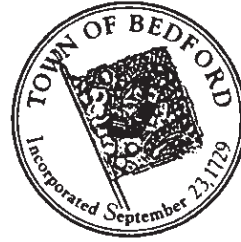


TOWN OF BEDFORD
BEDFORD, MASSACHUSETTS 01730



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

Doreen Tremblay, Town Clerk

Date: August 30, 2005

Petitioner Name: Heritage Middlesex Turnpike, LLC

Location of Property: 48-50 Middlesex Turnpike
Petitioner Number: 052-04

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

Attest:

Doreen Tremblay
Town Clerk



2006 00052013

Bk: 47163 Pg: 219 Doc: DECIS
Page: 1 of 53 03/27/2006 11:06 AM

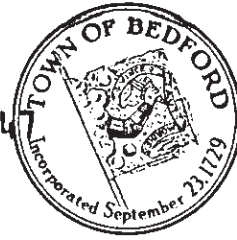
Book 46123 p. 382

Land Ct Cert # 235072
Book 1308 p. 117

Return to: Brown + Brown, PC
110 Great Rd
Bedford, MA 01730

TOWN OF BEDFORD
BEDFORD, MASSACHUSETTS 01730

RECEIVED
TOWN OF BEDFORD
TOWN CLERK



TTD/TTY: 781-687-6124

2005 AUG -9 PM 12: 4

THE BOARD OF APPEALS

TOWN HALL
10 MUDGE WAY
BEDFORD, MASSACHUSETTS 01730
Telephone 781-275-7446

PETITION NUMBER: #052-04
PETITIONER: Heritage Middlesex Turnpike, LLC
LOCATION OF PROPERTY: 48-50 Middlesex Turnpike, Bedford, MA
MEMBERS VOTING: Robert Ellis, Chairman
Jeffrey Cohen, Member
Paul Bauer, Member
Louise Maglione, Alternate Member

MOTION: To grant to Heritage Middlesex Turnpike, LLC (the Applicant) at 48 - 50 Middlesex Turnpike a Comprehensive Permit to construct one hundred sixty four (164) rental units in six residential buildings with associated below building parking in three of the six residential buildings, a community building and pool, a gazebo, three separate free standing garage buildings, and a maintenance building in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of the Town of Bedford subject to the Conditions of Approval set forth in Chapter III and any other requirements of this Decision.

VOTING IN FAVOR

Robert Ellis
Paul C. Bauer
Louise Maglione
Jeffrey Cohen

VOTING IN OPPOSITION

A TRUE COPY ATTEST

Debra J. Kelly
Town Clerk

This vote was taken on June 23, 2005. Approval of this Motion for a Comprehensive Permit requires a majority vote of the five member Board.

The Board voted unanimously (4-0-0) to grant this Comprehensive Permit.

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

The Decision was filed in the Office of the Town Clerk on August 9, 2005. Any appeal from this decision by any party other than the Applicant shall be made pursuant to Massachusetts General Laws Chapter 40B, Section 21 and must be filed within twenty (20) days after the filing of the Decision with the Town Clerk.

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

THE BOARD OF APPEALS



TOWN HALL
10 MUDGE WAY
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 052-04
HERITAGE AT BEDFORD SPRINGS COMPREHENSIVE PERMIT

CHAPTER I. FINDINGS

This chapter summarizes the procedural history of the petition and describes the proposed project. The jurisdictional requirements for a Chapter 40B application are examined. The reasoning and findings of the Board are presented regarding exceptions from local Bylaws. Other community issues are addressed.

In making its findings and reaching decisions, the Board is guided by M.G.L. Ch. 40B and its regulations 760 CMR 31.00, by the Board's own rules for a Comprehensive Permit and by current Zoning Bylaws. The Board also considered evidence presented at the public hearings and evidence placed in the public record prior to the closing of the public hearing on May 26, 2005. The record includes, but is not limited to, the documentation listed in Chapter II.

1. Procedural History

By an application ("Application") filed with the Bedford Town Clerk on June 3, 2004, the applicant, Heritage Middlesex Turnpike, LLC (the "Applicant"), petitioned the Town of Bedford Zoning Board of Appeals (the "Board") for a Comprehensive Permit pursuant to Massachusetts General Law, Chapter 40B, Sections 20-23 ("Chapter 40B"), to allow the 13.20 acre site located at 48-50 Middlesex Turnpike ("the Property") to be used as a 196 unit residential apartment development consisting of seven three-story residential buildings with twenty percent (20%) of the housing units to be designated as affordable housing for households at or below 50% of the applicable Median Family Income under the provisions of Chapter 40B with a subsidy to be provided pursuant to the program requirements associated with the 4% Low Income Housing Tax Credit Program.

Based upon comments made and concerns raised by the Board and by the public, and through several revised plans, the Applicant thereafter modified the proposal to reduce the number of proposed units to one hundred seventy two (172) and eliminate the retail/office component. In order to provide additional meaningful open space and place all buildings outside of the 100' Wetland Buffer Line, one residential building was eliminated, an additional story was added to Buildings 4 and 5, and structured parking was added below the first floor of Buildings 4, 5, and 6. The proposed housing was depicted on preliminary plans titled "Heritage at Bedford Springs, 48-50 Middlesex Turnpike, Bedford, Massachusetts," dated October 26, 2004, with final revisions dated May 9, 2005, consisting of eight sheets, prepared by Commonwealth Engineering, Inc. and submitted in connection with the Application (collectively, part of the "Project Plans")

Subsequently, based upon Board discussion at its Deliberation Session held on June 23, 2005 at which the Board expressed its continued concern about density in general and the four story height of Building 4 in relation to the three story height of the four other residential buildings directly facing the interior common open space area, massing and density were further reduced by eliminating the top floor in Building 4 and in doing so eliminating eight (8) units resulting in a final approval for one hundred sixty four (164) units. The height of Building 5 remains at four stories. The other five residential buildings are three story buildings. However, the three residential buildings that include structured parking below the first residential floor (Buildings 4, 5, and 6) will show an additional full or partial floor at the rear of each building, based upon final grading and topography.

A public hearing for a Comprehensive Permit was advertised in the Bedford Minuteman on June 10, and June 17, 2004. All abutters were notified. The hearing was opened on June 24, 2004 (with no business conducted) and was continued to August 12, 2004.

Additional continued hearing dates were September 23, 2004, October 26, 2004, December 9, 2004, January 13, 2005, March 24, 2005 and May 26, 2005 (collectively the "Hearing"). All Town Boards were notified of the hearings and were requested to comment on the Comprehensive Permit as required by the Town of Bedford Zoning Board of Appeals Rules and Regulations for a Comprehensive Permit [1]. The Applicant cooperated with other Town Boards and presented interim plans to them to assist in preparation of their comments. The Bedford Housing Partnership

and the Town's Chapter 40B Consultant, Edward Marchant, also actively participated in the Hearing.

Board members Robert Ellis and Jeffrey Cohen and alternate members Paul Bauer (now a full member) and Louise Maglione were present at the initial Hearing and each continued Hearing. Board Member Harold Ward was not present on September 23, 2004. Board Member Herbert Aumann was not present on January 13, 2004. Alternate member David Ezekiel resigned from the Board after the September 23, 2004 meeting for personal reasons. Board Member Charles Theobald, sadly, passed away before the final hearing on the project. Voting members are Robert Ellis, Jeffrey Cohen, Paul Bauer and Alternate member Louise Maglione.

Also present throughout the Hearing was the Applicant and its representatives. At the hearing, the Board received detailed written and oral evidence, testimony and other submissions from the Applicant, various officials of the Town of Bedford, members of various boards of the Town of Bedford as well as other members of the public. The written evidence submitted to the Board includes, without limitation, the documents, plans and other items listed below in Chapter II and incorporated herein by reference (collectively the "Documents").

The Hearing was closed on May 26, 2005. On June 20, 2005 the Board met at a duly noticed public meeting to review and discuss the advantages and disadvantages of the proposed development. On June 23, 2005 the Board met at a duly noticed public meeting and deliberated on the Application including a review of the various Documents and a discussion of various testimony received by the Board at the Hearing. Following the conclusion of deliberations at this June 23, 2005 public meeting, the Board voted unanimously (4-0-0) to APPROVE the Application for no more than one hundred sixty four (164) units subject to certain conditions being incorporated into the final decision. At a duly noticed public meeting held on August 4, 2005, the Board reviewed the proposed decision for consistency with its vote on June 23, 2005. Subsequently the voting members executed this decision.

2. Project Description

The project site described in the Project Plans consists of approximately 13.20 acres. Access to the Property is available through 460.43 feet of frontage on Middlesex Turnpike. Access for both emergency and general purposes shall, as a requirement of this comprehensive permit, also be available to the North through 54 Middlesex Turnpike. A Memorandum of Understanding between the Applicant and the owner of 54 Middlesex Turnpike has

been executed [98]. Negotiations continue for a second emergency access via the adjacent hotel property at 44 Middlesex Turnpike. A Memorandum of Understanding signed by the General Manager of the hotel has been submitted [83].

The property is located in the Residence R (approximately 4.7 acres) and Industrial Park zoning districts (approximately 8.5 acres), as depicted on the Town of Bedford Zoning Map, dated February 1978, as amended through October 1997. An industrial building foundation currently occupies the site.

The Applicant proposes to build a total of one hundred sixty four (164) rental apartment units in six residential buildings on the Property. Of the one hundred sixty four (164) apartment units, one hundred thirty one (131) units will be market rate units and thirty three (33) units will be affordable units.

