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Covenant Commonwealth Newton, Inc.
The Coolidge at Sudbury
August 8, 2011

NOTICE OF DECISION
COMPREHENSIVE PERMIT
Covenant Commonwealth Newton, Inc. The Coolidge at Sudbury
189 Boston Post Road
SUDBURY, MA
ZONING BOARD OF APPEALS CASE NUMBER 11-27
August 8, 2011

I. Background

The Sudbury Zoning Board of Appeals (the "Board") received an application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23 and the regulations promulgated thereunder, as amended from time to time, from Covenant Commonwealth Newton, Inc. (the "Applicant") and B'nai B'rith Housing New England, Inc. (the sponsor) on April 14, 2011, to construct sixty four (64) units of affordable rental housing restricted to households with at least one person who is age fifty-five (55) or older in one building on approximately 6 acres of land located at 189 Boston Post Road. Said Property is within the A-1 Residential Zoning District, and is identified as Parcels 0012, 0080, 0081 and 0082 on Town Assessor's Map K10 (collectively, the "Property"). The Property is owned by Vincent Mercuri, individually and as Trustee of Mercuri Family Realty Trust u/t/d May 28, 2002.

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

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

- a. It is a limited dividend organization eligible to obtain a Comprehensive Permit pursuant to M.G.L. c.40B;
- b. It controls the Property; and
- c. It has received a Site Approval letter through the Low Income Housing Tax Credit (LIHTC) Program from the Massachusetts Department of Housing and Community Development (DHCD) dated January 14, 2011.

The Board convened the public hearing on this application on May 16, 2011. The public hearing was continued to June 22, 2011 and August 8, 2011, and was closed on August 8, 2011. Sitting

Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, Massachusetts 02110
Attn.: Darren Baird

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as members of the Board and present throughout the hearing were Jonathan G. Gossels, Acting Chairman; Benjamin D. Stevenson, Clerk; Elizabeth T. Quirk; and Jonathan F.X. O'Brien. Stephen A. Garanin, Alternate, was absent for the June 22, 2011 public hearing session, but has certified that he has reviewed both the audio tape of the hearing and the draft minutes of the meeting, and pursuant to M.G.L. c. 39, § 23D, is therefore qualified to vote on this application.

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

In reviewing the application of Covenant Commonwealth Newton, Inc., as well as evidence presented in written or oral form by citizens and Town Boards and departments during the course of the public hearing, the Board has determined that the Town of Sudbury does not meet the statutory criteria for availability of low and moderate income housing, as those units currently in existence constitute less than 10% of the year round housing units in the Town and are on sites which comprise less than the minimum land area necessary as defined in 760 CMR 31.04. The Board has further determined that the allowance of this application will not result in the commencement of construction of low or moderate income housing units on a site comprising more than the minimum land area necessary and as defined in 760 CMR 31.04. The Board also finds that the Project as proposed in the application, as described during the public hearing and as modified by the attached conditions, is consistent with local needs within the meaning of Massachusetts General Laws, Chapter 40B, Sections 20-23, and that it is consistent with the character of the zoning district. Finally, the Board notes that the Applicant has presented evidence of site control in its application, and evidence of Site Approval from DHCD in a letter dated January 14, 2011.

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

II. Application Details

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

1. Comprehensive Permit Application, The Coolidge at Sudbury, 189 Boston Post Road, submitted by B'nai B'rith Housing New England, Inc. (sponsor), Covenant Commonwealth Newton, Inc. (applicant) and Plans containing 20 sheets consisting of Site Plans prepared by Hancock & Associates dated April 11, 2011, last revised August 1, 2011: C1 (Notes), C3 (Preliminary Layout Plan), C4 (Preliminary Grading and Utility Plan), C5 (Preliminary Landscaping Plan) and C6/C7 (Detail Sheet); architectural drawings and elevations by TAT, The Architectural Team, dated August 1, 2011 (sheets T0.01, T0.02, A1.01-A1.05, A2.01, A4.01-A4.03, A5.01) and a topographic plan prepared by Schofield Brothers of New England dated June 30, 2010 (collectively, the "Comprehensive Permit Plans")
2. Traffic Impact and Access Study by Vanesse & Associates, dated April 2011
3. 4/19/2011 Letter of Support from Sudbury Resident Steve Levin, 123 Maynard Farm Road
4. 4/19/2011 Letter of Support from Jeffrey Floyd, COO, Wingate at Sudbury
5. 4/22/2011 Request for Extension of Time
6. 5/3/2011 Memo from William Place, DPW Director/Town Engineer
7. 5/4/2011 Memo from Debra Galloway, Director, Sudbury Senior Center
8. 5/11/2011 Memo from B'nai B'rith Housing New England, Additional Materials
9. 5/11/2011 Memo from B'nai B'rith Housing New England to Debra Galloway, Director, Sudbury Senior Center/Council on Aging
10. 5/16/2011 Letter of support from Resident Mara Huston
11. 6/2/2011 Memo from Jody Kablack, Director of Planning and Community Development
12. 6/10/2011 Memo from Michael C. Fee, Chairman, Planning Board
13. Letter from Gregory Carbone, Bartlett Tree Experts dated June 20, 2011
14. Preliminary Stormwater Report prepared by Hancock Associates dated July 19, 2011 (revised)
15. Comments and minutes from the Design Review Board dated July 27, 2011
16. 8/1/11 memo from Jody Kablack, Director of Planning and Community Development
17. 8/1/11 cover memo from Susan Gittelman, Executive Director of B'nai B'rith Housing New England
18. 7/28/11 memo from Hancock Associates regarding changes shown on revised plans
19. 8/3/11 email from Debbie Dineen, Conservation Coordinator
20. 8/3/11 memo from John Whalen, Assistant Fire Chief
21. 8/4/11 memo from the Planning Board regarding stormwater management
22. 8/8/11 email from Joseph Peznola, Hancock Associates, responding to the comments by Debbie Dineen

