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# TOWN OF WESTON



POST OFFICE BOX 378  
WESTON, MA 02493-0002  
(781) 893-7320  
FAX (781) 891-3697

TOWN CLERK

## CERTIFICATE OF TOWN CLERK

I, M. Elizabeth Nolan, Town Clerk, Town of Weston, herewith certify that attached hereto is a true copy of a decision for a Comprehensive Permit of the Town of Weston, Board of Appeals, rendered March 30, 2004 and filed with the Town Clerk concerning the following described property.

<u>Name of Owner</u>	<u>Location of Property</u>
<b>David Connolly</b>	<b>809-811 Boston Post Road, Weston, MA 02493</b>
	<u>Book No.</u> <u>Page No.</u>
	<b>12553                              255</b>

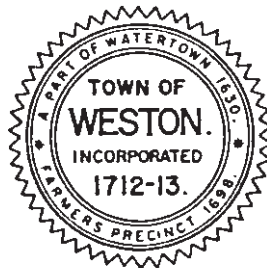
AND I FURTHER CERTIFY that more than twenty (20) days have elapsed since filing of the said decision with me and that no appeal of said decision been filed.

M. Elizabeth Nolan  
Town Clerk  
Town of Weston

March 30, 2004

MEN

R.t.to CAROL SETO  
290 GROVEST.  
FRAMINGHAM  
MA 01701



TOWN OF WESTON  
MASSACHUSETTS

BOARD OF APPEALS

There having been presented to the Board a petition for an application for a Comprehensive Permit dated July 29, 2003 by **Post Road Green LLC/Carol Seto**, 290 Grove Street, Framingham, MA 01701 (herein sometimes referred to as "Applicant") for the property at **809-811 Boston Post Road, Weston, MA 02493**. An extension from Carol Seto to September 15, 2003 was granted and the Board decided to hold a hearing on said petition on Monday, September 8, 2003, at 7:30 P.M. and caused the following notice to be published in The Town Crier, a newspaper of general circulation in Weston on August 21 and 28, 2003.

TOWN OF WESTON  
MASSACHUSETTS

BOARD OF APPEALS

**Hearing Notice**

Notice is hereby given that the Board of Appeals of the Town of Weston will hold a public hearing on **Monday, September 8, 2003, at 7:30 P. M.** in the Weston Town Hall, on an application for a Comprehensive Permit under Massachusetts General Laws, Chapter 40B, Sections 20-23, inclusive, filed by **Post Road Green LLC/Carol Seto**, 290 Grove Street, Framingham, MA 01701 for the property at **809-811 Boston Post Road, Weston, MA** (Map #25, Lot #20) for the development of eight (8) units of home ownership mixed income housing, two (2) of which will meet the standards for affordable housing. The petition and plans are on file with said Board of Appeals and are available for public inspection in the office of the Board of Appeals on Monday through Friday, from 9 A.M. to 4:30 P.M.

Board of Appeals of the Town of Weston  
By **Robert P. Cook**, Chairman

The Board also mailed the foregoing notice postage prepaid on August 21, 2003 to the following named persons deemed by the Board to be all of the persons affected by said petition as they appear on the most recent tax list:

**Petitioner: Post Road Green LLC/Carol Seto**

(List of Abutters)

- Carter, Lucy G. & D. Gillespie, Trs, Rayner's Field Nominee Trust, 751 Boston Post Rd, Weston
- Berry, Robert M. , 823 Boston Post Rd, Weston
- Aggouras, Charles, 49 Beals St., Brookline, MA 02446
- Connolly, David J., 45 West Plain St, Wayland, MA 01778
- Kelley, Patricia A., 75 Depot St, Dennisport, MA 02639
- Gorley, C.P., Jr., Estate Of, C/O Barbara G. Teller, 787 Boston Post Rd, Weston
- Curelop, Mark L., Mandelis, Marioleni, 798 Boston Post Rd, Weston
- Parker, Eric J., Parker, Jennifer B., 800 Boston Post Rd, Weston
- Gens, Timothy F., Gens, Madeleine Fox, 802 Boston Post Rd, Weston
- Regan, James E., Love Lane Realty Trust, 100 Hammond St, Waltham, MA 02451
- Carter, Stephen G. & Lucy G. Trs., 820 Boston Post Rd. Realty Trust, 751 Boston Post Rd, Weston
- Halloran, Michael, 775 Boston Post Rd, Weston
- Shaikh, Anver, Shaikh, Mehmuda, 794 Boston Post Rd, Weston
- Post Road Green LLC., Carol Seto, 290 Grove Street, Framingham, MA 01701
- Town of Weston, Board of Selectmen
- Town of Weston, Board of Health
- Town of Weston, Fire Chief
- Town of Weston, Police Chief
- Town of Weston, Building Inspector
- Town of Weston, DPW
- Town of Weston, Town Engineer
- Town of Weston, Conservation
- Weston Historical Commission, C/O Judy Markland, Chairman, 24 Westland Rd, Weston
- Town of Weston, Water
- Town of Weston, Planning Dept.
- Town of Weston, Superintendent of Schools
- Traffic Committee, C/O Lee Engler, 73 Ash St, Weston
- Weston Affordable Housing, C/O Edward Lashman, 236 Conant Rd, Weston

Board of Appeals Members: **Cook, Li, Munro**

In Hand To: Board of Assessors, Building Inspector, Conservation, Fire Chief, Board of Health, Planning Board Chairman, Board of Selectmen and Town Clerk.