There will be fifty four (54) one bedroom/one bath units, ninety two (92) two bedroom/two bath units, and eighteen (18) three bedroom/two bath units. Additional details on the model types, square footage sizes, and breakdown of market and affordable units for the one hundred sixty four units are included in the following table:

Unit Type	Approximate Unit Size	Total Units in Project	Total Market Rate Units	Total Affordable Units
Unit B (1BR/1B)	769-776 sf	36	29	7
Unit B+ (1BR/1B)	972 sf	12	9	3
Unit B Loft (1BR/1B)	925 sf	6	5	1
Total 1BR Units		54	43	11
Unit A (2BR/2B)	1,136 sf	48	38	10
Unit C (2BR/2B)	1,127-1,144 sf	20	16	4
Unit D1 (2BR/2B)	1,208-1,223 sf	10	8	2
Unit C2 Loft (2BR/2B)	1,295 sf	4	4	0
Unit D (2BR/2B)	1,319 sf	10	8	2
Total 2 BR Units		92	74	18
Unit E (3BR)	1,408 sf	18	14	4
Total 3 BR Units		18	14	4
TOTAL UNITS		164	131	33

A total of thirty three (33) units will be affordable in perpetuity to families with total household income at or below 50% of the Boston, MA-NH PMSA Median Family Income based upon family size as determined annually by the Department of Housing and Urban Development and as adjusted for unit size. Therefore the affordable units will consist of eleven (11) one bedroom/one bath units, eighteen (18) two bedroom/two bath units and four (4) three bedroom/two bath units, representing a proportionate share of the unit types to the greatest degree possible, consistent with the above table. A floor plan indicating the proposed locations of the initially designated Affordable Units shall be provided to the Board of Selectmen as an exhibit to the proposed Regulatory Agreement.

Three (3) residential buildings (Buildings 4, 5, and 6) will include a parking garage level below the first residential floor of the building. The parking garage level will be below grade at the front elevation of these three buildings but all or parts of the garage will be visible at the rear and side elevations of these three buildings.

The remaining three buildings (Buildings 1, 2, and 3) have surface parking associated with each building.

Three (3) additional free standing garage buildings of twelve (12), five (5) and seven (7) garage bays each for a total of twenty four (24) garage bays, will provide additional covered parking at an extra charge on a first come, first serve basis.

The total number of garage and surface spaces will be limited to two hundred seventy nine spaces (279), a ratio of 1.7 parking spaces for each residential unit.

All surface parking is available for use by all tenants. Parking under the buildings is reserved for tenants of those buildings. Spaces in the three free standing garages will be available for rent by any of the residents.

In addition to the residential units and parking, a community building and pool, a gazebo, and a maintenance building will also be included (the "Project").

The Applicant proposes to finance the development through the MassDevelopment Tax-Exempt Bond Program. Under the MassDevelopment program, the Applicant must comply with certain program requirements regarding the income eligibility requirements and the maximum allowable rent levels for the affordable units. Any change in the proposed Subsidizing Agency

or financing program must be submitted to the Board for its review and approval.

3. Jurisdictional Requirements

The Applicant submitted a Comprehensive Permit Application under M.G.L. Ch.40B and 760 CMR 31.00 on behalf of "Heritage Middlesex Turnpike, LLC". The documentation provided showed that Heritage Middlesex Turnpike has been organized as a limited dividend organization as defined by 760 CMR 30.02.

The Applicant submitted a Site Approval Letter, dated March 22, 2004, from MassDevelopment, stating that the project is conditionally eligible to be financed by MassDevelopment under the MassDevelopment Tax-Exempt Bond Program.

The Applicant has "control of the site" as defined in 760 CMR 31.01 in that the Applicant has executed Purchase and Sale agreements for the acquisition of the site from the current owners of the site. Previously discussed issues related to a Land Court petition in adverse possession have been favorably resolved with title vested in the present property owner of record.

On April 5, 2005, Land Court Chief Justice Karen Scheier rendered judgment that the petitioners (through whom Heritage obtains site control) in fact hold title to the parcel of land at 48 Middlesex Turnpike, having established their title by adverse possession against the defendants. Therefore, Heritage has site control over the entire Project site.

Based on this information, the Board finds that the Applicant has met the jurisdictional requirements to apply for a Comprehensive Permit under M.G.L. c.40B and 760 CMR 30.02.

4. Statutory Minimum for Low and Moderate Income Housing

Chapter 40B Section 20 sets out three criteria for determining that requirements and conditions imposed by the Board of Appeals on a Comprehensive Permit application are "consistent with local needs."

1) The Applicant asserts that the Town of Bedford has not met the statutory minimum 10 percent threshold for low and moderate-income housing.

According to the 2000 U.S. Census, Bedford had 4,692 year round housing units, of which 412 units or 8.8 percent

qualify as affordable housing according to the DHCD Chapter 40B Subsidized Housing Inventory dated June 1, 2005. There are other projects in the permitting process, including one rental project that was approved but is in litigation.

During the hearing process on the Application, the Town received certification on October 26, 2004 from the Massachusetts Department of Housing and Community Development for achieving its Planned Production goals in accordance with its certified housing plan.

The Town has increased its affordable housing stock by more than 1.5% during 2004, thereby earning the Board the right to deny any Chapter 40B application for the period from October 5, 2004 through October 4, 2006, without the Comprehensive Permit applicant having any right to appeal such decision. As a result, the Applicant has expended significant effort in coordinating and incorporating the comments of reviewing Boards and the public to the project plans. Notwithstanding the Town's Planned Production accomplishment, the ZBA has authority to grant a comprehensive permit to the Applicant.

2) The proposed project will add 164 units of Chapter 40B Subsidized Housing Inventory-qualified units to the Town's Chapter 40B Subsidized Housing Inventory and in doing so increase the percent of Chapter 40B Subsidized Housing Qualified units in the Town to 12.3%, thereby exceeding the State's 10% affordable housing minimum requirement.

3) Section 20 states that Conditions are "consistent with local needs where they are "reasonable in view of the regional need for low and moderate income housing considered with the number of low income persons in the city or town affected and the need to protect the health or safety of the occupants of the proposed housing or the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if such requirements are applied as equally as possible to both subsidized and unsubsidized housing."

The Board believes that the specific conditions set forth below are reasonable when viewed in light of the need for low and moderate income housing in the Town.

5. Recommendations of Local Boards

According to M.G.L. Ch.40B Section 21, the Zoning Board of Appeals, in making its decision, shall request and "take into consideration" the recommendations from all applicable local boards.

The Board received comments from the Planning Board, the Housing Partnership, the Fire Department, the Department of Public Works, the Conservation Commission, the Board of Health, the Board of Selectman, and the Bedford Housing Partnership.

The Applicant met with and presented its plans for the proposed development to both the Board of Selectmen and the Planning Board. The Applicant's proposal has been modified subsequent to its presentations to the Board of Selectmen and Planning Board. Changes include but are not limited to a reduction in the total number of units from 172 units to 164 units and the elimination of all retail/office space.

6. Exceptions from Local Zoning Bylaws

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

On May 26, 2005, the Applicant provided additional requested exceptions from local regulations as noted in the document list in Chapter II. The exceptions were discussed at the Hearing on the Application. The Board's ruling on requested exceptions is summarized in Chapter III, Sections 1-4.

7. Drainage

The Applicant proposes to manage runoff from the development with a combination of in-pipe storage, infiltration and detention basins. The system is designed for a 100-year storm event. Parts of the infiltration system are located under pavement, including in-pipe storage. The plan calls for various methods to manage stormwater quality and will be further reviewed by the Department of Public Works and the Conservation Commission as part of the Notice of Intent (NOI) review process.

The Engineering Department of the Town of Bedford's Department of Public Works (DPW) reviewed the Application and suggested

certain revisions, which have been made. Based upon its review of the preliminary drawings and other information submitted by the Applicant, the Engineering Department has expressed satisfaction with the revised storm water management system concept. Further revisions and additions to the stormwater management system may be required as the Applicant prepares its final submissions to the DPW and Conservation Commission. The Applicant stated that the proposed drainage system will meet the Massachusetts DEP "Storm Water Management Guidelines." The Project has been designed such that the building locations and resulting setbacks exceed the setback requirements of the Town of Bedford Wetland Protection Bylaws. Based on the preliminary information submitted by the Applicant and the Engineering Department, the Board finds that the storm water management system appears adequate to meet the needs of the Project and will not have a detrimental effect on the property or abutting properties. However, as noted herewith in Chapter III, the Applicant shall be required to submit final storm drainage engineering plans that have been explicitly approved by the DPW and/or Conservation Commission as part of the Building Permit Application process, and the Applicant may be required to provide additional documentation related to soil transmissivity and groundwater elevations during the Conservation Commission review process.

8. Water and Sewer

The Department of Public Works reviewed the Project, as revised, and is of the opinion that the design of the water and sewer system is adequate to meet the needs of the proposed development. The Department of Public Works has also provided information to the Board demonstrating that there is adequate water and sewer capacity in their respective systems to serve the projected needs of the Project. Confirmation of its opinion regarding wastewater flow has been provided by Weston and Sampson, the Town's wastewater consultant. Weston & Sampson, by a letter dated March 22, 2005 concludes that there is adequate capacity in the Town's existing infrastructure to support the project. The Applicant will be required to submit final water and sewer engineering drawings for review as part of the Building Permit Application process.

9. Traffic

The Board received information demonstrating that the current proposal results in a negligible increase in vehicle trips during the morning peak hour, a minor increase in trips during the evening peak hour, and a notable increase in trips on a

daily basis as compared to that allowed by the currently approved office use on the Property. However, on a peak hour basis the proposed development is almost identical to the previously proposed project, approved in 2000. As to the increased daily traffic volume, the Applicant's study indicated that the local streets can handle these volumes at off peak times.

Vanasse Hangen Brustlin, Inc. (VHB) conducted a peer review of the Traffic Impact Assessment prepared for Heritage Middlesex Turnpike, LLC prepared by Abend Associates and dated September, 2004. By letter dated March 22, 2005, VHB found that the traffic impacts of the proposed development appear to be accurately represented in the Abend study [33].

Therefore, the Board finds that the anticipated traffic impacts will not be detrimental to the health or safety of the occupants of the development or other residents of the Town.

