subdivision Plan legend shall include specific wetland boundaries, water bodies and flood plain.
6. The Subdivision Plan is revised to include the size and invert of the 36" reinforced concrete pipe shown at DMH 13 and on the plan and profile sheet.
7. The Subdivision Plan is revised to include the size of the drain pipe from catch basin-11 to the water quality inlet-4 and from water quality inlet-4 to the connection with the DMH P123, P124.
8. The Subdivision Plan is revised to include reinforced concrete bounds at all intersection of streets, at all front and rear lot corners and at the beginning and end of all curves of the subdivision lots.
9. The Subdivision Plan is revised to note catch basin frame and grate shall be East Jordan Iron Works Type 5250 or equivalent.
10. The Subdivision Plan is revised to note drainage manhole frame and cover shall be East Jordan Iron Works type 1606 or equivalent, and sewer manhole frame and cover shall be East Jordan Iron Works Type 1610-6 or equivalent.
11. Security satisfactory to the Board has been submitted guaranteeing the construction of ways and installation of municipal services in the subdivision as required in condition VIII.3.

XV. BUILDING PERMITS

No building permit for the Project shall be issued until the following conditions have been complied with, as well as any other conditions listed above which require action prior to the issuance of any building permit:

1. Receipt of evidence of recording of this Comprehensive Permit with the Middlesex South District Registry of Deeds as described in condition XI.6.
2. The Plans are endorsed by the Board and all required signatures received.
3. Building Plans are submitted, reviewed and approved by the Building Inspector for consistency with this decision, and confirmation from the Engineer of Record that the Building Plans and specifications have been prepared in accordance with standard engineering practices, comply substantially with the Plans and fully incorporate all requirements of this decision as described in conditions VII.9 and IX.1.
4. Soil tests have been performed and stormwater details have been verified as required in condition IX.13.
5. A current construction schedule as required by condition XIII.2 is submitted.
6. Evidence of Final Approval from the Subsidizing Agency has been submitted to the Board as required by condition XI.3.
7. The Regulatory Agreement has been executed as required by Section XII.
8. The unit distribution plan as described in condition VII.16 has been received.
9. For the swimming pool building permit only, requirements regarding the swimming pool have been submitted to the Board of Health as required by condition VII.27.
10. For the clubhouse building permit only, requirements regarding the clubhouse have been submitted to the Board of Health as required by condition VII.28.
11. Structural plans of any retaining walls have been submitted, if applicable, as required in condition IX.16.

12. The Stormwater Pollution Prevention Plan has been filed as required in condition IX.2.
13. The following contributions have been made to the Town as provided by the Development Agreement: \$850,000 to the Town for public safety purposes, \$80,000 for the design of a future fire station, \$15,000 contribution toward the construction of a sidewalk from CVS to Nobscot Road, and contributions provided in Condition VII.30 above.

XVI. OCCUPANCY

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

1. Lottery Plan, the proposed rental prices for the Affordable Units and the Fair Housing Marketing Plan have been submitted as required by condition XII.12.
2. Receipt of all recorded documents, including but not limited to the Permit, Regulatory Agreement, and any easements recorded to date.
3. A performance bond as detailed in condition XI.2 has been submitted to and accepted by the Board, if required.
4. The form of lease as described in conditions VII.17 has been received.
5. Requirements regarding tenant rules have been submitted to the Board of Health as required by condition VII.29.
6. The photometric plan for the Project has been reviewed for compliance as required in condition X.3.
7. The final stormwater inspection has been performed for the applicable portion of the Project as required in condition IX.13.
8. A groundwater discharge permit has been issued by the Massachusetts Department of Environmental Protection approving the wastewater treatment plant for the Project and the wastewater treatment plant is operational as described in condition VII.9.

XVII. RELEASE OF THE PERFORMANCE BOND

No request to reduce funds from the Performance Bond below fifty thousand dollars (\$50,000.00) shall be granted until the following conditions have been met:

1. As-built plans demonstrating the roadways, buildings, stormwater management structures, sewer lines, walkways and infrastructure have been constructed and installed in general conformance with the approved Plans are submitted to and approved by the Town Engineer.
2. Landscaping has been installed and maintained as described in condition X.1.
3. Any damage to public roads caused by this Project shall be repaired as required in condition VII.14.
4. Receipt of all annual Certification Reports on the affordable unit occupancy received prior to the date of request for release of the performance bond, as required by condition XII.6 and XII.15.

