

TOWN OF LEXINGTON  
BOARD OF APPEALS  
DECISION

Subject Property: Land located at intersection of Wood Street and  
Hartwell Avenue  
Map 74, Lots 1C and 2 and Map 73, Lot 10B

Applicant: Katahdin Woods Limited Partnership

Hearing Dates: January 23, 1986, February 27, 1986

Pursuant to notice in the Lexington Minute-Man, a newspaper of general circulation in the Town of Lexington, published on January 9 and 16, 1986, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, and mailed to all Town Meeting Members, the Lexington Housing Authority and LEXHAB, a public hearing was held on January 23, 1986, continued to February 27, 1986, in Estabrook Hall, Cary Memorial Building, on the application of Katahdin Woods Limited Partnership, filed on December 30, 1985, for a comprehensive permit, pursuant to Massachusetts General Laws, Chapter 40B, Sections 20 through 23 (the "Act"), authorizing the Applicant to construct and operate a residential development to be known as "Katahdin Woods Apartments" on approximately 11.97 acres of land located at the intersection of Wood Street and Hartwell Avenue, shown on Town Property Map 74, Lots 1C and 2, and Map 73, Lot 10B (the "Project").

Acting on the petition were: Chairman Thomas G. Taylor, Vice Chairman Natalie H. Riffin, Anne R. Scigliano, and Associates Susan Beck and Mary Miley. Prior to the hearing, the application and supporting data were reviewed by the Board of Selectmen, Planning Board, Town Engineer, Conservation Administrator, Building Commissioner, Health Director, Fire and Police Departments, Chairman of the Lexington Housing Authority, and other officials. Communications, reports and recommendations were received from the Board of Selectmen, Planning Board, Town Engineer, Conservation Commission, Lexington Historical Commission, Fire Department and Lexington Housing Authority, and interested citizens. The Board viewed the Project site and examined its location, layout and physical characteristics, and the surrounding neighborhood.

At the January 23, 1986 hearing, the Applicant (represented by

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its General Partner, Arthur Ullian and his attorney, Erik Lund) and its consultants (Charles Tseckares, Childs, Bertman, Tseckares & Casentino, Inc., principal architect; William Carlson, BSC Engineering, traffic engineer; David Crispin, BSC Engineering, wetlands and drainage engineer) presented the proposal to the Board. Mr. Tseckares began with an overview of the project site plan indicating the proposed locations of the five 2-1/2 story walk-up buildings and eight 2-1/2 story townhouse buildings and parking areas. Of the total of 128 units, 40 will be one-bedroom units, eight to be occupied by low- or moderate-income families; 80 will be two-bedroom units, 12 to be occupied by low- or moderate-income families; and eight will be three-bedroom townhouses, six to be occupied by low- or moderate-income families. The breakdown of low- and moderate-income units has been modified from that which was included in the Application, Exhibit H, in order to provide for a greater percentage of affordable units suitable for larger families. Mr. Tseckares followed with a presentation of several plans detailing the proposed front, side and rear building elevations which included many details reflective of traditional New England design. In addition, Mr. Tseckares noted that the interior roadways were designed to accommodate the expected traffic flow while minimizing the need to change the topography.

Mr. Crispin then discussed the design of the surface water drainage system and the Applicant's proposal to alter the size of the metal plate in the drainage control structure at the retention basin to allow for the added run-off from the Project. Projected traffic impacts both onto Wood Street and Hartwell Avenue were discussed by Mr. Carlson, with particular emphasis on those impacts during the morning and afternoon peak hour periods.

An open discussion followed the presentations with many Town residents raising questions concerning a number of aspects of the Project, including traffic impacts, the proposed building heights, and overall project density. At the conclusion of the meeting, the Board voted to continue the hearing until February 27 in order to receive recommendations from the Board of Selectmen, the Conservation Commission and the Planning Board. Written responses were received from the Boards prior to the February 27 meeting, each of which recommended approval of the application for a comprehensive permit with conditions. Representatives of Town boards spoke at the February 27 hearing.

In addition to the plans filed with the Application, Applicant submitted to the Board on January 29, 1986 a series of engineering plans (Site Analysis Plan, dated January, 1986; Site Layout Plan, dated January, 1986; Profile Plan (not official title), dated January, 1986; Site Details Plan, dated January, 1986, and Preliminary Drainage Plan, dated October 30, 1985, as revised on November 11, 1985 and December 27, 1985) and supporting Site Analysis Data report, dated January 23, 1986. On January 30, 1986, Applicant submitted an Illustrative Site Plan dated January

1986 and on February 27, 1986, a plan showing the location of the proposed footpath. (All of the above-described plans, including the plans filed with the Application, will be referred to as the "Plans".)