Planning Boards: (Notice only) Lincoln, Natick, Newton, Waltham, Wayland, Wellesley



Ann I. Swaine, Clerk  
Weston Board of Appeals

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Pursuant to the foregoing notice the Board held a public hearing on Monday, September 8, 2003 at approximately 7:30 P.M. at the Weston Town Hall. The following members were present:

Robert P. Cook, Chairman  
Winifred I. Li  
Elizabeth H. Munro, Acting Secretary

## A. INTRODUCTION

### Public Hearing:

Opened September 8, 2003; continued with good cause and without objection to the following dates: October 9, 2003, December 16, 2003, January 21, 2004 and February 3, 2004, pursuant to notices published in The Weston Town Crier and Tab and closed on February 3, 2004. Board Members Robert P. Cook, Winifred I. Li and Elizabeth H. Munro attended all sessions.

### Decision Date:

February 23, 2004

### The Premises:

All that certain parcel of land located at 809-811 Boston Post Road, Weston, Middlesex County, Massachusetts and described in deed recorded with Middlesex South District Registry of Deeds in Book 12553, Page 255 and shown on Assessors Map 25 as Lot No. 20 and containing 3.05 acres of land, more or less. The current owner of said premises is David J. Connolly of 45 West Plain Street, Wayland, MA 01778 ("Property Owner").

### The Proposal:

The Project is entitled "Post Road Green". The Project application requested approval for the construction of a townhouse condominium consisting of 8 units, 2 of which would be affordable, developed under the Local Initiative Program ("LIP") of the Massachusetts Department of Housing and Community Development ("DHCD"). The Project is described in the following materials received by the Zoning Board of Appeals (the "Board").

1. Application by Post Road Green LLC and Carol Seto (the "Application") dated July 28, 2003.
2. Local Initiative Program Application for Comprehensive Permit and Units Only Project submitted to the Department of Housing and Community Development ("DHCD").
3. Determination of Site Eligibility and Preliminary Approval under Local Initiative Program prepared by Department of Housing and Community Development dated May 7, 2005 (sic).
4. Purchase and Sale Agreement dated September 30, 2002 between David J. Connolly, Seller and Carol Leung Seto, Buyer.
5. Project Plans and Specifications:

- a. Post Road Green Site Development Plans, 811 Boston Post Road, Weston, MA dated July 22, 2003 as most recently revised November 25, 2003, made by CF Engineering, Inc. Framingham, MA consisting of Sheets 1- 11 including
    - i. Post Road Green Landscape Plan, 811 Boston Post Road, dated October 29, 2003 as most recently revised December 8, 2003 made by Michael Radner Design, Framingham, MA, specifically Sheet 8 of 11;
    - ii. Post Road Green, Landscape Detail Plan, 811 Boston Post Road, dated October 15, 2003 as most recently revised December 8, 2003, made by Michael Radner Design, Framingham, MA, specifically Sheet 9 of 11.
  - b. Architectural Elevations, Post Road Green, 811 Boston Post Road, Weston, MA prepared by Choo & Company Inc. Project No. 23038 dated March 31, 2003 as most recently revised December 9, 2003.
  - c. Post Road Green General Specifications for Exterior House Materials dated December 9, 2003.
  - d. Storm Water Systems Operation and Maintenance Plan Appendix G, "Hydrological Analysis for Post Road Green 811 Boston Post Road Weston, MA" Prepared by CF Engineering, LLC, Marlborough, MA dated July 2003 as most recently revised November 2003.
6. ASTM Environmental Transaction Screen, 809-811 Boston Post Road Action Environmental, Inc. Project #2317 Prepared for: Massachusetts Housing Investment Corporation and Post Road Green LLC dated September 5, 2003.
  7. Order of Conditions issued by the Town of Weston Conservation Commission on December 23, 2003 to be recorded with Middlesex South District Registry of Deeds.
  8. Correspondence from the Town of Weston Historical Commission dated December 12, 2003 re: Application for Comprehensive Permit for a 40B Development at 809-811 Boston Post Road.
  9. Correspondence from the Town of Weston Planning Board dated December 16, 2003 re: Review and Recommendations for 809-811 Boston Post Road.
  10. Correspondence from the Conservation Commission dated October 1, 2003.
  11. Proposed Exceptions to Local Requirements and Regulations submitted by Applicant under letter dated October 9, 2003.
  12. Memorandum in Support of Applicant's Application for Comprehensive Permit dated December 16, 2003 submitted by Applicant under letter dated December 30, 2003.