23. 8/8/11 emails from Holly Grace, B'nai B'rith Housing New England Inc. regarding the draft decision

The development described or depicted in this Permit and the Comprehensive Permit Plans is referred to herein as the "Project".

III. Exceptions

The Applicant shall comply with all relevant laws, rules and regulations in Sudbury unless specifically waived hereunder. 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, Section 2210, 2230 and Appendix A to allow for the construction of a multi-family dwelling, which is not an allowed use.
2. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 2610, 2620 and Appendix B to allow the height of the structure to be three (3) levels on each wing, as shown in the Comprehensive Permit Plans, which exceeds the requirements in the A-Residential Zoning District.
3. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3110, 3111 and 3120 to allow 1.09 parking spaces per unit (70 spaces in total), which is less than the minimum requirement for the specific use.
4. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3310 to allow the proposed driveway to serve all dwellings on the Property.
5. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3431 to allow grading as shown on the Comprehensive Permit Plans in which final slopes of 15% or greater are proposed on more than 30,000 sq. ft. on a single lot.
6. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 3440 to allow excavation and grading as shown on the Comprehensive Permit Plan in which grading within fifty (50) feet of the road is approximately twelve (12) feet lower than the grade of the road.
7. Sudbury Board of Health Rules and Regulations Governing the Subsurface Disposal of Sewage, to allow the use of a Presby Enviro-septic system, and allow the use of Title V design requirements in lieu of Sudbury Board of Health requirements.
8. Town of Sudbury Stormwater Management Bylaw, section 6.J.a to waive the requirement for volume control.
9. General Bylaws of the Town of Sudbury and Town of Sudbury Driveway Location Approval Rules and Regulations to allow the location, and width of the proposed driveway to be

- twenty-four (24) feet wide, in excess of the maximum required in the regulation; and to allow a thirty (30) foot radius at the driveway, in excess of the maximum required in the regulation.
10. Town of Sudbury Zoning Board of Appeals Supplemental Rules for Comprehensive Permits and Guidelines for Comprehensive Permit (40B) Developments Section 3.6 to waive the filing fee in excess of \$2,000.00 as set forth in Section IV (40) because the Applicant is a non-profit organization whose primary mission is to promote affordable housing.
 11. General Bylaws of the Town of Sudbury (August 23, 2010), Article V (A) to allow earth removal as required by grading shown on the Comprehensive Permit Plans, in which approximately 3,000 cubic yards of earth may be removed from the site.
 12. General Bylaws of the Town of Sudbury (August 23, 2010), Article XXVII to approve an irrigation system without further approval by the Board of Health.

IV. General Conditions

This Permit is granted subject to the following conditions:

1. This Permit is granted to the Applicant and may not be transferred or assigned to any party without the Board's approval. Notwithstanding the above, the Applicant shall be entitled to transfer and/or assign this Permit to an entity that is an Affiliate of the Applicant, without obtaining the approval of the Board, provided, however, that the Applicant provides written notice of such transfer and/or assignment to the Board at least ten (10) days prior to such transfer and that the Applicant provides with such notice evidence reasonably acceptable to the Board that said Affiliate is a limited dividend organization that is eligible to obtain a Comprehensive Permit pursuant to M.G.L. c. 40B. For the purposes of this Permit, the capitalized term "Affiliate" shall mean an entity that is controlled by or under common control with the Applicant, which can include, without limitation, a limited partnership of which the Applicant, and entity solely owned controlled by the Applicant or the an entity under common control with the Applicant is the general partner of such partnership.
2. This Permit shall become void if the Applicant does not commence the Project as approved herein within the later of three (3) years of the filing of this Permit with the Town Clerk or within three (3) years of the expiration of all appeals. Commencement of the Project shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under the building permit. The Board may grant extensions for good cause, including appeals of this Permit.