After hearing all the facts and evidence presented at the public hearings, the Board makes the following findings:

#### I. FINDINGS

Applicant has applied for a comprehensive permit, pursuant to the provisions of the Act, to facilitate the construction of 128 apartments on approximately 12 acres at the intersection of Wood Street and Hartwell Avenue, twenty percent (20%) of the units being reserved for low- and moderate-income households (hereinafter called "affordable units"), together with a community building, pool, parking and landscaped areas, all as more particularly set forth in the Application, and as shown on the plans submitted to the Board as part of the Application.

Applicant has received preliminary site approval by the Massachusetts Housing Finance Agency (see Application, Exhibit D). In addition, Applicant has expressed the intention of filing a request for Official Action Status with the Lexington Housing Authority, under the guidelines of the TELLER Program as administered by the Executive Office of Communities and Development (EOCD). If the Project is so financed under the guidelines of the TELLER Program by the Lexington Housing Authority, such change shall not be considered a substantial or material alteration from the Application as submitted. Applicant now has the Project site under an Option Agreement with Spaulding & Slye Company, which has an Option Agreement with the present owners of the site (See Application, Exhibit C).

The number of affordable housing units presently existing in Lexington is below the standards of Section 20 of the Act. Currently, EOCD estimates that the Town of Lexington has an unmet need of 164 elderly units and 1,168 low- to moderate-income family units as set forth in Applicant's Application (page 15). The addition of the Project to the Lexington rental market, including a number of affordable three-bedroom townhouse units designed for larger families, would help alleviate this unmet need.

The design of the Project has been carefully planned with input from the Planning Board to follow the slope of the site, thereby decreasing the apparent height of the buildings as viewed from the abutting properties. Each of the parking areas has been planned in a delineated cluster with vegetated partitions to provide adequate screening and avoid the massing of a large number of vehicles in any one area. The building exteriors feature wood clapboard siding, and outdoor terraces and balconies, the combination of which is expected to create an aesthetically pleasing environment in which to live. Applicant has submitted a

detailed professional traffic analysis (see Application, Exhibit J), which indicates that the additional traffic generated by the Project will not significantly impact the existing level of service experienced in the area. The Project is designed to protect the health and safety of the occupants and to promote better and appropriate site and building design in relation to the areas surrounding the Project Site.

The Lexington Historical Commission and many residents expressed concern about the preservation of the "Cutler" farmhouse, one of the few remaining pre-revolutionary era dwellings in Lexington, and presently located on the Project site. The Cutler house belongs to the Cosgrove family, which is the present owner of the Project site. The Board received a letter from a member of the Cosgrove family stating that the family has made arrangements to move the house to another lot on Wood Street owned by the family. At the hearing, the Applicant indicated its willingness to facilitate the removal and preservation of the Cutler house.

A major concern of the residents of the neighborhood is the traffic impact of the Project on Wood Street and Hartwell Avenue. Traffic generated by Hanscom Air Force Base and the commercial development on Hartwell Avenue now causes very severe peak hour congestion. The Town has been working with the State for several years on plans to alleviate congestion through road improvements at the Bedford Street-Hartwell Avenue intersection. The Project will clearly contribute to traffic problems in the area, but based on the conclusions in the BSC Traffic Analysis, it appears that the impact from the Project is not of such magnitude as to justify denying a permit. Serious reservations were voiced by members of the Board, by representatives of Hartwood Limited Partnership and by the Planning Board over the proposal of the Applicant to connect to and use as a regular access to Hartwell Avenue the driveway on property of Hartwood Limited Partnership. To the extent that occupants of the Signatron building use the Project driveways for access to Wood Street, there will be a violation of Section 5.6 of the Zoning By-Law. And, safety concerns are raised about the use by Project residents of a driveway designed to serve a commercial building. Because of these concerns, the Applicant has agreed by letter dated March 11, 1986 to modify its proposal to eliminate use of this access except for emergency vehicles.

Based on all of the materials presented, the Board finds that the conditions for granting the Comprehensive Permit have been met:

1. Applicant is a "limited dividend organization" within the meaning set forth in the Act and the regulations promulgated in connection therewith, as indicated by the Partnership Agreement, an amended version of which is set forth in the Application, Exhibit B.
2. Applicant is proposing to construct low- and moderate-

income housing to be financed through the Massachusetts Housing Finance Agency or the Lexington Housing Authority.

3. The granting of the Comprehensive Permit is "reasonable and consistent with local needs", as that term is used in the Act. The Project is reasonable and consistent in view of the need for low- and moderate-income housing for Lexington residents and the need to protect the health or safety of the occupants of the Project.
4. The Board is of the opinion that all the conditions that are required for the granting of a Comprehensive Permit pursuant to the provisions of the Act have been met.