VOTED:

To approve the application of Sudbury Avalon, Inc. for a Comprehensive Permit under the provisions of General Laws Chapter 40B, Sections 20-23, inclusive, seeking the approval of a 6 lot Definitive Subdivision and construction of two hundred and fifty apartment units of affordable housing in 31 structures, subject to the modifications and conditions included herein, on land owned by BPR Sudbury Development LLC consisting of approximately 23.7 acres of land located at a portion of 526 & 528 Boston Post Road, Town Assessor's Map K07, Parcels 0011 and 0013 (as described above).

Date: July 18, 2016

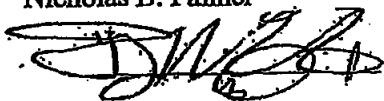
Voting in Favor:



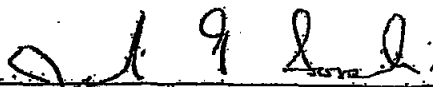
Jonathan F.X. O'Brien, Chair



Nicholas B. Palmer



Jeffrey P. Klofft



Jonathan G. Gossels

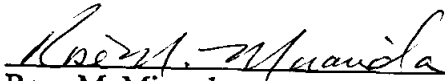


Benjamin Stevenson

August 10, 2016

This is to certify that no notice of an appeal from the Board of Appeals Decision, Case #16-5 was filed in this office within 20 days after such decision was filed on July 20, 2016.

A True Copy Attest:



Rose M. Miranda
Assistant Town Clerk

cc: Town Clerk
Board of Health
DPW Director
Conservation Commission
Board of Selectmen
Planning Board
Building Inspector
Town Counsel
Fire Chief
Police Chief
Planning and Community Development Department
Sudbury Water District

EXHIBIT A**Documentation on file with the ZBA through July 18, 2016:**

1. Comprehensive Permit Application under M.G.L. Chapter 40B, Sections 20-23 (received February 4, 2016), including:
 - d) Waivers and exceptions requested
 - e) Jurisdictional documentation
 - f) Abutters list
 - d) Site Plans entitled "Site Plans, Avalon Sudbury" prepared by VHB dated January 20, 2016, last revised June 20, 2016, consisting of 22 sheets: Cover Sheet; C-1, Legend and General Notes; C-2, Overall Site Plan; C-3.1 and 3.2, Layout and Materials Plan; C-4.1 and C-4.2, Grading, Drainage, and Erosion Control Plan; C-5.1 and C-5.2, Utility Plan; C-6.1 thru C-6.4, Site Details; L-1 and L-2, Planting Plan; L-3, Planting Details; Sv-1 thru Sv-6, Existing Conditions Plan of Land (6 sheets).
 - e) Architectural Plans entitled "Avalon Sudbury, Sudbury, Massachusetts, Application for Comprehensive Permit, Architectural Drawings" prepared by The Architectural Team, dated January 20, 2016, last revised June 20, 2016, consisting of 33 sheets: T0.01 Project Cover; T0.02 Project Information, Drawing List & Building Key Plan; A1.00, Buildings O & P, 1st and 2nd Floor Plans, Direct Entry 4 & 5; A1.01, Buildings J, L & N, 1st, 2nd & 3rd Floor Plans, Direct Entry 1; A1.02, Buildings C,D,E,F,G,K,M,Q,R,S,T&U, 1st, 2nd & 3rd Floor Plans – Direct Entry 2; A1.03, Building B 1st & 2nd Floor Plans Direct Entry 3; A1.04, Building B 3rd Floor Plan Direct Entry 3; A1.05, Townhomes T1 & T2, 1st, 2nd & 3rd Floor Plans; A1.06, Townhome T3, 1st, 2nd & 3rd Floor Plans; A1.07, Townhome T4, 1st, 2nd & 3rd Floor Plans; A1.08, Townhome T5, 1st, 2nd & 3rd Floor Plans; ; A1.09, Townhome T6, 1st, 2nd & 3rd Floor Plans; A1.10, Townhomes T7 and T8, 1st, 2nd & 3rd Floor Plans; A1.11, Townhomes T9 & T10, 1st, 2nd & 3rd Floor Plans; A1.12, Clubhouse, Pool House, Recycling & Maintenance Plans; A1.13, Building H, 1st, 2nd & 3rd Floor Plans, Direct Entry 6; A1.14, Building V, 1st, 2nd & 3rd Floor Plans, Direct Entry 7; A2.00 thru 2.08, Typical Unit Plans; A4.01 thru 4.06, Exterior Elevations; A4.07, Exterior Perspective Views.
2. Email from David Gillespie, Avalon Sudbury, consent to an extension for a first hearing date; dated February 4, 2016.
3. Sanborn, Head & Associates letter describing the environmental conditions at Raytheon; dated February 4, 2016.
4. Updated application materials for Special Permits for Signs, grocery store at Meadow Walk Sudbury, summary of dimensional changes; dated February 9, 2016.
5. Grocery Store exterior Wall Signs, rev. February 18, 2016.
6. Memos from Bill Place, DPW Director, dated February 17, 2016 and February 25, 2016
7. Memo from Jody Kablack, Director of Planning and Community Development; dated February 26, 2016.
8. Response to 01-21-16 Traffic Peer Review Comments, memo from Vinod Kalikiri, VHB, dated February 18, 2016.
9. Traffic Impact and Access Study prepared by VHB, dated February 16, 2016, with a memo from Vinod Kalikiri, VHB, dated March 1, 2016.
10. Preliminary Stormwater Management Master Plan prepared by VHB, dated November 2015, with a memo from Karen Staffier, VHB, dated March 4, 2016.
11. Letter from Assistant Fire Chief, John Whalen, dated March 8, 2016.
12. Response to 03-04-16 Review of Site Plans Comments from Karen Staffier, VHB, dated March 9, 2016.