10. Building Access

At the Fire Department's request, the Applicant shall provide access to at least three sides of each building in order to provide fire equipment access to the buildings. The internal driveways and turning radii are sufficient to allow access of fire and emergency vehicles. Fire Department personnel have indicated that they are generally satisfied with the building access provided in the plans, as most recently revised by the Applicant. As noted in Chapter III of this decision, the Applicant agrees that the Town of Bedford Fire Department shall be held harmless from any damage caused by having to operate fire equipment vehicles in reverse drive in the parking lot in front of Building 1 due to the present inability to connect to the adjacent hotel property at 44 Middlesex Turnpike or to otherwise operate vehicles in a forward direction from this location.

11. Fire Safety

The Applicant has proposed to install fire protection sprinklers in all of the residential buildings and the community building. Fire protection sprinklers will also be installed in all parking garages located in residential buildings. The Applicant shall be required to meet all applicable fire protection building code requirements.

12. Emergency Site Access/Egress

The Fire Department and the Department of Public Works requested that the Applicant provide additional means of emergency access to and from the Property. Further conversations between the Applicant and the abutting property owner at 54 Middlesex Turnpike and subsequent plan changes have added an additional access point which shall be constructed and used as public access, as well as for emergency purposes, between the properties. This access will be located between Buildings 2 and 3 at the north side of the property abutting 54 Middlesex Turnpike.

In addition, the Applicant has conditionally agreed to install an emergency access way leading from the Property to the adjacent property at 44 Middlesex Turnpike, currently occupied by the Bedford Renaissance Hotel, subject to receiving permission to do so from the owner of said property. The Applicant has agreed to continue to pursue in good faith and in a timely manner an easement for both normal pedestrian and emergency vehicular access across the property line with the owner of the property located at 44 Middlesex Turnpike.

The Fire Department indicated in a letter dated March 2, 2005 that it would like guarantees that each property owner maintains emergency access in perpetuity. This would include proper designation and signage as well as snow removal and necessary maintenance. A Memorandum of Understanding between the Applicant and the abutting property owner at 54 Middlesex Turnpike permitting each emergency access and agreeing to cooperation in the future maintenance of the access has been executed [98].

Based on the Applicant's agreement to provide guarantees for the perpetuity and maintenance of the access located between Buildings 2 and 3 at the north side of the property abutting 54 Middlesex Turnpike and the Applicant's commitment to pursue in good faith an additional emergency access with the owner of the property at 44 Middlesex Turnpike, each as described above and as shown on the Project Plans, the Board is satisfied that the Project will provide a sufficient alternative means of accessing the Property for emergency purposes.

13. Pro Forma Evaluation

The Board's Ch. 40B advisor, Edward Marchant, found that the format and content of the pro forma prepared by the Applicant conformed in general to industry standards. The Applicant shall be subject to all applicable Chapter 40B limited dividend and cost certification requirements, including guidelines related to identity-of-interest contracts.

14. Lighting and Signs

The Applicant proposes to install appropriate on-site lighting that limits light overspill onto neighboring properties. Additional details shall be provided in the Building Permit application and shall be subject to final review. The Applicant submitted a sketch showing the proposed entrance sign. The entrance sign will include lettering on each of two entrance stone walls. The signs would be illuminated by external ground mounted lighting to assist residents and visitors in locating the driveway and aiding in making the entrance intersection with Middlesex Turnpike safe. Applicant shall comply with the Bedford Sign Bylaw illumination section except as noted in Chapter III, Section 7.4.

15. Snow Storage

The Applicant provided information as to the location of on-site snow storage. The Board felt that the area and location of the snow storage areas is generally adequate for the Project. The Bedford Conservation Commission may further review the location of snow storage.

16. Affordable Housing

Chapter 40B requires the Board to balance local concerns with the mandate of M.G.L. c.40B and the need to provide affordable housing.

The Applicant proposes to finance the development through tax-exempt bond financing and the 4% Low Income Housing Tax Credit program through MassDevelopment. The Project will include the creation of thirty three rental units that will be offered in perpetuity as affordably priced rental units, enabling qualified households to rent the unit. Normal utilities (heat, hot water, natural gas, water, sewer and electricity) shall be included within the rent or a reasonable allowance for such utilities shall be established in determining maximum allowable rent levels. Income qualified households shall be those with total

household income at or below 50% of Median Family Income for the Boston, MA-NH PMSA based upon household size as determined annually by the Department of Housing and Urban Development and as adjusted for unit size.

The Applicant has agreed to give throughout the life of the property lottery preference for the Affordable Units to applicants satisfying the local preference criteria established by the Bedford Housing Partnership, to the maximum extent permissible by law, which number is presently 70%. Any such local preference households must also satisfy applicable income and/or other applicable eligibility requirements.

17. Town Services

Citizens, a Planning Board member and some members of the Board of Selectmen were concerned about a sudden and unplanned increase in school age children as a result of the approval of several large affordable housing projects during the last year. The Applicant claims that the project will add approximately twenty nine (29) additional school-age children.

The Applicant provided a study by Connery Associates indicating that, as far as Town services are concerned, Heritage would be relatively revenue neutral [98]. However, upon questioning by the Board and based upon the use of certain cost data assumptions provided by the Town, Connery Associates conceded that the cost-to-revenue ratio was more likely to be 1.10 to 1.20. That is, the development would create a fiscal loss to the Town of \$34,000 to \$68,000 per year.

18. Pedestrian Access and Trail to Cosby Drive

Although the Applicant supports the development of a trail and pedestrian access to Crosby Drive, the Applicant has no leverage to compel other, abutting property owners to grant an easement for a trail. Therefore, the Board felt that providing pedestrian access to Crosby Drive should not be made a Condition of the Comprehensive Permit.

END OF CHAPTER I

THE BOARD OF APPEALS



TOWN HALL
10 MUDGE WAY
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 052-04
HERITAGE AT BEDFORD SPRINGS COMPREHENSIVE PERMIT

CHAPTER II. DOCUMENTS

[1] November 17, 2000

Comprehensive Permit Rules of the Zoning Board of Appeals of the Town of Bedford

[2] June 30, 2000

Traffic Impact Study attached to cover "Site Narrative" not dated

[3] December 1, 2003

Purchase and Sale Agreement under declaration of trust dated Nov. 17, 2000.

[4] February 2004

Heritage Middlesex Turnpike, LLC Operating Agreement

[5] February 11, 2004

Heritage Middlesex Turnpike, LLC, Certificate of Organization

[6] March 22, 2004

Letter from Anne Marie Dowd/General Counsel/Secretary of Mass Development to Gary Ruping, Manager, Heritage Middlesex Turnpike, LLC

Re: Heritage at Bedford Springs Project Eligibility.

[7] March 30, 2004

Letter from Gary H. Ruping of Heritage Middlesex Turnpike, LLC.
to Mark Siegenthaler, Chairman, Bedford Board of Selectmen
Re: written determination of Project Eligibility (Site Approval)
for Heritage at Bedford Springs, Bedford, MA.

[8] April 27, 2004

Letter from Rubin & Rudman LLP to Justice of the Land Court re:
Diligence search with respect to the heirs of Frances Caldwell
Allen and the heirs of Charles B. Allen. See 9/23/04 filed email
for letter.

[9] May 21, 2004

Abutters Lists—for property located at 50 & 50R Middlesex Turnpike
and 48 Middlesex Turnpike.

[10] May 28, 2004 (in file room in office)

Site plan marked "preliminary", sheets 1-9 described as:
Title sheet
Existing conditions
Approval not required plan
Layout plan
Utility plan
Landscape plan
Details

[11] May 28, 2004

Copy of check from Heritage Middlesex Turnpike, LLC for \$1,764.00
filing fee.

[12] June 3, 2004

Zoning Board of Appeals Application from Heritage Middlesex
Turnpike, LLC.

[13] June 3, 2004

Letter from Bowditch & Dewey Attorneys, Brian Levey to ZBA and
Town Clerk Re: Comprehensive Permit Application.

[14] June 3, 2004

Faxed sketch of entrance to The Heritage at Bedford Springs, prepared by The MZO Group.

[15] June 10, 2004

Tabulation of Areas for Proposed Development (not dated) attached to Square Footage Calculations for The Heritage at Bedford Springs (part of application).

[16] Not dated

Heritage at Bedford Springs—List of requested exemptions, waivers and permits (part of application).

[17] June 21, 2004

Memo from Adrienne St. John, Public Works Engineer to ZBA
Re: Heritage Middlesex Turnpike - Road Widening Plan.

[18] June 24, 2004

Hearing Notice

[19] June 24, 2004

E-mail from Steve Hanna to Robert Ellis, ZBA Chairman Re: Heritage Springs comments.

[20] June 24, 2004

Memo from Lt. David Grunes, Fire Department to ZBA, Mr. Ellis
Re: Heritage at Bedford Springs, 48-50 Middlesex Turnpike.
Preliminary Review of the Site Plan and proposal and email from Assistant Chief Lee Callahan, Burlington Fire dated 6/8/04

[21] July, 2004

E-mails to and from ZBA members Re: Site Visit Dates for Heritage at Bedford Springs 48-50 Middlesex Turnpike.

[22] July 11, 2004

Memo from David Black, Board of Health Re: Heritage at Bedford Springs - 48-50 Middlesex Turnpike - Site Plan dated May 28, 2004 and Marked Preliminary - Review per MGL Ch.40B.

[23] Not Dated

Notice of Resource Area Delineation from Conservation Commission
Re: Hearing Scheduled July 14, 2004 for Heritage Middlesex
Turnpike, LLC.

[24] July 16, 2004

WPA Form 4B - Order of Resource Area Delineation.

[25] August 3, 2004

Letter from Richard Joly, Planning Director, Planning Board to the
Planning Board Re: Heritage at Bedford Springs and proposed
recommendations.

[26] August 5, 2004

Memo to ZBA from Richard Joly, Planning Director, Planning Board
Re: Comments on Heritage at Bedford Springs.

[27] August 12, 2004

"Draft/for Discussion Only" from Ed Marchant.

[28] August 13, 2004

Chapter 40B Advisory Services Contract.

[29] August 18, 2004

Check # 1020 for \$10,000. payable to Town of Bedford from Heritage
Middlesex Turnpike, LLC for payment of Edward Marchant's advisory
Services E-mail from Elizabeth Grady to Edward Marchant to inform
him that Town is in receipt of these funds.