## II. DECISION

The Board unanimously grants to the Applicant only, a comprehensive permit to construct and operate the Project in accordance with the Application and the Plans and grants all local permits and approvals necessary to facilitate such construction, subject to the following conditions:

## III. CONDITIONS OF PERMIT

1. The affordable units shall be 8 one-bedroom units, 12 two-bedroom units, and 6 three-bedroom units, or such higher number as may be required by the Lexington Housing Authority pursuant to the TELLER or other applicable subsidy program (hereinafter called the "Affordable Units").
2. Upon the expiration of the period during which Applicant will be required under any applicable subsidy program to rent at least twenty-six (26) units in the Project to low- and moderate-income households, as defined under the guidelines established by the regulations of the applicable subsidizing agency (the "lock-in period"), the Applicant (which term shall include any successor to Applicant as owner of the Project) shall offer to sell at least twenty-six (26) units (comprised of eight (8) one-bedroom, twelve (12) two-bedroom and six (6) three-bedroom units) to the Lexington Housing Authority or to the Town of Lexington or its designee. The price of each unit shall be a proportionate share of the total development costs of the Project determined by a fraction having as its numerator the square-foot area of the unit and as its denominator the total square-foot area of all units in the Project. The development costs shall be those costs as established by the Lexington Housing Authority pursuant to the TELLER Program regulations, or established under any other applicable subsidy program, plus (a) the costs of making the units ready for sale including conversion of the Project to condominiums, and (b) any federal and state income taxes assessed against

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the Applicant as a consequence of the sale. Federal and state income taxes shall be determined on the basis of the tax laws in effect as of the date of this permit. The Applicant shall within six (6) months of the date on which all units in the Project are occupied furnish to the Town Manager financial data showing the initial development costs. The financial records of the Project shall be available for inspection by such individuals as designated by the Town Manager. The Town Manager and the Applicant shall establish the purchase price for each unit or unit type to which this provision relates.

3. If the Applicant elects to continue operation of the Project as rental housing beyond the expiration of the lock-in period, the affordable units shall be maintained as affordable units during such period and the Applicant shall not be required to offer the units to the Town as required by Paragraph 2 above; provided, however, that the Town or an agency it designates may purchase the units at the price defined in Paragraph 2 above whenever they are offered for sale by the Applicant.
4. All site improvements, landscaping and access ways shall be constructed in accordance with the Plans, or such other revised Plans as this Board may subsequently approve. The construction details of the buildings may be different from those shown on the Plans, but they must conform to the State Building Code. The buildings shall be in the approximate locations as shown on the Plans and the general appearance of the dwelling units with respect to massing, exterior materials and detailing as shown on the Plans shall be maintained. Any change in the number, size and type of dwelling units, and any changes in building type shall be considered a substantial change and shall require an amendment of this permit.
5. ~~The Applicant shall contribute to the Town of Lexington a sum of not less than \$25,000.00 to be used by the Town for engineering, design and construction costs for public improvements in the vicinity of the Project for pedestrian and vehicular safety.~~
6. The Applicant shall construct to Town specifications a pedestrian sidewalk on its property along Wood Street from the intersection of Hartwell Avenue to Applicant's southeasterly property line. Construction of the sidewalk shall be completed prior to occupancy of the Project.
7. The Applicant shall improve the existing bridle path as a footpath from the interior drive to the Katahdin Woods Conservation Area, as shown on the Plans. Prior to the issuance of any occupancy permits for the Project, the

Applicant shall grant to the Town a conservation and public walking easement in form acceptable to Town Counsel.

8. Prior to the issuance of any occupancy permits for the Project, the Applicant shall grant to the Town a conservation restriction over the wetlands and adjacent buffer area, as shown on the Plans, in form acceptable to Town Counsel.
9. Prior to the commencement of any earthwork on the site, the Applicant shall erect a snow fence at the limit of work which will be maintained throughout construction. Applicant will protect the trunks of all trees six (6) inches in diameter or larger which are intended to be saved within the limits of work with boards strapped to the trunk.
10. Sodium chloride and potassium chloride shall not be used on the site for road de-icing purposes.
11. It is the intention of the Board that rent levels for the Affordable Units shall be the lowest levels permissible. Where the regulations for the applicable subsidy program permit a range of rent levels for an Affordable Unit, the rent levels shall be set at the lowest levels permitted by the regulations. In the event this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program, such regulations shall control to the exclusion of this condition.
12. The Applicant shall offer the Affordable Units to low- and moderate-income households. Vacant units shall be offered first to:
  - a. Qualified persons holding Section 8 or Section 707 certificates or comparable rent supplement certificates, low-income households on a list maintained by the Lexington Housing Authority, or, in the case of dwelling units in the moderate-income range, to moderate-income households on a list maintained by LEXHAB, and then to
  - b. Low-income or moderate-income households who apply directly to the Applicant provided the Applicant furnishes documentation satisfactory to the Lexington Housing Authority and LEXHAB and such agency makes a determination that the household qualifies as either low-income or moderate-income. In addition, the Applicant shall apply directly, or request the Lexington Housing Authority to apply, to the state for additional certificates if necessary to fill the available units.