13. Design and Review Board Minutes, Whole Foods, National Development 526-528 Boston Post Road; dated March 9, 2016.
14. Nancy Rubenstein's signed certification form for missed hearing March 7, 2016; dated April 4, 2016.
15. Letter from MHP approving the 40B Technical assistance Grant; dated March 14, 2016.
16. RKG Associates Inc. Fiscal Impact Analysis, Meadow Walk Sudbury/Avalon Sudbury; dated March 15, 2016.
17. RKG Associates Inc. Fiscal Impact analysis, Meadow Walk Sudbury/Avalon Sudbury, March 15, 2016.
18. MAPC – MEPA #15479 letter; dated March 16, 2016.
19. Metropolitan Area Planning Council – MAPC Comments on MEPA #15479; dated March 16, 2016.
20. MEPA Certificate from EOEEA Dated March 25, 2016.
21. Horsley Witten Group, Peer Review for Phase 1 Meadow Walk at Sudbury: Grocery Store, dated March 28, 2016.
22. Memo from Jody Kablack, Director of Planning and Community Development; dated April 1, 2016.
23. VHB, 526-528 Boston Post Road Redevelopment, March 30, 2016.
24. RKG Associates Inc. Fiscal Impact Analysis, Meadow Walk Sudbury/Avalon Sudbury, dated March 15, 2016.
25. Letter from TRC Environmental, dated April 8, 2016.
26. ConsultEcon, Inc. Memorandum, Peer Review of Fiscal Impact Report for the Town of Sudbury, dated April 8, 2016.
27. VHB memorandum, Water Impact Report 526-528 Boston Post Road, Sudbury, MA (March 30, 2016); dated April 12, 2016.
28. Horsley Witten Group, Peer Review for Preliminary Stormwater Management Master Plan Meadow Walk, Boston Post Road, Sudbury, MA; Dated April 12, 2016.
29. RKG Associates Inc. Memorandum, Response to Comments on Fiscal Impact Analysis, dated April 20, 2016.
30. National Development letter, Meadow Walk Sudbury/Avalon Sudbury-Fiscal Impact Analysis; dated April 25, 2016.
31. Email from Vanasse & Associates, Jeffrey Dirk, Meadow Walk Sudbury-Mass DOT 25 Percent Design Submission.
32. Email from Vanasse & Associates, Jeffrey Dirk; dated April 26, 2016.
33. Conceptual Access/Egress Plan from MDM; dated April 29, 2016.
34. Vanasse & Associates Traffic Engineering Peer Review, Avalon Sudbury; dated May 3, 2016.
35. ConsultEcon, Inc. Memorandum, Peer Review of the March 12 Fiscal Impact Analysis that was prepared by RKG Associates; dated May 3, 2016.
36. Email from Design and Review Board, Dan Martin in regards of DRB Minutes; dated May 5, 2016.
37. AvalonBay, letter in response to memorandum from Director of Planning and Community Development; dated May 5, 2016.
38. AvalonBay affirmative Fair Housing Marketing Plan & Lottery Guidelines Sample; dated March, 2015; received May 5, 2016.
39. Email from AvalonBay, David Gillespie in response to Bill Place's memorandum; dated May 6, 2016.
40. Letter from Sudbury Water District, RE: Water Impact Report 526 & 528 Boston Post Rd. Redevelopment, dated May 9, 2016
41. Letter from the Planning Office to MassDOT, Off-Site Traffic Improvements on Boston Post Road, Dated May 19, 2015.
42. Design Review Board Minutes from May 11, 2016, referencing Avalon Architectural Design.
43. Email from resident Arlene Schragger; dated May 17, 2016.
44. Board of Health Review, Meadow Walk Sudbury, dated May 18, 2016.