[30] September 15, 2004

Memorandum from Paula M. Deverezux of Rubin and Rudman LLP
Re: Purchase of the Property at 48 Middlesex Tnpk. See 9/23/04
filed email for memorandum.

[31] September 17, 2004

Memo to ZBA from Bedford Housing Partnership
Re: Comments concerning the Comprehensive Permit Application

Submitted by Heritage Middlesex, LLC in June.

[32] September 20, 2004

Memorandum from Bowditch & Dewey Attorneys to Bedford ZBA
Re: Heritage at Bedford Springs Application for Comprehensive
Permit - Site Control. See 9/23/04 filed email for memorandum.

[33] September 22, 2004

Technical Memorandum from Abend Associates Re: Traffic Assessment
Heritage @ Bedford Springs.

[34] September 22, 2004

Letter from Conservation Commission to Robert Ellis, ZBA
Re: 48-50 Middlesex Turnpike: Heritage at Bedford Springs -
Comprehensive Permit Development under Chapter 40B.

[35] September 23, 2004

E-mail to Richard Reed from Elizabeth Grady with attachments (3)
Re: Ruping Site Control Questions. Attachments: (1) 4/27/04
letter; (2) 9/15/04 memorandum; and (3) 9/20/04 memorandum.

[36] September 23, 2004

Memo to ZBA from Lt. David Grunes of the Fire Department Re:
Review of the Site Plan.

[37] September 23, 2004

E-mail from Edward Marchant to Robert Ellis Re: Ruping Site
Control Question.

[38] September 23, 2004

Letter from Pamela Brown with 3 attached documents Re: Ruping Site
Control Question. (these documents are included with the package
listed next-Sept. 23, 2004)

[39] September 23, 2004

Pkg. from Atty. Pamela Brown of Brown & Brown

Re: Heritage at Bedford Springs - Response to Comments #1

List of Requested Exemptions, Waivers and Permits (Draft 2),
Exemption and waivers relating to dimensional and other
matters, exemptions and waivers relating to use, permits
granted, project compliant with local regulations.

Proposed Rendition Plan from Architect-The MZO Group, dated
6/1/04

Proposed building layout

Technical Memorandum from Abend Associates dated 9/22/04 -
Traffic Assessment;

Winn Residential--Heritage at Bedford Springs, Affordable
Marketing and Outreach

The Fiscal Impact of New Housing Development in Mass: A
Critical Analysis

Stormwater Management of the Development

MassDevelopment letter to Gary Ruping dated 8/30/04

Four photographs of similar construction

[40] September 25, 2004

Letter from Michael Lehane, Town Counsel to ZBA re: Heritage
Middlesex Turnpike c.40B Application.

[41] October 15, 2004

Memo from Richard Joly, Planning Director - Re: 40B Developments
in the Middlesex Turnpike Area and attached Tri-Town Committee c/o
Richard Reed, Town Administrator re: Middlesex Turnpike
Improvements

[42] October 19, 2004

E-mail from Pamela Brown Re: Heritage at Bedford Springs. Meeting
for October 26, 2004.

[43] October 21, 2004

Letter from Adrienne St. John, & Matthew Shuman, Public Works Engineer Re: 50 Middlesex Turnpike - Site Plan (single sheet.)

[44] October 26, 2004

Letter from Jane Gumble of the Commonwealth of Massachusetts Department of Housing and Community Development, re: Certification of Bedford's Affordable Housing Plan.

[45] October 26, 2004

Letter from Pamela Brown of Brown & Brown Re: Heritage at Bedford Springs - Response to Comments #2 with attached letter dated 10/13/04 from Jerry Lemmon, Sr. Vice President of Winn Residential Re: Trash Removal.

[46] October 26, 2004

Letter (hand written) from Richard Joly, Director of the Planning Board Re: The ZBA's decision on the Heritage at Bedford Springs 40B Application.

[47] October 27, 2004

Letter to Bedford Selectmen, ZBA, Planning Board, Housing Partnership, Conservation Commission and Community Preservation Committee from Stephen R. Hanna, personal opinion. Re: Bedford's compliance with Planned Production Plan.

[48] November 12, 2004

E-mail from Richard Joly re: Heritage at Bedford Springs Working Meeting.

[49] November 17, 2004

Comprehensive Permit Rules of the ZBA.

[50] November 17, 2004

Memo - From Bedford Housing Partnership - requesting the ZBA defer making a decision until developer provides certain information.

[51] November 29, 2004

Letter from DPW - Richard. Warrington to ZBA re: Revised Site Plans for 48/50 Middlesex Turnpike-sewer.

[52] December 6, 2004

Letter from Richard Joly, Director of Planning Board, to ZBA re: Comments on Site Plan dated 11/29/04.

[53] December 8, 2004

Letter from Steven Spector, resident, 43 Old Stagecoach Road to ZBA.

[54] December 9, 2004

ZBA Update.

[55] December 16, 2004

Letter from Brian Levey, Esq. Re: Update of Land Court Docket to ZBA re: 48 Middlesex Turnpike.

[56] December 22, 2004

Memorandum from David Romero, of Commonwealth Engineering to Richard Warrington and Adrienne St. John, DPW re: formalizing the grading, drainage, utilities and site details.

[57] January 5, 2005

Letter from Sheldon Moll, Selectman to ZBA re: his comments/thoughts that represent the conclusions of one Bedford Selectmen only.

[58] January 7, 2005

Letter to Gary Ruping from Antonelli Professional Resources, Ltd.

[59] January 10, 2005

Letter from Adrienne St. John, & Matthew Shuman, DPW Engineer - review of information consisting of a revised Site Plan and memorandum for the proposed revised development at 50 Middlesex Turnpike prepared by Commonwealth Engineering, Inc.

[60] January 10, 2005

Letter from Richard Joly, Planning Board, to ZBA - Comments on the L-1 Architects Site Plan dated 11/23/04 prepared by the MZO Group.

[61] January 10, 2005

Letter from Selectmen of Bedford to ZBA - re: Heritage at Bedford Springs Comprehensive Permit & attached memo dated Jan. 7, 2005 to Richard Warrington, DPW from Patricia G. Domigan, P.E., Vanasse Hangen Brustlin, Inc.

[62] January 12, 2005

Letter from Atty. Brian Levey, Beveridge & Diamond PC, to Robert Ellis, Chair, ZBA - requested update on the status of the adverse possession litigation in the Land Court styled Susan C. Elliott, et al. v. Heirs of Francis Caldwell Allen, et.al.

[63] January 13, 2005

Memorandum from Pamela Brown, Esq. of Brown & Brown, P.C. to ZBA - responses to issues raised by the ZBA, Planning Board and Board of Selectmen.

[64] January 13, 2005

From: Ziner, Kennedy & Lehann LLP - Heritage Bedford LLC Summary, Operating Proforma, Development Cost Proforma.

[65] January 13, 2005

Letter from Conservation Commission to ZBA re: October 26, 2004 Site Plan.

[66] Not dated

Buildout Potential Industrial Mixed Use Bylaw & Unit Summary.

[67] Not dated

Sketches of proposed signs prepared by The MZO Group.

[68] January 20, 2005

Letter from Dr. Frank R. Larson, Bedford resident, 115 Wilson Rd

to ZBA.

[69] January 29, 2005

Letter from Henry Miranda, Jr., Bedford resident, 13 Old Stagecoach Road to ZBA.

[70] February 10, 2005

Letter from Adrienne St. John, Public Works Engineer to Chris Laskey, Code Enforcement, and Rich Joly, Planning Director - re: Middlesex Turnpike Traffic Evaluations: Heritage at Bedford Springs and Criterion with attached letter and agreement for professional services from Vanasse Hangen Brustlin, Inc. for Peer Review for 2 locations along Middlesex Turnpike, Bedford, MA.

[71] February 11, 2005 (in file room in office)

Site Plan-Heritage at Bedford Springs received Feb. 22, 2005 and marked "not for construction" - seven sheets described as:

Title sheet3
Existing conditions plan
Layout plan
Utility plan
Grading plan
Details

[72] February 16, 2005

Memorandum from Christopher Laskey, Code Enforcement Director to Robert Ellis, ZBA Chairman re: Middlesex Turnpike Traffic Evaluation-Heritage at Bedford Springs dated Feb. 10, 2005 and letter from Vanasse Hangen Brustlin, Inc. dated Jan. 17, 2005 re: Agreement for Professional Services-Peer Review for two locations along Middlesex Turnpike.

[73] February 18, 2005

Memorandum from Pamela Brown, Esq. to ZBA and the following Town Boards and Commissions: DPW, Planning Board, Conservation Commission, Fire Dept., Building Inspector, Board of Selectmen Re: Heritage at Bedford Springs-Final Plans-7 pages (marked "not for construction")

[74] February 18, 2005

Memorandum to Adrienne St. John, Town Engineer cc: ZBA and Chris Laskey from Pamela Brown, Esq. re: Heritage at Bedford Springs—Final Plans with copy of check payable to the Town of Bedford from Heritage Middlesex Turnpike, LLC for \$3700.00 for funding VHB (Vanasse Hangen Brustlin) review.

[75] March 1, 2005

Memorandum from Pamela Brown, Esq. to Bedford ZBA re: Heritage at Bedford Springs with full plan set February 11, 2005—see above.

Color aerial of site

Landscape plan with planting stock table

Colored rendering of Commercial Building elevation

Clubhouse plan and elevation

Colored rendering residential elevation

Floor plan residential

Glosser cut sheet on self contained trash compactor

Cut sheet of proposed lighting—La Jolla Lantern

[76] March 2, 2005

Letter from Lt. David Grunes, Fire Dept. to ZBA re: his review of Feb. 11, 2005 site plan

[77] March 17, 2005

Letter from Richard Joly, Planning Director, to ZBA re: Heritage at Bedford Springs

[78] March 18, 2005

Letter from Adrienne St. John, & Matthew Shuman, DPW to ZBA re: Heritage at Bedford Springs Comprehensive Permit Development

[79] March 22, 2005

Letter from Brian C. Levey, Law Offices of Beveridge & Diamond, P.C. to ZBA re: Heritage at Bedford Springs and litigation in Land Court.