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In the event this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program, such regulations shall control to the exclusion of this condition.

13. The project shall conform to the provisions of subsection 9.3.2 of the Lexington Zoning By-Law requiring two means of access to the Project for emergency vehicles. The proposed access road through abutting land of Hartwood Limited Partnership shall not be used as an access road by residents of the Project, but shall be limited to use for fire and other emergency vehicles. A locked barrier, the design and operation of which shall be approved by the Fire Chief, shall be installed to prevent use of the road by the public. Prior to the issuance of a Building Permit, Applicant shall provide evidence, satisfactory to the Town Counsel, that it has the right to construct and use an access road across land of Hartwood Limited Partnership.
14. This permit shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six months of this date; however, for cause, one or more extensions of time, for periods not exceeding six months each, may be granted. Work under this permit must proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances.

Dated this second day of April, 1986.

Thomas G. Taylor  
[Signature]  
[Signature]  
Susan S. Beck  
[Signature]

LEXINGTON, MASS. JUN 2 1987

A TRUE COPY ATTEST:

Mary Anne Harr

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LEXINGTON BOARD OF APPEALS DECISION

Hearing date: 10/23/66

This constitutes the record of the Board of Appeals Decision relative to:

Subject Property: Wood Street & Hartwell Avenue

Petitioner/s: Katardin Woods Apartments

BOARD OF APPEALS OF LEXINGTON (Acting under the Lexington Zoning By-law, Lexington General Town By-laws, and the General Laws of Massachusetts, Chapter 40A)

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TOWN CLERK  
LEXINGTON, MASS

[Signature]

[Signature: Arthur K. Scapione]

[Signature]

[Signature: Robert M. Gray]

[Signature: Robert H. Ruffin]  
Chairman

I, Elinor Greenway, Administrative Clerk of the Board of Appeals, certify that copies of the decision have been filed with the Town Clerk of Lexington and the Planning Board.

[Signature: Elinor Greenway]

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In accordance with Mass. G.L., Ch. 40A, 5511, no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the city or town clerk and no appeal has been filed or that if such appeal has been filed, it has been dismissed or denied, is recorded in the registry or deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

LEXINGTON, MASS.  
A TRUE COPY ATTEST:

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TOWN OF LEXINGTON  
DECISION OF THE BOARD OF APPEALS

Subject Property: Wood Street and Hartwell Avenue  
Applicant: Katahdin Woods Limited Partnership  
Hearing Date: October 23, 1986

Pursuant to notice in the Lexington Minute-Man, a newspaper of general circulation in the Town of Lexington, published on October 9 and 16, 1986 and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, a public hearing was held on October 23, 1986, in the Town Office Building on the petition of Katahdin Woods Limited Partnership, filed on October 1, 1986, for a six-month extension of the comprehensive permit granted April 2, 1986, to construct and operate a residential development to be known as Katahdin Woods Apartments at the intersection of Wood Street and Hartwell Avenue.

Acting on the petition were: Chairman Natalie H. Riffin, Vice-Chairman Robert W. Gary, Anne R. Scigliano, Clarence D. Turner, and Associate Member Robert V. Whitman. Prior to the hearing the petition and supporting data were reviewed by the Building Commissioner, Conservation Administrator, Town Engineer, Health Director, Planning Board and Board of Selectmen. The Planning Board recommended that the applicant be granted only one extension of not more than six months, in the interest of getting the development, with its affordable housing, underway as soon as possible.

Petitioner submitted a request to extend the comprehensive permit for six months because of the suspension of all tax exempt revenue bond financing on a national level due to uncertainties surrounding the provisions of the Tax Reform Act of 1986. With the passage of the Act, they expect to obtain the required financing and to commence construction within the next few months.

Prior to the hearing a letter was received from William Casper of Boston Investment and Development Company requesting a postponement of the hearing until November 13, 1986, due to a scheduling conflict of the partners of Katahdin Woods. At the hearing Jeff Goodman represented B.I.D.C to request the postponement. James McLaughlin, Chairman of the Lexington Housing Authority spoke in opposition to the postponement and in favor of granting the extension. He said that the Lexington Housing Authority is anxious to get the project underway. Attorney Francis Kiley representing the owners of the property, Mr. and Mrs. James Cosgrove, also spoke in opposition to the postponement and in favor of granting the extension.

Finding and Decision

The Board unanimously denied the request for postponement to November 13, 1986, and decided to consider extending the comprehensive permit for six months.