45. TAT – The Architectural Team for VHB, Avalon Sudbury Grading, Drainage and Erosion Control Plan-Stamped May 23, 2016; received May 25, 2016.
46. Avalon Stormwater Management Report prepared by VHB, dated May 2016.
47. Email from Sheila Cusolito, Sudbury Housing Authority, May 31, 2016.
48. Memo from Horsley Witten Group, Stormwater Peer Review, dated June 6, 2016.
49. Letter from Sudbury Housing Trust dated June 3, 2016.
50. VHB Memorandum, Avalon Sudbury Site and Traffic Engineering Review Comments, dated June 6, 2016.
51. Vanasse & Associates, Supplemental Traffic Engineering Peer Review, dated June 10, 2016.
52. VHB response to Sudbury Water District Comment Letter, dated June 6, 2016.
53. GeoInsight, Project Technical Memorandum Environmental Review, June 8, 2016.
54. VHB Memorandum, Definitive subdivision “New Road Name” 526& 528 Boston Road Summary of Waivers Requested, dated June 2, 2016.
55. Definitive Subdivision of Land Plans entitled “Definitive Subdivision: “New Street Name”, prepared by VHB dated May 20, 2016, consisting of 21 sheets: Cover Sheet; C-1, Legend and General Notes; C-2.1 and 2.2, Overall Subdivision Plan; C-3, Plan and Profile, Grading and Drainage Plan; C-4, Layout, materials & Utility Plan; C-5.1 and 5.2, Site Details; L-1, Planting Plan; Subdivision Plan of Land (5 sheets); A-1, Overall Addressing Plan; Sv-1 thru Sv-6, Existing Conditions Plan of Land (6 sheets).
56. Revised Site Plans prepared by VHB dated June 20, 2016.
57. Revised Architectural Plans prepared by TAT dated June 20, 2016.
58. VHB Memorandum Response to Stormwater Peer Review Comments, June 20, 2016.
59. Memo from Bill Place, Town Engineer/DPW Director dated June 20, 2016.
60. Letter from BPR Sudbury Development LLC and Sudbury Avalon, Inc. c/o National Development, response letter to William Murphy, Health Director, June 21, 2016.
61. VHB Memorandum, Avalon Sudbury Comprehensive Permit Site Plan Revisions, dated June 23, 2016
62. Memorandum from The Architectural Team dated June 22, 2016.
63. Vanasse & Associates, Supplemental Traffic Engineering Peer Review, dated June 23, 2016.
64. Memorandum from Jody Kablack, Planning and Community Development Director, dated June 24, 2016.
65. Horsley Witten Group, Stormwater Second Peer Review, June 27, 2016.
66. VHB Updated Request of Waivers, June 27, 2016.
67. Letter from the Sudbury Housing Authority, dated June 27, 2016.
68. Memo from VHB, RE: Response to Comments Definitive Subdivision Plan Review, dated June 28, 2016.
69. Email from Karen Staffier, VHB, RE: Avalon Sudbury – 2nd peer review, dated June 29, 2016
70. Email from Janet Bernardo, Horsley & Witten, RE: Avalon Sudbury – 2nd peer review, dated June 29, 2016