3. All construction of the Project, including landscaping, shall be completed within three (3) years from the date of issuance of the building permit, unless otherwise noted herein, and a request is filed with, and approved by, the Board extending such time for good cause.
4. Any material changes to the Project after issuance of the Permit must be reviewed and approved by the Board in accordance with 760 CMR 56.05 (11).
5. This Permit approves the construction of the Project, consisting of one structure containing 64 units of age-restricted housing available to households with at least one person who is persons age fifty-five (55) or older (with approximately sixty-one (61) one-bedroom units and three (3) two-bedroom units), with associated infrastructure, utilities and landscaping, all as shown on the Plan, as modified by this Permit. Unit sizes and mix of units, including the number of bedrooms, shall be substantially consistent with the Comprehensive Permit Plans.
6. All units shall be reserved in perpetuity for rental occupancy by low or moderate income households earning no more than eighty percent (80%) of the Median Family Income 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 (the "Affordable Units"). Each Affordable Unit shall be rented for no more than the maximum rental price established in the Regulatory Agreement. 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 AMFI, for so long as the Project remains noncompliant with zoning. The Applicant shall obtain a provision in the first mortgage of the Property which requires the mortgagee, prior to engaging in any court proceedings to foreclose on the property, to provide the Town with written notice of the Applicant's failure to cure default under such mortgage within the time period allotted for such cure. Such notice shall set forth the amount to be paid to the mortgagee in full satisfaction of the mortgage, not to exceed the remaining principle under the mortgage, then-current interest due, and fees and expenses, and upon receipt of such notice, the Town, or its assignee, shall have the right to acquire such mortgagee's interest in the Property within ninety (90) days at such price by return written notice to the mortgagee indicating the Town's election to exercise its right of first refusal.
7. No construction activities, except for the installation of hay bales or other barriers around the perimeter of the areas to be disturbed, shall commence on the Property until the limits of disturbance around the Property are properly marked. The Applicant shall request that the Director of Planning and Community Development inspect the Property prior to disturbance.

8. Building permits for the Project shall not be issued until the Comprehensive Permit Plan has been submitted for review, approval and endorsement by the Board for consistency with the Decision pursuant to Sections X and XI of this Permit, final stormwater plans have been submitted to the DPW Director for review to confirm the consistency of such plans with the Comprehensive Permit Plans, final architectural plans have been submitted to the Board for review to confirm the consistency of such plans with the Comprehensive Permit Plans, and final building plans have been submitted to the Building Inspector for review to confirm the consistency of such plans with the Massachusetts Building Code.
9. The Board approves the architectural plans submitted as of August 1, 2011, which shall be amended to include the comments of the Design Review Board discussed at the July 27, 2011 DRB meeting. Any substantial changes to the architectural plans contained in the Comprehensive Permit Plans shall require review by the Design Review Board.
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 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 three (3) temporary enclosures or construction trailers on the Property for the duration of the construction. The enclosures shall be located in an area slated for disturbance, shall not require the need to remove any additional vegetation and shall not obstruct sight distance entering or exiting the Property. No further approval shall be necessary.
12. The Applicant agrees that it shall cooperate with the Massachusetts Highway Department's ("MassHighway") taking of a certain area of the Property along the Property frontage on Route 20 and Landham Road, reasonably required by MassHighway to facilitate MassHighway's design and construction of a traffic signal at the Landham Road intersection,

as generally depicted in the plan entitle "Conceptual 4-Lane Section, Route 20 at Landham Road" prepared by VHB dated August 27, 2010.