In a decision of the Board of Appeals dated April 2, 1986, the Board unanimously granted a comprehensive permit to construct and operate the

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Hood Street and Hartwell Avenue, Katahdin Woods Limited Partnership

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Katahdin Woods project. This permit would be deemed abandoned and invalid unless the work authorized by it shall have been commenced by October 2, 1986, six months after the granting of the permit. However, Condition No. 14 allowed, for cause, one or more extensions of time for periods not exceeding six months each. It was the unanimous opinion of the Board that the Katahdin Woods Limited Partnership had shown good cause why the financing and construction had been delayed.

The Board, by unanimous vote, granted the six-month extension to the comprehensive permit requested, starting on October 2, 1986. The six-month extension will expire on April 2, 1987.

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TOWN OF LEXINGTON  
DECISION OF THE BOARD OF APPEALS

JUN 9 1987

Subject Property: Wood Street and Hartwell Avenue  
Applicant: Katahdin Woods Limited Partnership  
Hearing Date: March 19, 1987

Pursuant to notice in the Lexington Minute-Man, a newspaper of general circulation in the Town of Lexington, published on March 5 and 19, 1987, and notice sent by mail, postage prepaid, to all interested parties pursuant to the provisions of Massachusetts General Laws, a public hearing was held on March 19, 1987, in the Town Office Building on the petition of Katahdin Woods Limited Partnership ("Applicant"), filed on March 3, 1987, (1) for an additional six-month extension, to October 2, 1987, of the comprehensive permit granted April 2, 1986, to construct and operate a residential development to be known as Katahdin Woods Apartments at the intersection of Wood Street and Hartwell Avenue, (2) to approve a change in the subsidy program and (3) to approve revisions to the plans.

Acting on the petition were: Chairman Natalie H. Riffin, Anne R. Scigliano, Thomas G. Taylor, Clarence D. Turner and Associate Member Mary W. Miley. Prior to the hearing, the petition and supporting data were reviewed by the Building Commissioner, Conservation Administrator, Town Engineer, Health Director, Planning Board, Board of Selectmen and Fire Department. The Planning Board had no objection to the request for a six-month extension. They had no comment on the plan revisions proposed as they were unable to determine from the information submitted the extent of change from what was originally approved in the comprehensive permit. The Conservation Commission requested that the Board not approve changes in the site plan until both the Conservation Commission and other interested boards could review the plans with the developer and in the field.

Applicant submitted with the application a letter dated March 2, 1987, explaining the revisions to the design, a copy of Executive Order No. 270 entitled "Allocation of Low Income Rental Housing Tax Credit Cap", and architectural and site drawings dated 2/26/87. A letter was received from Hartwood Limited Partnership, the closest abutter, objecting to the proposed revisions.

The Applicant was represented at the hearing by Arthur Ullian, Robert Kargman and William Casper of Boston Investment & Development Company, Richard Brimley of Eisenberg/Haven Associates, David Crispin of BSC Engineering and Attorney Erik Lund. The Applicant submitted a letter from Amy Anthony, Secretary of the Executive Office of Communities & Development, dated 3/8/87, expressing interest in their application to receive a reservation of the 1988 Tax Credit Cap. The hearing was continued to April 9, 1987, to allow Applicant to submit revised grading and site plans.

LEXINGTON, MASS. JUN 9 1987  
A TRUE COPY ATTEST:

*Bonnie H. Fackel*

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Katahdin Woods Limited Partnership, Wood Street &amp; Hartwell Avenue 2

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Prior to April 9, 1987, revised site and grading plans dated 3/27/87 and a letter from Ron Lawson of BSC detailing the revisions were submitted by the Applicant. The Planning Board requested that the Board not make a decision on April 9th and continue the hearing to a later date. They expressed concern with the new financing source and said that the changes to the plans would require thorough analysis by the Planning staff and Conservation Commission. The Conservation Commission held a hearing on April 21, 1987, with the Applicant and requested the Board of Appeals continue their hearing until Conservation could provide the Board with their input. The Fire Chief reviewed the plans and is in agreement with the 12-foot wide emergency roadway and gate to the rear of the complex via the Signatron driveway. He emphasized that the roadways and gate be kept clear of snow during the winter. The Health Director said that pool facilities need complete Board of Health approval and that the results of any 21E study need to be submitted to the Health Department. The Engineering Department did not have a chance to review the revised plans before the April 9th hearing. A letter was received from William Spencer, a member of the Lexington Housing Authority, dated March 26, 1987, expressing concerns about the changes in the financing mechanism. A copy of Erik Lund's letter of April 2, 1987, replying to the Spencer letter was sent to the Board.