[80] March 23, 2005

Letter from Conservation Commission to ZBA re: 48-50 Middlesex Turnpike, "Heritage at Bedford Springs" Comprehensive Permit Development

[81] March 23, 2005

Letter from Adrienne St. John, DPW Engineer to ZBA and Richard Joly, Planning Director re: Heritage at Bedford Springs, Criterion at Bedford-Sewer Reviews. With attached Criterion at Bedford and Heritage at Bedford Springs Sewer Evaluation from Weston & Sampson, dated March 22, 2005.

[82] March 23, 2005

Email from Adrienne St. John to ZBA with attached Vanasse Hangen Brustlin, Inc. report addressed to Richard Warrington, Director of Public Works, dated March 22, 2005 re: Review of Traffic Impact Study, Heritage at Bedford Springs.

[83] March 24, 2005

Memorandum from Pam Brown to ZBA re: supplemental information to the March 1, 2005 memo and the plan set circulated February 22nd. Includes the following:

Letter dated March 22, from Brian Levey to ZBA re: status of the adverse possession litigation request in the Land Court.

Executed Memorandum of Understanding between Heritage Middlesex Turnpike, LLC and Bedford Renaissance Hotel.

Market Report from Lee Partners of New England, LLC dated March 15, 2005

Letter dated March 15, 2005, from David Gilkie at Nordblom re: retail space being leasable.

Letter dated March 16, 2005, from Jane Maine, Owner Java Jane's re: interest in retail space.

Letter dated March 4, 2005, from Robert Rivard of Domino's Pizza re: interest in retail space.

Color photographs

[84] March 29, 2005

Memorandum from Richard Joly, Planning Director, to ZBA re: Planning Board vote with Conditions.

[85] March 30, 2005

Letter from Steven Spector, Planning Board, to the ZBA re: correspondence from Steve Hanna. Six emails attached as follows re: developments in Bedford dated January 21 and 31, February 1 and 2 and March 12, 2005.

[86] Not dated

Commercial Plan & Elevation prepared by the MZO Group.

[87] Not dated

Snow Storage Areas plan prepared by Commonwealth Engineering Inc. marked "not for construction."

[88] April 7, 2005

Email from Pam Brown to Richard Joly, Planning Director and Cathy Silverstrone, Planning Board Secretary re: current bedroom chart. Chart (updated 4/7/05) attached as well as email to Richard Joly from Elizabeth Ryan re: request for revised fiscal impact study.

[89] May 6, 2005

Email from Matthew Shuman, Town of Bedford Civil Engineer, to David Romero, Adrienne St. John, DPW, and Elizabeth Bagdonas, Conservation Administrator re: request of information to complete drainage calculation review.

[90] May 11, 2005

Letter from Elizabeth Bagdonas, Conservation Administrator, re: plan review.

[91] May, 12, 2005 (in file room in office)

Memorandum from Pamela Brown, Esq. to Bedford ZBA re: Heritage at Bedford Springs with full plan set May 9, 2005 also dated February 11, 2005 - including Stormwater Management dated May 9, 2005 and March 24, 2005.

- Existing conditions plan
- Layout
- Utility
- Grading
- Details - Entrance, Miscellaneous and Subsurface detention/retention systems
- Stormwater Management

[92] May 12, 2005

Memorandum to ZBA from Adrienne St. John and Matthew Shuman, DPW, re: comments on recent submittal, received May 10, 2005 and revised plans, dated May 5, 2005.

[93] May 13, 2005

Memorandum from David Black, Director, Board of Health, to Rich Joly, Director Planning Board re: public water main extension and public sewer main extension and his recommended approval of the project with conditions.

[94] May 19, 2005

Memorandum from Richard Joly, Planning Director, indicating support of the recent amendment to remove retail building with recommendations. May 17, 2005 Bedford Planning Board Minutes included that show the vote of the Board to be 3-1-1 on page 7.

[95] May 20, 2005

Pro forma from Albert Rodiger at Americans Express Tax and Business Services dated May 20, 2005.

[96] May 20, 2005

Email from Ed Marchant with a list of information needed for him to review the pro forma.

[97] May 20, 2005

Memorandum from Lt. David Grunes, Fire Department, to ZBA, re: review of May 9, 2005 Site Plan and comments.

[98] May 24, 2005

Letter to ZBA dated May 24, 2005 from Pamela Brown, Brown & Brown, PC responding to comments since March 24, 2005 hearing with Attachments:

Exhibit A - Memorandum of Understanding: Heritage & 54
Middlesex Turnpike

Exhibit B - Summary Unit Mix and Rents

Exhibit C - Clubhouse Elevation

Exhibit D - Land Court Judgment regarding Site Control

Exhibit E - Illustration of dimensional compliance and
waivers

Exhibit F - Industrial Mixed Use buildout

Exhibit G - Opinion letter from Commonwealth Engineering,
Inc.

Exhibit H - Connery Associates Fiscal Impact Study

Exhibit I - Updated Waiver Request

[99] May 25, 2005

Memorandum from the Bedford Housing Partnership to the ZBA re: review of revised application.

[100] May 25, 2005

Letter from Elizabeth Bagdonas, Conservation Administrator, to ZBA re: comments on revised plan dated February 11, 2205 and revised May 9, 2005.

[101] May 25, 2005

Memorandum from Richard Joly, Planning Director, to the ZBA and John Connery Associates, including an email from David Coelho to John Connery and Richard Joly re: review of the Fiscal Impact Analysis.

[102] May 26, 2005

Memorandum from Adrienne St. John and Matthew Shuman, DPW, to ZBA re: comments on meeting with Applicant's Engineer on May 17, 2005 and revised drainage plans.

[103] May 26, 2005

Email from Stacy Schalick, resident, re: concerns about proposed developments on Middlesex Turnpike.

[104] May 26, 2005

Memorandum from David Black, Board of Health Director, to ZBA re: condition for reasonable mosquito control.

[105] May 26, 2005

Memorandum from Connery Associates Memorandum to ZBA Re: Comparable Cost to Revenue Projections.

[106] May 26, 2005

Sketch and details from MZO Group, Architect, Re: Stone Walls at Entrance

[107] May 26, 2005

Handwritten note from Pam Brown Re: Waiver/Permit Amendment Re:
lighting signs and allowing two signs

[108] May 26, 2005

Site Plan dated May 20, 2005
Entry View of Gazebo
Front Elevation Club House dated May 10, 2005
Building Elevation dated March 15, 2005

MINUTES OF MEETINGS:

ZBA June 24, 2004
ZBA August 12, 2004
ZBA September 23, 2004
ZBA October 26, 2004
ZBA December 9, 2004
ZBA January 13, 2005
ZBA March 24, 2005
ZBA May 26, 2005

END OF CHAPTER II

THE BOARD OF APPEALS



TOWN HALL
10 MUDGE WAY
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 052-04
HERITAGE AT BEDFORD SPRINGS COMPREHENSIVE PERMIT

CHAPTER III. CONDITIONS OF APPROVAL

Based upon the findings of the Bedford Zoning Board of Appeals (the Board), the Board grants to Heritage Middlesex Turnpike, LLC (the Applicant) at 48-50 Middlesex Turnpike, Bedford, Massachusetts a Comprehensive Permit to construct one hundred sixty four (164) rental units in six residential buildings with associated below grade parking in three of the six residential buildings, a community building and pool, a gazebo, three separate free standing garage buildings, and a maintenance building in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of Appeals of the Town of Bedford subject to the Conditions and Limitations set forth in this Decision.

The Comprehensive Permit incorporates the following requested exceptions from the Town of Bedford Zoning Bylaw (the "Bylaw"), and certain of the Town of Bedford General Bylaws, Wetland Bylaws and Rules and Regulations Governing the Subdivision of Land. In granting or denying these exceptions, the Board recognizes that the legal requirements for issuing a Comprehensive Permit have been met, and that the granting of exceptions from the Bylaw, and the Town of Bedford General Bylaws may be necessary in the public interest, to accommodate the need to provide affordable housing.

The terms and conditions of this Comprehensive Permit, together with the execution copy of the Regulatory Agreement and the Monitoring Services Agreement to be entered into shall control the development and operation of the Project. To the extent the Comprehensive Permit is inconsistent with any other instrument,

document, agreement or plan submitted in connection with the Project, the Comprehensive Permit shall control to the full extent permitted by law.

1. Exceptions from Local Zoning Bylaws

- 1.1. Exception from Section 4.2 and Section 3.1 Table I Multi-Family Use: **GRANTED.**

A Comprehensive Permit requires allowing multi-family dwellings in the Residential R and Industrial Park zoning districts.

- 1.2. Exception from Section 9.2.2 Permissible Density: **GRANTED.**

The Board finds that a Comprehensive Permit allows higher housing densities than permitted by local Bylaws. While Bedford has not met the 10% statutory quantity minimum affordable housing required by M.G.L. c. 40B, Bedford has complied with the Commonwealth's Planned Production rates. The Town has received a certification letter of its affordable housing plan for adding more than 1.5% to its affordable housing stock in 2004.

The Board is allowing a density of approximately 12.42 units per acre (or 15.62 units per buildable acre after deducting 2.7 acres of wetlands from the 13.20 acre subject site) because of, among other things, the location of the Property primarily in the Town's Industrial Park zoning district, the compatibility of that density with other land uses being developed in the vicinity of the Property, abutter support for the Application, and the fact that approximately 29% of the parking (80 parking spaces of a total of 279 parking spaces) will be provided through below grade parking garages in three of the six residential buildings.