13. The Applicant shall obtain a curb cut permit from MassHighway prior to the issuance of a building permit.
14. Seventy (70) parking spaces shall be provided for the development. On-street parking along Route 20 shall be prohibited.
15. The Applicant agrees to (a) construct a sidewalk having a width of five (5) feet along the frontage of the Property running from the main pedestrian entrance of the building to the eastern edge of the Landham Road right of way (the "Westerly Sidewalk"), (b) construct a crosswalk from the westerly edge of such sidewalk across Landham Road, and (c) grant no greater than a ten (10) foot wide perpetual easement to the Town for the use by the general public of such sidewalk on such terms and conditions as are reasonably acceptable to the Applicant and the Town, including that the Town will maintain, repair and replace the sidewalk as necessary. If the Selectmen do not vote to accept such an easement or should MassHighway, or any other relevant state or local agency, not approve these items for reasons other than those that can be remedied by the Applicant without undue expense, the Applicant shall make a contribution to the Town's walkway fund in an amount commensurate with the typical cost of construction of such sidewalk and crosswalk, such amount to be reasonably determined by the Director of Public Works.
16. The Applicant agrees to (a) fund the construction of a sidewalk from the Project's main pedestrian entrance to the easterly property line of the Property (the "Easterly Sidewalk") within a five (5) year period from issuance of an occupancy permit if the Town completes a similar sidewalk to the Buddy Dog property on Boston Post Road and (b) grant no greater than a ten (10) foot wide perpetual easement to the Town for the use by the general public of such sidewalk on such terms and conditions as are reasonably acceptable to the Applicant and the Town, including that the Town will maintain, repair and replace the sidewalk as necessary. The Applicant shall deposit the sum of \$6,000 with the Town prior to issuance of an occupancy permit towards the cost of constructing the Easterly Sidewalk. Said funds shall be expended under the authority of the Director of Public Works, and may only be expended if the remaining walkway segment running from the easterly property line of the Property to the Buddy Dog property situated on Boston Post Road is constructed. If these funds are unexpended five (5) years from issuance of the occupancy permit, the Town shall return said funds, together with any interest earned thereon, to the Applicant. Notwithstanding the

foregoing, the Applicant shall grant the easement for this segment of sidewalk prior to issuance of an occupancy permit for the Project.

17. Sight distance at the intersection of the Project entrance and Boston Post Road has been designed to meet the minimum engineering standards for safety at the posted speed limit of the adjacent roadway. Prior to the issuance of the building permit, or at any earlier time mutually agreed upon by the Applicant and the DPW Director, the DPW Director shall inspect the conditions at the entrance to the Project and certify that the actual conditions comply with the design specifications for sight distance. If actual conditions do not comply with these specifications, the DPW Director shall notify the Board and the Board may require additional reasonable improvements by the Applicant as necessary to satisfy the design specifications consistent with the Comprehensive Permit Plans. Significant improvements and/or changes off-site are not contemplated hereunder.
18. 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.
19. 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.
20. A temporary construction sign no greater than 20 square feet in size may be erected on the Property at the time of issuance of a building permit. If a sign is erected, it shall include the Sudbury Housing Trust and West Metro HOME Consortium as funding sources for the Project, to the extent that such Sudbury Housing Trust and West Metro HOME Consortium are actually funding sources for the Project.
21. A permanent freestanding sign no greater than twelve (12) square feet and as depicted on the Comprehensive Permit Plans, shall be erected adjacent to the entrance driveway, subject to review of adequate sight distance by the DPW Director.
22. The Applicant shall not cause congestion on the abutting public ways due to construction parking. If necessary, parking during construction shall be secured at off-site locations and workers shuttled to the Property.
23. All fire lanes and parking areas shall be kept clear at all times, and all snow shall be removed from these areas to ensure access by fire trucks and other public safety vehicles. Fire lanes shall be posted as such, and all signage shall be maintained in good order.

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. The septic system shall be pumped and maintained as recommended by the design engineer and or product installer.
26. Alternative deicers such as calcium chloride and magnesium chloride shall be used in lieu of sodium based deicers on all pavement and permeable pavement areas.
27. No coal tar-based pavement sealants are to be used on the Property.
28. There shall be no additions beyond the building envelope shown on the Comprehensive Permit Plans.
29. There shall be no intrusion into the 100 foot wetland buffer area as shown on the Comprehensive Permit Plans, except to the extent that the Conservation Commission approves such intrusion. This area shall remain in its open, natural state and shall not be disturbed. Erosion and sedimentation control as shown on the Comprehensive Permit Plans shall be installed prior to any disturbance on the Property, and the no disturb area shall be clearly marked with orange snow fencing prior to any disturbance on the Property.
30. 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.
31. The Applicant shall comply with all local regulations and bylaws, except for those which are waived in accordance with the Exceptions granted in Section III above.
32. 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.
33. Where the Comprehensive Permit 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.
34. 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.

35. 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.
36. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant.
37. Applicant will pay \$2,000.00, as a portion of the filing fee, towards an escrow that will cover staff time and public notice fees. If Town expenses are below \$2,000.00, the balance will be refunded to the Applicant.