At the hearing on April 9 Applicant submitted a letter from Amy Anthony, EOCB, dated April 9, 1987, informing Applicant that \$216,192 of the low-income housing tax credit available in 1988 is being reserved for the project and outlining the conditions. A letter from Erik Lund dated April 9, 1987, responding to the Planning Board concerns was given to the Board. As requested by the Conservation Commission and the Planning Board and with the concurrence of the Chairman of the Lexington Housing Authority, the hearing was continued to Thursday, April 23, 1987, to allow for these boards and the Town Engineer to review and report on the revised plans.

Prior to the April 23rd hearing two reports dated 4/14/87 and 4/15/87 were received from the Town Engineer objecting to the new grading proposed for the front of the buildings and requesting an additional manhole on the 8" sewer line. Revised plans were submitted by Applicant with a letter dated 4/16/87 in response to the Town Engineer's concerns. In a memorandum dated 4/17/87 the Town Engineer stated that the plans with a revision date of 4/15/87 satisfied the requests contained in the reports cited above. The Planning Board submitted recommendations dated April 21, 1987, including an analysis of the revised site development plans. They recommended certain conditions to be included in the Board of Appeal's approval or extension of the comprehensive permit. The Conservation Commission's report dated April 23, 1987, determined that the proposed changes will have no impact on wetlands and agreed to allow the changes without amendment to the Order of Conditions. They did, however, oppose two non-wetland issues: 1) the moving of the roadway and grading adjacent to Katahdin Woods conservation area and 2) the enlarging by one third of the footprints of the four small units near the community building. The latest information on the Tax Credit

LEXINGTON, MASS. JUN 3 1987

A TRUE COPY ATTEST:

*Bruce H. Fitch*

Cap, Executive Order No. 271, and the final draft of the EOCD Low-Income Housing Tax Credit Guidelines dated 3/4/87 were received by the Board.

At the hearing on April 23 Applicant submitted a letter from the Executive Office of Communities & Development dated 4/13/87 committing Chapter 707 rental assistance subsidies to 26 low income units at Katahdin Woods. The following revised plans were reviewed by the Boards of Appeals at the hearing on April 23, 1987: PLANTING PLAN (Drawing No. LA1) as revised 2/26/87, ELEVATIONS dated 2/26/87, COMMUNITY CENTER dated 2/26/87, BUILDING "A" (Drawing No. 201) dated 2/12/87, BUILDING "B" "C" "D" (Drawing No. 203) dated 2/25/87, BUILDING "E" (Drawing No. 205) dated 2/20/87, TYPICAL FLOOR PLAN dated 2/26/87, TOWNHOUSE PLANS AND ELEVATIONS (Drawing No. 207) dated 2/26/87, UNIT PLANS (Drawing No. 301) as revised 2/26/87, UNIT PLANS (Drawing No. 302) as revised 2/26/87, GRADING PLAN (Sheet 101) as revised 4/15/87, SITE UTILITY PLAN (Sheet 102) as revised 4/15/87, SITE LAYOUT PLAN (Sheet 103) as revised 3/26/87, ROADWAY PROFILE (sheet 104) as revised 4/15/87, and CIVIL SITE DETAILS (Sheet 105) as revised 2/26/87.

#### I. FINDINGS

Applicant requests the following amendments to and extension of time with respect to its comprehensive permit dated April 2, 1986:

(1) A determination that, if the Project is financed through the use of the Low Income Rental Housing Tax Credit Cap referenced in Executive Order No. 270 of the Governor of the Commonwealth of Massachusetts dated January 26, 1987, such change shall not be considered a substantial or material alteration from the original application as submitted (the "Application").

(2) A further six-month extension of the comprehensive permit granted April 2, 1986, pursuant to paragraph 14, page 8 of the permit, which is necessary because the Commonwealth's program to allocate low income tax credit cap authority pursuant to the Tax Reform Act of 1986 has only recently been promulgated.

(3) A determination that the revisions to the plans submitted with the Application shall not be considered a substantial or material alteration from the plans previously approved; or, in the alternative, an approval of the revised plans, titled as follows:

- (a) Planting Plan (Dwg.No. LA1) as revised February 26, 1987;
- (b) Elevations dated February 26, 1987;
- (c) Community Center dated February 26, 1987;
- (d) Building "A" (Dwg.No.201) dated February 12, 1987;

LEXINGTON, MASS. JUN 9 1987

A TRUE COPY ATTEST:

*Russell H. Furbush*

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- (e) Building "B" "C" "D" (Dwg.No.203) dated February 25, 1987;
  - (f) Building "E" (Dwg.No.205) dated February 20, 1987;
  - (g) Typical Floor Plan dated February 26, 1987;
  - (h) Townhouse Plans and Elevations (Dwg.No.207) dated February 26, 1987.
  - (i) Unit Plans (Dwg.No.301) as revised February 26, 1987;
  - (j) Unit Plans (Dwg.No.302) as revised February 26, 1987;
  - (k) Grading Plan (Sheet 101) as revised April 15, 1987;
  - (l) Site Utility Plan (Sheet 102) as revised April 15, 1987;
  - (m) Site Layout Plan (Sheet 103) as revised March 26, 1987;
  - (n) Roadway Profile (Sheet 104) as revised April 15, 1987;
  - (o) Civil Site Details (Sheet 105) as revised February 26, 1987.