- 1.3. Exception from 6.2.10 and Table II Dimensional Regulations Maximum Height of 37 feet (Residential)/42 feet (Industrial Park): **GRANTED SUBJECT TO COMPLIANCE WITH ANY APPLICABLE FEDERAL AVIATION ADMINISTRATION (FAA) REQUIREMENTS AND COMPLIANCE WITH THE BUILDING HEIGHTS LISTED IN THE TABLE BELOW**

BUILDING NUMBER	MAXIMUM BUILDING HEIGHT*
1-3	41 Feet
4	48 Feet
5	56 Feet
6	48 Feet

*Subject to applicable FAA restrictions

The building heights outlined in the table above (measured according to the applicable zoning methodology: from the average grade to the mid-line of the roof) are acceptable given the location of the Property and more specifically the general placement of the "four story above a garage" building (Building 5) at the rear of the site and not directly on the common open space area. The remaining five residential buildings will present a three story elevation to the common open space area. As noted, the granting of this exception is subject to compliance with any applicable Federal Aviation Administration (FAA) requirements and/or other applicable airport-related requirements.

1.4. Exception from Section 6.2.13, Floor Area Ratio: **GRANTED**

The proposed FAR is significantly higher than the 0.25 FAR allowed by the Dimensional Regulations in an Industrial Park zone. However, the Board finds that the proposed Floor Area Ratio of approximately 0.43 based upon a total gross square footage of approximately 249,000 square feet for the six residential buildings (not including below building parking areas), community building, and maintenance building is acceptable within the subject Industrial Park and Residential R zoning districts given the location of the Property, the design of the Project and the need for affordable housing in the Town.

1.5 Exception from Section 2.3.4, Lots divided by residential district: **GRANTED**

The Board finds that the Applicant is permitted to construct the Project partially within the Residential District per plans given, because of the location of the Property, the design of the Project and the need for affordable housing in the Town. The residentially zoned

land is located entirely within the Property and all abutting land is zoned Industrial Park.

- 1.6 Exception from Section 5.1.2 Swimming Pools and Tennis Courts. **GRANTED**

The Board finds that recreational and support facilities such as the swimming pool, community building, gazebo, and maintenance building as shown on the site plan are acceptable. Recreational facilities are for the use of the residents and their guests.

- 1.7 Exception from Section 6.2.6 and Table II, Dimensional Regulations, Residence R, Minimum Front Yard of 35 feet; Industrial Park 100 feet. **GRANTED**

The Board finds that the proposed front yard setback from the Residential property line of 13.3 feet for a maintenance building and approximately 20.0 feet for a five-car free standing garage structure is permissible given the location of the structures on a portion of the property that does not front directly on Middlesex Turnpike (and therefore the subject yard setback could possibly be considered a "side yard" rather than "front yard" setback). It is noted that these accessory structures are separated from the street by land not included in the Project site. No opposition from abutters was expressed at any of the hearings in regard to the proposed subject setbacks.

The Board finds that the setback of Building 1 of 52 feet and of Building 2 of 75 feet is acceptable within the Industrial Park zone.

- 1.8 Exception from Section 6.2.7 and Table II, Dimensional Regulations, Industrial Park, Minimum Side Yard of 50 feet (150 feet if abutting a residential district) **GRANTED**

The Board finds that the request to waive the side yard requirement of 50 feet is reasonable for accessory garage structures only because the Applicant has coordinated the design of the Project with the proposed parking lot of the abutter at 54 Middlesex Turnpike. The Board finds that the proposed side yard of 0 feet is permissible as the entire Residential R-zoned land portion for the proposed development is internal to the project site.

- 1.9 Exception from Section 6.2.12, 6.5.4, 6.5.6 and Table II, Dimensional Regulations, Industrial Park, Minimum Lot Landscaping. Lot landscaping shall be 50% and where a developed area adjoins a land zoned for residential use, a greenbelt shall be provided. **GRANTED**

No greenbelt is provided between Zoning Districts as the Residence R zone is entirely internal to the project site. The total open space on the site is approximately 60% (or 40% if wetlands are not included as open space).

- 1.10 Exception from Section 7.4.2, Parking Dimensional Regulations, Table III, Parking Stall Dimensions and Section 5.2.2 of the Subdivision Regulations **GRANTED ONLY FOR THE FOLLOWING AREAS ON THE SITE: PARKING LOT ACCESS ROADWAY TO PARKING LOT IN BACK OF BUILDING 1, PARKING LOT ACCESS ROADWAY AT MIDDLESEX TURNPIKE END OF BUILDING 2, PARKING LOT ACCESS ROADWAY BETWEEN BUILDING 2 AND BUILDING 3, PARKING LOT AISLE IN BACK OF BUILDING 2 AND 3, PARKING LOT AISLE BEHIND BUILDING 4, PARKING LOT ACCESS ROADWAY BETWEEN BUILDING 4 AND BUILDING 5, PARKING LOT AISLES ON BOTH SIDES OF BUILDING 5**

The Board finds that decreasing the access roadway and/or maneuvering aisle from 24 feet to 22 feet is permissible. The roadway shall remain a private way maintained by the Applicant. The roadway has been designed with consideration of minimizing potential wetland impacts and creating parking necessary for the residents and their guests. Furthermore, the narrower width may help keep speeds within the residential community low.

In all other aspects, the parking stalls shall conform to the Bedford Zoning Bylaw Section 7.4.2 entitled "Parking Dimensional Regulation."

- 1.11 Exception from Section 7.4.2.5, Parking Regulations, Landscaping. All parking and loading facilities shall be suitably landscaped. In areas of greater than 40 spaces, at least ten percent of the area shall be set aside for landscape areas. Screening shall be provided where a developed area is within 100 feet of a land zoned for residential use. **GRANTED SUBJECT TO CONDITIONS BELOW**

No landscape area is provided between Zoning Districts as the Residential District is internal to the project site. The surface parking areas do not include dividing landscape islands; however, abutting green space including green

strips adjacent to buildings and property lines, highlight the parking adjacent to the buildings as compared to large lots. Only one parking area of 41 spaces exceeds the 40-space threshold. The plan works within the constraints of the wetlands and provides necessary paved areas for fire and traffic safety as well as adequate parking on site for residents and their guests, while minimizing environmental impacts. If any proposed changes result in additional parking areas that exceed 40 spaces, the Applicant must submit such proposed changes to the Board for its review and approval. A final landscaping plan must be submitted to the Building Inspector for its review and approval as part of the Building Permit application process.

- 1.12 Exception from Section 6.2.7 and Table II, Dimensional Regulations, Residential Zone, Minimum Side Yard of 15 Feet
GRANTED

The Board finds that the side yard of 4.8 feet proposed adjacent to the proposed emergency access to the hotel is permissible as there has been no opposition to this location and it allows for the emergency access to be constructed.

2. Exceptions from Local Wetland Bylaws

Exception from the Bedford Wetlands Protection Bylaw and Regulations **DENIED EXCEPT FOR EXCEPTION DESCRIBED BELOW**

A blanket waiver of the local Wetlands Protection Bylaw is inappropriate. According to the current site plan, the development shall comply with 100-foot, 50-foot, and 25-foot wetlands set back requirements, with the possible exception of drainage structures, grading and rip-rap outside of the 25-foot buffer but within the 50-foot buffer. Therefore, the Board finds that a waiver that allows drainage outfall structures, rip-rap and grading within the 50 foot buffer is acceptable provided that this work is not closer than 25 feet to resource areas.

The development shall exceed the 50 foot local wetland bylaw setback for buildings by locating all buildings outside the 100' buffer. The project shall not exceed the maximum impervious coverage in the buffer zone.

3. Exceptions from Rules and Regulations Governing the Subdivision of Land

This project does not involve a subdivision. However the subdivision regulations determine certain design criteria.

3.1 Exception from Section 6.4.1, Sidewalks, requiring construction of sidewalks not less than five feet to conform to the specifications of the Department of Public Works and the Architectural Access Board requirements. **GRANTED SUBJECT TO CONDITIONS BELOW**

This exception allows construction of sidewalks within the project to be four feet in width subject to the proposed four foot width dimension complying with any and all applicable Architectural Access Board and Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities (ADAAG) requirements.

The Board has been advised by the Applicant that this is permissible as the four foot width is in compliance with the Commonwealth's accessibility Building Code, 521CMR Architectural Access Board, Section 22.2, *Walkway Width*, requiring walkways not less than 48 inches wide, and the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities (ADAAG) Section 4.3.3, requiring an accessible route to have a minimum width of 36 inches. The Applicant shall remain responsible for complying with any and all applicable Architectural Access Board and Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities (ADAAG) requirements.

4. Exceptions from General Bylaws

4.1. A waiver of the fees associated with General By-law, Article 51, Section 51.3, 51.4 and Article 52, Section 52.4. **DENIED**

4.2 A waiver from any requirements of Article 51 (sewer tie-in) and requirements under Article 52 (water tie-in) of the Town of Bedford General Bylaws to pay for all units at the commencement of construction of the first unit. **GRANTED**

In waiving this requirement, the Board specifically determines that the sewer and water tie-in fees applicable to individual units located within any building are due and payable when the building permit is issued for the specific

building in which those units are located. No sewer and/or water tie-in fees are waived; only the timing of the payment of such fees has been adjusted.

- 4.3 A waiver from the Board of Health Pool Approval fee, Article 43, Section 43.3. **DENIED**
- 4.4 A waiver from the Sign Bylaw, Article 39 **GRANTED FOR ENTRANCE SIGN ONLY BUT SUBJECT TO CONDITIONS HEREWITH IN SECTION 7.4**

5. Compliance with Requirements

- 5.1 The development shall be built according to the Town of Bedford Zoning Bylaws, Rules and Regulations Governing the Subdivision of Land, General Bylaws and this Decision unless a specific exception was granted. The development shall be built in accordance with the State Wetlands Protection Act as implemented by the Bedford Conservation Commission. To the extent that the Plans show the need for additional waivers not expressly set forth in this decision, if necessary, the Applicant shall meet with the ZBA at a public meeting to determine if the additional waiver is substantial and requires a public hearing to modify the permit or is not substantial and does not require a public hearing to proceed with the proposed improvement, subject to Board approval.

6. General Conditions/Affordable Housing Requirements

- 6.1 The Comprehensive Permit is granted based on the latest issue of engineering, architectural and landscaping plans (the "Project Plans") as listed below.