V. Construction Details

1. Prior to the issuance of a building permit, the Applicant shall prepare a set of Final Detailed Design Site Plans 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 the Conditions of Approval as set forth herein.
2. Stormwater management shall conform to DEP standards and the Town of Sudbury Stormwater Management Bylaw, except to the extent waived by this Permit. The final stormwater plan shall be reviewed and approved for consistency with the Comprehensive Permit by the DPW Director prior to issuance of a building permit. The following revisions to the Preliminary Stormwater Report dated July 19, 2011 shall be submitted prior to commencement of construction:
 - a. The Stormwater Report must include accurate rainfall calculations for the 100 year storm.
 - b. The O&M Plan shall include a maintenance schedule for the forebays in the system.
 - c. The O&M Plan shall include a provision for the Town of Sudbury to enter the property at reasonable times and in a reasonable manner for the purpose of inspection; a provision requiring the owner of the property to maintain a log of all operation and maintenance activities, including without limitation, inspections, repairs, replacement and disposal.

- d. The O&M Plan shall include a statement that all drainage components shall be maintained to function as designed.
3. Final design and approval of the wastewater disposal system shall be obtained from the Sudbury Board of Health prior to the issuance of a building permit.
4. All utilities within the Property for the Project shall be installed underground.
5. All existing structures shall be demolished and removed from the Property.
6. Automatic fire protection sprinkler systems and fire alarm systems shall be installed in the building and shall be designed in accordance with the applicable provisions of the National Fire Protection Act. Such systems shall be monitored by a Gamewell Master fire alarm box, or similar, and connected to the municipal fire alarm system. A Knox-Vault model #4401, or similar, will be installed for fire department access to all secured areas of the building.
7. 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.
8. Permeable pavement shall be used for the fire lane.
9. The fire lane around the building shall be no less than eighteen (18) feet wide, as shown on the Comprehensive Permit Plans detail, which includes the use of Grass Pave2 or similar system on a portion of the fire lane. The fire lane shall be kept clear of snow and ice at all times. Prior to occupancy of the building, the Applicant will demonstrate to the satisfaction of the Sudbury Fire Chief the stability of the Grass Pave2 fire lane to ensure that it will be capable of withstanding the placement of a ladder truck
10. Building plans shall conform to the Massachusetts Building Code.
11. The Applicant shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.0 et. seq) except as such may be waived in accordance with applicable laws and regulations.
12. Erosion control should be employed on the Property to stop construction runoff and sedimentation from entering the abutting public ways.

13. Any retaining wall greater than four (4) feet high shall require design by a structural engineer and submittal of a stamped plan for approval by the Building Inspector.
14. Rim and invert elevations shall be noted on the Grading Plan along with pipe sizes, slope and pipe type.
15. Airborne dust and particulate matter abatement procedures shall be required during construction such that airborne contamination is restricted to the Property to the extent reasonably feasible. If significant dust is generated onto abutting properties, the Applicant shall rectify by paying for the cost to spray wash any affected building. This condition shall be enforced by the Building Inspector, and any claim made by an affected property owner shall be required to provide documentation of such offense.

VI. Landscaping/Screening/Lighting

1. It is the intent of the Board to screen the parking from view of the abutting public way and to maintain and replace trees and shrubs along the frontage of the property in perpetuity. A Final Landscape Plan shall be submitted for review and approval for consistency with the Comprehensive Permit by the Board or its representative, prior to issuance of an occupancy permit. Revisions shall be made to the Landscape Plan to include more flowering varieties of plants around the Property, as well as a detailed landscape plan for the frontage of the Property to adequately shield the parking areas from view. Landscaping shall be installed at the Property substantially in accordance with the Plan. The Board or its representative shall be called to inspect the Property to determine compliance with this condition at substantial completion of the project, and prior to release of the bond. Significant improvements and/or changes are not contemplated hereunder.
2. It is the intent of the Board to preserve the large stand of evergreen trees located along Boston Post Road at the easterly side of the entrance drive to the extent practical, as noted on the Landscape Plan. The Board shall allow a revision to the Landscape Plan if, upon a determination by an arborist expert during construction, that the stand is compromised by the construction of the driveway and the removal of a portion of the trees is necessary. Any revision shall require landscaping with similar species as used in other areas of the Project, and adequate density of vegetation to reasonably screen the parking area from view along Route 20. Notwithstanding the above, in the event that the construction of the Easterly Sidewalk affects the above stand of evergreen trees or the Landscape Plan contained in the Comprehensive Permit Plans, the Applicant shall not be required to have the revised

Landscape Plan approved by the Board, but the Applicant shall deliver a revised Landscape Plan to the Board or its representative showing the final condition of such landscaping as affected by the installation of the Easterly Sidewalk.