The Board makes the following findings with respect to each of the Applicant's requests:

(1) The Board finds that financing the project through the Low Income Rental Housing Tax Credit Program established by Executive Order No. 270 of the Governor of the Commonwealth dated January 26, 1987, will not constitute a substantial or material alteration from the Application submitted for the comprehensive permit. The Tax Reform Act of 1986 has made the financing programs contemplated in the original Application no longer feasible.

(2) The Applicant has been forced to postpone the start of construction because of the effects of the Tax Reform Act of 1986 on the financing of projects such as this. The delay has not been due to any fault by Applicant. Town officials and boards are still anxious to have the Project completed, and no detriment to the Town will result from extending the construction start date for another six months.

(3) The revised plans submitted by the Applicant have been reviewed extensively by the Planning Board, Town Engineer, Fire Department, Conservation Commission and other interested boards and officials. The changes in the building design and site development are necessitated by the need to reduce the costs of the Project to make it financially feasible. The Applicant again has been cooperative with Town boards and officials in making changes to satisfy comments and criticisms. The Board finds that none of the proposed changes in the plans constitute a substantial or material alteration of the plans previously approved.

LEXINGTON, MASS. JUN 1 1987

A TRUE COPY ATTEST:

*[Handwritten Signature]*

Ratahdin Woods Limited Partnership, Wood Street & Hartwell Avenue 5

*Town Clerk* *Received* 1987  
*Lexington, Ma.* MAY 8 1987  
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## II. DECISION

Subject to the conditions set forth below, the Board unanimously grants a six-month extension of the comprehensive permit to October 2, 1987; determines that the financing of the Project through the Low Income Rental Housing Tax Credit Program of the Commonwealth of Massachusetts does not constitute a substantial or material alteration from the Application as originally submitted for the comprehensive permit; and determines that the revised plans described above do not constitute a substantial or material alteration from the plans approved with the comprehensive permit.

## III. CONDITIONS OF PERMIT

These conditions shall be in addition to, and not in substitution for, the conditions contained in the comprehensive permit.

1. In accordance with the Low-Income Housing Tax Credit Guidelines issued by the Executive Office of Communities and Development (EOCD) on March 4, 1987, if market rate units are converted to home ownership during the 15-year "lock-in" period, 10% of the units to be sold must be sold to moderate-income families at affordable prices in accordance with EOCD's Homeownership Opportunity Program ("HOP"). This condition deals with that 10% of the market rate units sold during the lock-in period. Prior to offering for sale any market rate unit, Applicant shall first notify in writing the Town Manager and LEXHAB. LEXHAB shall have the option to purchase some or all of the units at the maximum price, as hereinafter defined, provided LEXHAB notifies the Applicant within sixty (60) days of its intention to do so. With respect to any such unit which LEXHAB elects not to purchase, LEXHAB shall have the right within the 60 day period to select a qualified buyer for such unit. With respect to any unit which LEXHAB neither elects to buy nor for which LEXHAB selects a buyer, the Applicant may sell such unit to qualified buyers in accordance with the HOP program. The term "maximum price" shall mean the maximum price at which, under applicable HOP rules, regulations or guidelines, the unit could be sold (a) to a one-person household, such person to be in the lowest income category provided for under said rules, regulations or guidelines, or (b) in the case of a multi-bedroom unit, to a household of the minimum size qualifying for purchase of such unit under said rules, regulations or guidelines and in the lowest income category.

In the event of sales of units other than to LEXHAB, long-term affordability shall be preserved by means of restrictions to be inserted by the Applicant in the deeds for such sales, the restrictions to incorporate all of the limitations on equity realization and all of the requirements for qualification of subsequent purchasers as are contained in applicable HOP rules, guidelines and regulations. LEXHAB shall screen every proposed buyer in order to confirm for the benefit of the Town of Lexington that such limitations and requirements with respect to resale price and buyer qualification are being

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Katahdin Woods Limited Partnership, Wood Street & Hartwell Avenue 6  
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observed and that a certificate from LEXHAB or its assignee evidencing such confirmation be a requirement for each such subsequent conveyance.