All engineering, architectural and landscaping plans are subject to the modifications required by this comprehensive permit, including but not limited to a reduction in the number of units to one hundred and sixty four units, a reduction in the height of Building 4, and a reduction in the number of parking spaces.

In the event of any inconsistencies between this Decision and the Project Plans, this Decision shall prevail. The Project must be designed and built substantially in accordance with the Project Plans.

Engineering Plans

A set of engineering plans prepared by Commonwealth Engineering, Inc. titled "Heritage at Bedford Springs, 48-50 Middlesex Turnpike, Bedford, Massachusetts," dated February 11, 2005, revised May 9, 2005, consisting of eight sheets: Title Sheet, Existing Conditions Plan, Layout, Utility, Grading, and three Detail sheets; "Stormwater Management" plan prepared by Commonwealth Engineering, Inc. dated March 24, 2005 and revised May 9, 2005; and "Snow Storage Areas" plan prepared by Commonwealth Engineering, Inc. dated March 15, 2005. Note: These plans do not reflect the reduction in the number of units, parking spaces and other modifications required within this Comprehensive Permit.

Architectural Plans

Typical Apartment Floor Plans for Buildings 1-6 for Heritage at Bedford Springs, Bedford, Mass. prepared by The MZO Group and dated May 25, 2005. Note: These plans do not reflect the reduction in the number of units to 164, the elimination of a residential floor in Building 4, and other modifications required within this Comprehensive Permit. (Subsequent to the closing of the hearing Applicant submitted updated stamped architectural plans for Buildings 1-6 dated June 22, 2005. These plans provide floor plans for each of the floors in Buildings 1-6, including garage floor plans where applicable. In addition front elevations are provided for Buildings 1-6.)

A rendering titled "Building Elevation, The Heritage at Bedford Springs" prepared by The MZO Group and dated March 15, 2005. This rendering is for the 24-unit three story building type (Buildings 1, 2 and 3). The remaining residential buildings shall be similar in regard to architectural style with the exception that Building 5 may have a different roof design in order to reduce the height of the building to comply with applicable FAA requirements.

A rendering titled "Front Elevation Club House, The Heritage at Bedford Springs" prepared by The MZO Group and dated May 10, 2005.

Landscaping Plans

Illustrative landscape plan titled "Heritage at Bedford Springs" dated May 20, 2005 and "Entry View of Gazebo"

dated March 5, 2005, both prepared by Laurie Tarr-Ellsworth, RLA, AICP. This plan also shows the location of the tot lot, picnic area, and BBQ area.

- 6.2 The development shall contain no more than one hundred sixty four (164) rental units and project amenities on 13.20 acres as shown on the Project Plans. The 164 units are to be constructed in six residential buildings. Buildings 1, 2, 3, and 4 shall have 24 units each, Building 5 shall have 32 units and Building 6 shall have 36 units.

Buildings 4, 5 and 6 shall have associated below building parking garage areas consisting of 24, 24, and 32 parking spaces respectively for a total of 80 parking spaces. Each of these buildings, including the garage area, shall be serviced by an elevator.

Buildings 1, 2, and 3, will not have elevators and will be served by surface parking.

Of the one hundred sixty four (164) rental units, one hundred thirty one (131) units will be market rate units and thirty three (33) units will be Affordable Units. With respect to the Affordable Units, eleven (11) shall be one bedroom/one bath units; eighteen (18) units shall be two bedroom/two bath units, and four (4) shall be three bedroom/two bath units.

The Affordable Units shall be evenly dispersed spatially throughout each residential building and each residential floor and shall include a proportionate share (approximately 20%) of each unit type to the greatest degree possible but the Board recognizes that certain rounding of numbers will not make an exact proportionate allocation possible. The initial distribution of Affordable Units shall conform to the Table included herewith in Chapter 1, Section 2. Similar allocations shall be maintained for the life of the Project.

Prior to the issuance of the Building Permit, the Applicant must submit to the Board floor plans identifying the proposed initial locations of the Affordable units. If there are any changes in the number or design model types of units, the distribution of the number and design model type of Affordable Units must remain proportionate (20%) to the market units (80%).

These thirty three affordable units shall contain in perpetuity affordable housing restrictions in conformance with Mass. Gen. Laws c. 184, §§ 31-33 and shall be reserved in perpetuity for occupancy by households with total household income at or below 50% of Median Family Income for the Boston, MA-NH PMSA based upon household size as determined annually by the Department of Housing and Urban Development and as adjusted for unit size.

Maximum allowable rent levels shall be established in accordance with applicable Chapter 40B guidelines and shall be reviewed and approved by the Monitoring Agent. Normal utilities (heat, hot water, water, natural gas, sewer and electricity) shall be included within the rent or a reasonable allowance for such utilities shall be established in determining allowable rent levels.

Affordable Units located in buildings with below building parking shall be entitled to a parking garage space at no additional charge beyond the maximum allowable rent. There shall be no additional charge for Affordable Unit households for the use of recreational amenities.

Interior finishes and appliances in the Affordable Units shall not be distinguishable from those of market rate units.

If a household renting an affordable unit no longer qualifies for the affordable unit, said household shall be allowed to remain in that unit as a market-rate unit tenant without being required to move to a different unit. The Applicant will then designate the next available comparable market-rate unit as a replacement for the affordable unit, making every effort to maintain the spatial dispersion of the Affordable Units within each building and the Project.

All market-rate and affordable rental units shall remain rental units in perpetuity. A covenant documenting this requirement, approved by Town Counsel, shall be recorded in the Registry of Deeds prior to the issuance of any building permit.

Affordable unit households shall have equal access to handicapped units on an as available basis. The project's residential units, all public areas, and any other applicable areas shall satisfy the requirements of the Americans with Disabilities Act and the Massachusetts Architectural Access Board.

- 6.3 The Applicant shall finance the project through tax exempt bonds issued by MassDevelopment and 4% low income housing tax credits. The Affordable Units shall be available to families who meet the income qualifications of the selected financing program and Chapter 40B requirements. Any change in the financing program shall require approval from the Board of Appeals.
- 6.4 This Comprehensive Permit shall be filed in the Registry of Deeds prior to filing any financing or related documents imposed or requested by MassDevelopment or any other Subsidizing Agency, lender, mortgagee, or secured party. The terms of the Comprehensive Permit shall prevail over any contrary provisions in said financing or related documents, particularly insofar as the Comprehensive Permit requires that the Affordable Units shall remain affordable in perpetuity, and the Project shall remain rental housing as long as it exists. Applicant shall provide the ZBA and the Building Department with documentation of the filing of this decision or a copy of the decision with all recording information thereon.
- 6.5 The Applicant's property Management Agent shall be Winn Residential (Management Agent). Winn Residential shall also serve as Lottery Agent and shall cooperate with the Bedford Housing Partnership or its designee in this capacity. Any change in the Lottery Agent and/or Management Agent shall be subject to the Board's approval.

CHAPA or an alternate Board-approved Monitoring Agent shall serve as the Monitoring Agent for the project. Prior to conducting the lottery, the Applicant shall submit a final Lottery plan to the Monitoring Agent for its review and approval. The Applicant or designee shall simultaneously submit a copy of a final Lottery Plan to the Bedford Housing Partnership for its review and comments, but not approval. The Applicant shall pay all Monitoring Agent costs throughout the life of the Project.

To the maximum extent permitted by law, the Applicant or designee shall market and give preference to renting affordable units to persons with a "Bedford preference". Bedford preference is defined as someone who meets one or more of the following criteria:

1. Present resident of Bedford;
2. Past resident of Bedford;

3. Current municipal employee of the Town of Bedford;
4. Parent of a Bedford resident as defined in 1. above;
5. Child of a Bedford resident as defined in 1. above;
6. Past or present enrollment of a member of the household in the Bedford Public Schools, including METCO students;
7. Active duty military personnel currently stationed at Hanscom Air Force Base.

Prior to the advertising of the Lottery Process, the Applicant or designee shall review its local preference selection procedures with the Bedford Housing Partnership or its designee to ensure compliance with this condition. The definition of "Bedford preference" may be modified as needed based upon the mutual and written agreement of the Town and the Monitoring Agent. However, any such modifications must be done in a timely manner so as to not impede any lottery activities or the rental of any affordable unit.

- 6.6 A Regulatory Agreement consistent with the terms and conditions of this Comprehensive Permit shall be submitted to the Town of Bedford Board of Selectmen for its review and approval.
- 6.7 Applicant shall rent affordable units simultaneously with market rate units. To make this possible, the Applicant shall prepare and submit all Lottery-related materials in a timely manner and will conduct the Lottery in a timely manner.
7. Site Design
 - 7.1. The site layout, including all setbacks from property lines, shall conform to the Project Plans as modified by this Decision.
 - 7.2 Landscaping shall be carried out substantially as shown on the Project Plans. A final landscaping plan, including species, sizes, quantities, and planting details, for all trees and plant materials shall be submitted as part of the Building Permit application process.

- 7.3 There shall be a maximum of 279 parking spaces, of which 80 spaces are located in garages below Buildings 4,5, and 6; 24 spaces are located in the three free standing parking garages, and 175 spaces are surface parking. In the event that the development contains less than 164 units, the number of parking spaces shall be reduced to maintain a ratio of 1.7 spaces/unit.
- 7.4 In lieu of a permitted rental sign, community identification shall be permitted for Heritage on the stone walls to be built at the entrance to Heritage at the Middlesex Turnpike. The sign shall be constructed and illuminated with ground mounted lights in accordance with the sketch plan prepared by The MZO Group dated May 26, 2005. There shall be no time limitation on the illumination as the illuminated sign will help direct residents and visitors safely to the driveway entrance. However, the illumination must otherwise comply with the subject Bylaw. The total sign area shall not be greater than 20 square feet (approximately 10 feet by 2 feet) on each of the two entrance stone walls. A final sign plan conforming to the referenced sketch shall be submitted as part of the building permit application process. The stone walls shall be set back so as not to obstruct the sight lines on Middlesex Turnpike.
- 7.5 Applicant shall design and implement a storm water infiltration system and storm water management system that meets the State standards for control of storm water runoff.
- 7.6 Prior to the issuance of a Building Permit, Applicant shall execute a legal agreement, acceptable to Town Counsel, giving Applicant permission from the abutting property owner on the westerly side (commonly known as 54 Middlesex Turnpike) to use in perpetuity as a secondary access/egress a proposed access roadway on the westerly side of the project between Buildings 2 and 3 connecting with Middlesex Turnpike north of the subject property site.
- 7.7 Prior to the issuance of a Building Permit, Applicant shall make best efforts to execute a legal agreement, acceptable to Town Counsel, giving Applicant permission from the abutting property owner on the southerly side (commonly known as 44 Middlesex Turnpike or the Renaissance Bedford Hotel) to construct and use an emergency driveway on the southerly side of the project near Building 1 and

connecting with Middlesex Turnpike south of the subject project site.