3. Existing mature trees located on the corner of Landham Road shall be preserved to the extent feasible. This area shall be reviewed in greater detail once the final grading plans are complete, and the Director of Planning and Community Development shall be notified for an inspection prior to any clearing of this area.
4. Exterior lighting within the Project shall be residential in scale and nature, and shall be designed and installed to prevent glare and light spilling over to neighboring properties or any public way. There shall be no building flood lighting. Pole mounted lamps shall not be greater than sixteen (16) feet in height. The Board or its representative shall be called to inspect the Property to determine compliance with this condition at substantial completion of the project, and prior to release of the bond. Significant improvements and/or changes are not contemplated hereunder.
5. The Applicant shall maintain the landscaping on the Property and be responsible for such maintenance in perpetuity.
6. Trees proposed for preservation throughout the Property shall be flagged and appropriately protected, and the Director of Planning and Community Development shall be called to inspect the Property to determine compliance with this condition, prior to commencement of any construction activity on the Property.
7. The installation of the irrigation well shall be in conformance with Article XXVII of the Sudbury Bylaws.
8. All landscaping required by this Permit shall be secured for a period of one (1) year after issuance of the final occupancy permit for the Project by a performance bond in an amount allocated to landscaping not to exceed Ten Thousand and 00/100 Dollars (\$10,000.00). The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period.
9. The Board shall inspect the site prior to the time of substantial completion of the Project to determine if additional screening vegetation is necessary along abutting Property lines or along Boston Post Road. If, in the opinion of the Board, additional screening is required, the

Applicant shall forthwith rectify such complaint with the planting of additional vegetation prior to release of the performance bond for the Project. Significant improvements and/or changes are not contemplated hereunder, and shall be limited to no more than \$2,500.00 in additional plantings.

VII. 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. All internal driveways, walkways and parking areas;
 - b. Stormwater management system, including roof drains;
 - c. Snow plowing;
 - d. Landscaping and landscape maintenance;
 - e. Exterior lighting;
 - f. Utilities;
 - g. Wastewater disposal system;
 - h. Water system for both domestic use and fire protection, including automatic fire sprinkler systems and hydrants, if any.
2. The Applicant shall be forever bound by all conditions and restrictions contained herein.
3. A performance bond shall be submitted to ensure proper installation and functioning of the stormwater management system, fire lane, landscaping, lighting, sight distance certification, walkway construction, installation of erosion and sedimentation controls, repair of adjacent roadways (if necessary), demolition of all structures on the Property and submittal of final as-built plans, as required by this Permit, that are not fully completed prior to issuance of the 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 a Certificate of Occupancy 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.
4. Evidence of DHCD Final Approval shall be submitted to the Board prior to the issuance of a building permit.

5. 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.

VIII. Affordability Requirements

1. A Regulatory Agreement and/or an Affordable Housing Restriction (the "Regulatory Agreement") shall be executed prior to the issuance of the building permit. The Regulatory Agreement shall set forth that all units approved in this development shall remain affordable in perpetuity, 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. If permitted by the subsidizing agency, the Town of Sudbury shall be a party to the Regulatory Agreement. The Regulatory Agreement shall be submitted for review by Town Counsel and the Director of Planning and Community Development prior to its execution. A copy of the document shall be forwarded to the Board for its information.
2. 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, and waiting list compliance.
3. Subject to the provisions contained in Condition IV.6 of this Decision, all units in this Project shall be available in perpetuity for occupancy by households whose income is no more than eighty percent (80%) of the Median Family Income for the Boston-Cambridge-Quincy, MA-NH HMFA, as determined by the United States Department of Housing and Urban Development, adjusted for household size and annually certified in compliance with program requirements. Applicants must satisfy all other applicable eligibility requirements established by DHCD and set forth in the Regulatory Agreement.
4. 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.