If at the time of any sales governed by this condition, the HOP program is not then in existence, the sale of such units shall be governed by the regulations of the HOP program in existence as of the date of this decision. In the event this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program to which the Project is subject, such regulations shall control to the exclusion of this condition.

2. When low-income units are rented to persons not holding Section 8, Chapter 707, or comparable rental assistant certificates, the Applicant shall enter into a one-year lease in a form approved by EOCOD, or if applicable regulations do not require EOCOD approval, in a form approved by the Lexington Housing Authority. Such lease shall provide that the Applicant shall not increase the rent for such low-income units more frequently than once a year except in the event of the termination of a lease and the commencement of a new tenancy. In the event that this condition is inconsistent with or otherwise conflicts with regulations under any applicable subsidy program to which the Project is subject, such regulations shall control to the exclusion of this condition.

3. No tenant in the Project shall be evicted because of conversion to condominium or cooperative form of ownership unless the tenant has received the rights and benefits as set forth in Chapter 527 of the Acts of 1983, as then in effect, notwithstanding that said Chapter may not then be in effect in the Town of Lexington.

4. The Applicant shall provide an annual report to LEXHAB and to the Lexington Housing Authority certifying that the terms of the comprehensive permit are being complied with.

5. The Applicant may alter the layout of the roadway and grading adjacent to the Katahdin Woods conservation area from that shown on the revised plans in order to comply with the first request contained in the letter of April 23, 1987, from the Conservation Commission to the Board of Appeals.

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Waldin Woods  
Wood Street and Hartwell Avenue

## DECISION OF THE LEXINGTON BOARD OF APPEALS

After hearing on the request of the petitioner for a modification of the special permit, modification is hereby granted with the following conditions:

1. That change in mix is temporarily allowed as requested with the understanding that 4 of the 3 bedroom units will remain suitable for inclusion in subsidized housing. These 4 units upon vacancy will be made available by way of first refusal to the Housing Authority so that these units may be put to their original purpose providing there is a 2 bedroom unit with residents qualifying for a subsidized 3 bedroom unit and the 2 bedroom unit may be given back to the petitioner or, should there be a qualified family for a subsidized 3 bedroom unit and a vacancy in a 2 bedroom unit suitable for being returned to the petitioner.
2. The temporary change in mix is granted providing that at the time of converting to condominiums, the mix, as originally approved, remains and as six 3 bedroom units, twelve 2 bedroom units and eight 1 bedroom units being offered to the town for purchase.
3. All market rents leases on the designated 3 bedroom units shall contain a clause indicating that that unit is subject to being offered to the Town of Lexington at the time of conversion as required in the special permit.
4. If, in spite of the inclusion of such a clause in the lease, the petitioner is not able to offer all of said 3 bedroom units to the Town because of the then existant Condominium Conversion Law, then a 2 bedroom unit may be substituted for those 3 bedroom units that are not available.

LEXINGTON BOARD OF APPEALS

BY: 

May 18, 1988

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DESCRIPTION

PARCEL I

That certain parcel of land on Hartwell Avenue in Lexington, Mass., known as Lot 1 as shown on a plan entitled "Lot 4 Plan of Land, Lexington, Mass.", prepared by Harry R. Feldman, Inc., dated May 27, 1987 as recorded with the Middlesex Registry of Deeds on June 19, 1987 as Plan 831 of 1987.

PARCEL II

That certain parcel of land on Hartwell Avenue and Wood Street in Lexington, Mass., known as Lot 35 as shown on a plan entitled "Subdivision Plan of Land in Lexington" dated January 13, 1984 and filed with the Middlesex South Registry District of the Land Court as Plan No. 6686Y.

PARCEL III

That certain parcel of land on Hartwell Avenue and Wood Street in Lexington, Mass., known as Lot 24 as shown on a plan entitled "Subdivision Plan of Land in Lexington" dated December 15, 1961 and filed with the Middlesex South Registry District of the Land Court as Plan No. 6686T.

PARCEL IV

That certain parcel of land on Wood Street in Lexington, Mass., shown as Lot 4 on a plan entitled "Lot 4 Plan of Land, Lexington, Mass.", prepared by Harry R. Feldman, Inc., dated May 27, 1987 as recorded with the Middlesex Registry of Deeds on June 19, 1987 as Plan 831 of 1987.

The above Lots 1 and 35 have the benefit of the Access and Driveway Easements as set forth in Paragraph 1.A. of an Instrument entitled Easement Agreement dated September 28, 1984, recorded in Book 15818, Page 84 and filed as Document No. 668931, as affected by Amendment to Easement dated January 6, 1987 and recorded as Instrument No. 1038 on June 19, 1987 and filed as Document No. 748988, as further affected by Amendment to Grant of Easement dated January 6, 1987, recorded as Instrument No. 1039 on June 19, 1987 and filed as Document No. 749557.