8. Storm Water Management/Environmental Impact

- 8.1 On-site snow storage areas shall be located so as not to create run-off onto abutting property or wetlands. A Snow Storage plan has been submitted. [87]. However, the referenced Snow Storage plan was based upon an earlier site plan and must be updated to be consistent with the current approved plan. The revised Snow Storage plan must be submitted as part of the Building Permit application process. The Conservation Commission is authorized to further modify the snow storage plan.

9. Town Services

- 9.1 The Applicant shall comply with all Federal, State and Local requirements for the installation of fire suppression/detection systems throughout the complex. The Applicant shall address the Bedford Fire Department's fire suppression concerns as directed by the department.
- 9.2 The Applicant, its successors or assigns shall accept full responsibility for all maintenance of driveways, sidewalks and emergency access areas, including snow removal within the development and emergency access.
- 9.3 The Applicant, its successors or assigns shall accept full responsibility for refuse removal from the development and recycling services. The Applicant shall provide a recycling operation area. The Applicant has provided information on the proposed type of compacter. The location and screening of the compacter shall be as shown on the Project Plans with additional details provided in the final site plan submitted as part of the building permit application process.

10. Detailed Building Plan Review

- 10.1. Prior to issuance of a building permit, the Applicant shall submit a detailed set of architectural and engineering plans (including landscaping plans) acceptable to the Town of Bedford Building Inspector. Said plans shall be in compliance with all conditions of this Decision and all building code requirements, including handicap access requirements.

- 10.2. Changes in the plans following the issuance of this decision shall be identified by the Applicant and submitted to the Town of Bedford Building Inspector, who may approve minor changes. If the Building Inspector, in his opinion, determines that the proposed change is a major change, the Applicant shall appear before the Board and present the change pursuant to Chapter 40B and its regulations.
- 10.3. Any substantial changes or modifications to this Comprehensive Permit shall only be made by the Board upon written request and upon holding a public hearing in accordance with the Comprehensive Permit Rules of the Town of Bedford and the provisions of Mass. Gen. Laws c.40B, §21 and the provisions of 760 CMR 31.03. The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such a substantial change, and will then determine whether the change or requested relief is to be approved and the decision amended accordingly. "Substantial change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 31.03 (2(a)). If it deems necessary, the Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed changes.
- 10.4 A construction-phasing and construction mitigation plan shall be submitted with the final construction plans for approval by the Town of Bedford Building Inspector. The construction mitigation plan shall include, but not be limited to, a phasing plan, including a schedule for inspections, measures to control erosion and sedimentation, types and numbers of vehicles and vehicle trips involved with construction, tree and brush clearing and grading and general site mitigation measures.

During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 7:00 p.m.; construction shall not commence on Saturdays before 8:00 a.m. and shall not continue beyond 6:00 p.m. There shall be no construction on any Sunday or federal legal holiday. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing;

grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures

- 10.5 Prior to any site work, if necessary, a street opening permit shall be obtained from the Department of Public Works. In addition, a water and sewer permit must be obtained prior to the issuance of each building permit in accordance with condition 4.2 above.
- 10.6 Applicant must submit a written commitment that the Subsidizing Agency has approved construction and permanent financing for the Project and issued Final Approval.
11. Limited Dividend Restriction/Cost Certification/Monitoring Agent Requirements
- 11.1 The Applicant's profits shall be limited to no more than ten percent (10%) of equity as defined in accordance with applicable Chapter 40B guidelines. All cost certification and limited dividend reporting requirements shall be prepared in conformance with M.G.L. c. 40B cost certification and limited dividend return reporting requirements. Copies of all required cost certification reports shall be submitted annually to the Town of Bedford.
- 11.2 Any limited dividend return that exceeds the maximum allowable 10 percent limited dividend return as regulated under the Chapter 40B limited dividend requirements shall be paid to the Town of Bedford for deposit in the Affordable Housing Fund.
- 11.3 The Monitoring Agent for this project shall be CHAPA or an alternate Board-approved Monitoring Agent. The Applicant has agreed to enter into an agreement with an entity to serve as the Monitoring Agent to monitor the limited dividend restrictions imposed under Chapter 40B, and to monitor compliance of the development with the Comprehensive Permit, including eligibility requirements for the Affordable Units. The Applicant has agreed that the content and format of such agreement, when executed, shall be subject to approval by the Board of Selectmen and shall be submitted and approved prior to the issuance of any building permit.

Should the Monitoring Agent be dissolved or become incapable of fulfilling its obligation, or if the

Monitoring Agent consistently fails to exercise reasonable care and diligence in carrying out its responsibilities, the Town and the Applicant or its successor shall have the right to mutually appoint a successor to serve as Monitoring Agent.

12. Maintenance of Storm Drainage System

- 12.1 The Applicant shall be responsible for the annual maintenance of the drainage system. The detention basins shall be inspected at least twice annually, once in the Spring and once in the Fall, and immediately after heavy rainfall events to ensure that they are operating as intended. Inspection and maintenance of the detention ponds shall include inspection of the inlet and outlet structures, and the removal of any accumulated sediment. Detention basins shall be mowed at least twice a year, and all brush leaves and clippings shall be removed immediately from the site. Catch basins shall be cleaned at least twice a year with a vacuum truck and the street swept annually, in the early spring after the street sanding is likely to have ended.

In the event that the Town determines that the Applicant has materially failed in its obligation to maintain the drainage system in accordance with the above conditions and the operations and maintenance plan to be submitted by the Applicant to the Conservation Commission, the Town shall have the right, upon written notice to the Applicant (and the Applicant's subsequent failure to remedy the maintenance issue within fifteen (15) days of notice thereof,) to enter upon the Site to perform the required maintenance. All costs incurred by the Town in connection with its performance of such required maintenance on the Site shall be reimbursed by the Applicant to the Town within thirty (30) days of Applicant's receipt of the Town's invoice for such costs.

13. Project Impact and Needs

- 13.1 The Applicant shall contribute upon the issuance of the first building permit, the sum of ten thousand dollars (\$10,000) to the Town of Bedford to help fund a study of the Middlesex Turnpike corridor in Bedford, particularly in reference to the impact and needs of the subject project and other proposed residential and commercial developments along this corridor.

14. Other Conditions

- 14.1 The Applicant shall use 100 percent organic, slow-release lawn chemicals and no more than a 10% salt mixture for snow/ice removal operations.
- 14.2 All snow storage shall be outside the 25-foot buffer zone. No salt shall be permitted for treatment of stored snow.
- 14.3 The Applicant shall provide certification to the Building Inspector that all fill deposited on the site is free of hazardous material as frequently as reasonably determined by the Building Inspector.
- 14.4 The Applicant shall seek the advice of the Bedford Arbor Resource Committee in identifying trees on the site that the Applicant should attempt to save.
- 14.5 In accordance with the recommendation of the Bedford Board of Health, the Applicant shall submit to the Board of Health and implement a reasonable mosquito control plan. Said mosquito control shall be in a manner consistent with the recommendations of the regional mosquito control project (East Middlesex Mosquito Control Project, Waltham, MA).
- 14.6 The Applicant shall make a fifteen thousand dollar (\$15,000) contribution to the Bedford School Department upon the issuance of the initial building permit. Said funds are to be used at the Bedford School Department's direction for educational scholarships.
- 14.7 The Applicant shall hold the Town of Bedford Fire Department harmless from any damage caused by having to operate fire equipment vehicles in reverse drive in the parking lot in front of Building 1 due to the present inability to connect to the adjacent hotel property at 44 Middlesex Turnpike or to otherwise operate vehicles in a forward direction from this location.

15.0 General

- 15.1 The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of Heritage Middlesex Turnpike LLC, and the obligations shall run with the land. In the event that the Applicant sells, transfers or assigns

any of its interest in the Project, this Comprehensive Permit shall be binding upon the purchaser, transferee or assignee. The provisions and limitation of the Limited Dividend Organization shall apply to the Project regardless of sale, transfer or assignment. The final Project audit shall include all costs, profits and fees incurred as part of all sales, transfers or assigns. The affordability component conditioned herein and within the Regulatory Agreement shall survive foreclosure and bankruptcy of the Applicant, its successors, and assigns during the construction and operation of the project.

16. Lapse

16.1 In accordance with the powers conferred on the Board by 760 C.M.R. 31.08(4), if construction authorized by this decision has not commenced within three (3) years of the date on which this Decision becomes final, the permit granted by this decision shall lapse. Commencement of construction shall be defined as commencement of work on utilities and/or roadways. Notwithstanding this condition, the Board may grant an extension of this deadline on a written request from the Applicant.

17. Recording

This Decision with its conditions shall be recorded with the Middlesex South Registry of Deeds. The decision shall run with the land and be binding on the Applicant and/or its successors or assigns and shall be recorded senior to any other liens. Notwithstanding the above, this decision is conditioned on the Applicant or its designee obtaining a fee simple interest in the Property.

END OF CHAPTER III

REGISTRY OF DEEDS
SOUTHERN DISTRICT
ATTEST:

Eugene C. Brune

REGISTER