5. If any Town or Sudbury Housing Trust funds are used for this project, the Regulatory Agreement shall require that in the event of condemnation or casualty, proceeds received above the replacement cost of the structure shall be returned to the Town, up to the amount of Town funds provided, to be used for affordable housing in the event that the building is not rebuilt or is rebuilt and there are excess monies available. The exact amount of proceeds to be returned to the Town shall be determined by an intercreditor or other agreement entered into by the Town or the Sudbury Housing Trust and such other lenders or public agencies or authorities providing funding to the Project.
6. To the maximum extent permitted by law, and applicable regulation, local preference for the occupancy of seventy (70) percent 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; Town of Sudbury/Sudbury Public School employees; Sudbury Water District employees; Lincoln Sudbury Regional High School District employees; Sudbury Housing Authority employees; and members of the household of children currently enrolled in the Sudbury Public Schools or the Lincoln Sudbury Regional High School.
7. A lottery shall be held to solicit interest for the occupancy of the affordable units. The lottery must conform to the lottery procedures of DHCD then in effect, and 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. This Affirmative Fair Housing Marketing Plan, ("Marketing Plan"), shall be subject to the review and approval of the Planning and Community Development Department prior to issuance of an occupancy permit, which Marketing Plan shall include, but not be limited to, the following minimum information, but only to extent that DHCD approves the inclusion of such information in the Marketing Plan:
 - 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 Community Housing Office'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 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;
 - h. The Marketing Plan shall contain, to the extent legally allowable, a strategy for marketing units under the "local preference" described in Condition VIII.6 above;
 - i. The Marketing Plan shall adequately describe the 'waiting list' process, including what preferences and priorities are used to lease vacant units; and
 - j. The Marketing Plan shall be submitted for review and approval of the Planning and Community Development Dept. at least 14 days prior to the commencement of the affirmative marketing period.
8. The maximum household size to be used in determining Median Family Income for the purpose of calculating the maximum rent paid by the tenants shall be three persons for two bedroom units, or 1.5 individuals for each separate bedroom, unless DHCD requires that a smaller household size be used. In accordance with DHCD Affirmative Fair Housing Marketing guidelines, preference shall be given to households requiring the total number of bedrooms in the unit.

IX. Maintenance/Inspections

1. Enforcement of the conditions of this Decision shall be by the Building Inspector or the Board.
2. A construction schedule shall be submitted to the Board, Director of Planning and Community Development, Town Engineer and Building Inspector prior to the 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. Snow removal, maintenance of driveways and walks, storm drainage, wastewater treatment and disposal, lighting, utilities and fire protection shall be the responsibility of the Applicant. Except for the sidewalks described in Conditions IV.17 and IV.18, the Town of Sudbury does not accept responsibility for any infrastructure improvements or maintenance in this Project.
5. Fees for the following permits and inspections by Town departments shall be paid in full, unless otherwise waived or reduced by the relevant Board or department upon request in writing by the Applicant:
 - Building Permits
 - Sewage Disposal Plan Permit
 - Electrical Permits
 - Plumbing Permits
6. In the event of any failure to comply with the requirement to maintain the stormwater management and/or wastewater disposal systems in the Project in accordance with engineering or manufacturing guidelines for operation and maintenance or in any manner which fails to safeguard public health and safety, the Town of Sudbury, acting through its Department of Public Works, may, but is not required to, notify the Applicant of the need to remedy said violation and specifying the work which needs to be done and providing for a 30 day time period in which to complete the work. In the event said work is not completed in a satisfactory manner within 30 days of notification, the Town may enter upon the Property and remedy said defect as set forth in this notice. The Applicant shall be responsible to the Town for the cost of affecting the required repairs. If not paid within 30 days of billing by the town, said costs shall constitute a lien upon the premises and shall incur interest at the rate of 18% per annum, plus the costs of collection including reasonable attorney's fees. Notice of this lien shall be recorded by the Town in the Middlesex County South District Registry of Deeds, which notice shall indicate the identity of the Property owner, the amount of the unpaid assessments, the property burdened and a reference to the Book and Page in the Middlesex County South District Registry of Deeds where the Declaration is recorded.

X. Plan Endorsement

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

1. Signature blocks for the Zoning Board of Appeals (5 members), Building Inspector, DPW Director, Planning Director and Town Clerk shall be added to all Plan sheets.
2. All Comprehensive Permit Plans sheets shall be stamped by a Registered Professional Engineer or Architect.
3. A detail of each proposed type of retaining wall shall be added to the final Comprehensive Permit Plans.
4. The Detail sheet shall contain all items contained in the memo from the DPW Director dated May 3, 2011.
5. The last sentence of the notation on Sheet C3 regarding walkway and cross walk construction shall be deleted.
6. The sidewalk shown on the Comprehensive Permit Plans shall indicate a five (5) foot width at all locations and shall be relocated onto the Property.

XI. Building Permits

Building Permits for the Project shall not 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 Building Permits:

1. The Comprehensive Permit Plans have been endorsed by the Board and other signatories.
2. The limits of disturbance around the Property shall be properly staked and marked, all trees proposed for preservation shall be flagged, erosion and sedimentation control has been installed, and the Director of Planning and Community Development called for an inspection,

as required by Conditions IV.7, V.12 and VI.6.

3. Receipt of evidence of recording of this Comprehensive Permit with the Middlesex South District Registry of Deeds.
4. The DPW Director has reviewed and confirmed the consistency of the stormwater management plan with the Comprehensive Permit Plans, as required in Condition V.2.
5. Final Plans are submitted, reviewed and approved by the Board for consistency with this Decision, and confirmation from the Engineer of Record that the Endorsement Plan and specifications have been prepared in accordance with standard engineering practices, comply substantially with the Comprehensive Permit Plans and fully incorporate all requirements of this Decision.
6. Sudbury Board of Health approval of the wastewater disposal system has been obtained.
7. The Board has confirmed the consistency of the final architectural plans with the Comprehensive Permit Plans as required in Condition IV.9.
8. A current construction schedule as required by Condition IX.2 is submitted.
9. Evidence of DHCD Final Approval has been submitted to the Board as required by Condition VII.4.
10. The Regulatory Agreement or Affordable Housing Restriction has been executed as required by Condition VIII.1.
11. Approval from Mass. Highway Dept. has been obtained for the curb cut as required by Condition IV.13.
12. Certification of adequate sight distance has been submitted as required in Condition IV.17.

XII. Occupancy

Occupancy of 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 has been submitted and approved by the Board as required by Condition VIII.7.
2. Receipt of all recorded documents, including but not limited to the Permit, Regulatory Agreement, and any easements recorded to date.
3. The Final Landscape Plan has been approved by the Board as required in Condition VI.1.
4. The Westerly Sidewalk and cross walk have been constructed, unless a bond to secure their completion has been submitted are required in Condition IV.15.
5. Funds to construct the Easterly sidewalk shall be submitted to the Town, as required in Condition IV.16.
6. The Applicant has submitted executed sidewalk easements to the Board pursuant to Conditions IV.15 and 16.
7. A performance bond, as detailed in Condition VII.3 has been submitted to and accepted by the Board, if required.

XIII. Release of the Performance Bond


No request to reduce funds from the Performance Bond below Twenty Thousand and 00/100 Dollars (\$20,000.00) shall be granted until the following conditions have been met:

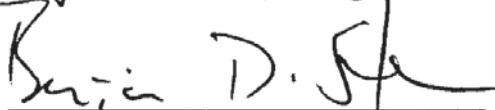
1. As-built plans demonstrating the roadways, buildings, stormwater management structures, walkways and infrastructure have been constructed and installed in general conformance with the approved Comprehensive Permit Plan are submitted to and approved by the Town Engineer.
2. Certification of lighting as described in Condition VI.4.
3. Certification of adequate landscaping as described in Condition VI.1.
4. Any damage to public roads caused by this Project shall be repaired as required in Condition IV.19.

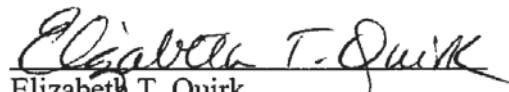
VOTED:

To approve the application of Covenant Commonwealth Newton, Inc. for a Comprehensive Permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of sixty four (64) units of affordable housing in one building for rental occupancy by low or moderate income households which have at least one member who is age fifty-five (55) or older at established rents and in perpetuity pursuant to the Department of Housing and Community Development's Guidelines and/or other applicable requirements, on land owned by Vincent Mercuri, individually and as Trustee of Mercuri Family Realty Trust u/t/d May 28, 2002, consisting of approximately 6 acres of land located at 189 Boston Post, Town Assessor's Map K10, Parcels 0012, 0080, 0081 and 0082, subject to all of the conditions stated in the foregoing Permit decision:


Date: 8 August 2011


Jonathan G. Gossels, Acting Chairman


Benjamin D. Stevenson, Clerk


Elizabeth T. Quirk


Jonathan F.X. O'Brien


Stephen A. Garanin

August 30, 2011

This is to certify that no notice of an appeal from the Board of Appeals Decision, Case #11-27 was filed in this office within 20 days after such decision was filed on August 9, 2011.


Rosemary B. Harvell
Town Clerk

Covenant Commonwealth Newton, Inc.
The Coolidge at Sudbury
August 8, 2011

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

August 8, 2011

On this 8th day of August, 2011, before me, the undersigned notary public, personally appeared the above-named individuals, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, as members of the Sudbury Zoning Board of Appeals, a municipal board.

Jody A. Kablack
Jody A. Kablack, Notary Public
My commission expires:

cc: Town Clerk
Board of Health
DPW Director
Water District
Conservation Commission
Board of Selectmen
Building Inspector
Town Counsel
Fire Chief
Director of Planning and Community Development
Community Housing Specialist
Joshua Fox, Attorney
B'nai B'rith Housing New England, Inc.
Hancock Associates