- 13. Revised Proposed Exceptions from Local Requirements and Regulations dated December 30, 2003 submitted by Applicant under letter dated December 30, 2003.

**B. DETERMINATION**

Following the Public Hearing and based upon the evidence submitted to the Board, the Board makes the following determinations:

- 1. The Applicant has standing to seek a Comprehensive Permit. The Applicant has received an approval of the 809-811 Boston Post Road Local Initiative Program project ("LIP") from DHCD. The Applicant shall execute a Regulatory Agreement which Agreement shall limit the Applicant's profit on the proposed project to no more than 20%.
- 2. As of the latest Subsidized Housing Inventory (April 24, 2002) prepared by DHCD only 3.32% of the Town's Housing Units are qualified affordable housing units. Under the provisions of M.G.L. c. 40B §20, the Town has not met local housing needs.
- 3. Impact on Land Planning Concerns:
  - a. Health and safety of occupants of the Project:

The site is narrow in shape and is limited by wetlands to the rear. There are steep grade changes at the rear of the site, probably the result of the removal of gravel and fill at some time in the past. No construction shall take place within 25 feet from the vegetated wetland boundary. Given the size limitations of the site, the septic system shall be located as shown on plans filed with the Board of Health and referenced above. The Project will be a condominium and the documents shall provide for the establishment of common area charges to cover annual maintenance and expenses as well as the establishment of a reserve sufficient to pay for repair, maintenance and possible replacement of the septic system, drainage improvements, operation and maintenance of the stormwater system, and common driveways.

The Board recognizes that the affordable units are not, as is usually the case, dispersed throughout the Project nor are these units provided with garage space. The Board has reviewed the parking arrangements for the affordable units and it is the finding of the Board that these parking arrangements shown on the Plan present the best solution given the limitations of the site and the Town's goal of preserving both the historic dwelling and barn and the view of the site from Boston Post Road.

- b. Health and safety of other residents:

The Project consists of eight units and has been determined to have little impact on the traffic along Boston Post Road. The Applicant has agreed to design modifications and certain conditions to mitigate the visual impact of the Project on the abutters. Town Meeting has indicated its general support of the Project by authorizing the expenditure of Community Preservation Act Funds for the purposes of affordable housing and historic preservation. In consideration for these Funds, the Town will be the holder of a perpetual affordable housing restriction and a preservation restriction.



The Board finds that the present physical condition of the Site may constitute an environmental risk to the Town's adjacent conservation land and to nearby residents. The Board finds that both the environmental site assessment provided by the Applicant and referenced above and the site eligibility letter make reference to the need for additional testing once the Property Owner's personal property has been removed and properly disposed. The Board will require such additional testing be completed prior to the commencement of construction, and that the results be satisfactory to the Town before the Town will expend any Community Preservation Act Funds in support of this Project.

c. Site and building design:

The Applicant has agreed to preserve the existing historic house and historic barn located at the front of the property. The condition of the house and barn has been a concern to the Town because of the obvious lack of maintenance and repair. The Applicant will impose a preservation restriction on the Project to protect the historical character of these buildings. The design of the new buildings will reflect the features of the existing structures and all the buildings will complement each other.

The new construction has been placed on the site so as to reduce the impact of the Project on the view from Boston Post Road, a historic scenic highway dating back to the 18<sup>th</sup> century. The Applicant has agreed to preserve stone walls and mature trees on the site. The Applicant has agreed to submit its construction documents to the Weston Historical Commission for review prior to the issuance of a building permit.

d. Preservation of open space:

The Project is adjacent to conservation land owned by the Town. The rear of the site has been used as a dump for many years. The existing site conditions are believed to be a danger to the wetlands located on the Town land. The Applicant will impose a conservation restriction on the rear of the site to protect the wetlands. The Board has imposed restrictions to protect all the wetlands from any adverse impact as a result of the Project.

**C. DECISION**

Based upon the above determinations, the Board finds that the Project meets the requirements for a Comprehensive Permit under G.L. c. 40B. The Board therefore votes to grant the Comprehensive Permit for the construction and occupancy of 8 condominium units as described in the above referenced materials.

Said grant is made subject to the following conditions that the Board deems necessary in order to assure consistency with the purposes of G. L. c. 40B:

## AFFORDABLE HOUSING

1. Two of the units within the Project shall be "affordable" as defined in M.G.L. c. 40B and the regulations promulgated thereunder. The units shall be located in the existing house and the quality of their construction shall be in compliance with the specifications set forth in the Architectural Drawings and shall be similar to the market rate units. The initial purchase price for the affordable units shall not exceed \$160,000.00 and shall be marketed and sold to eligible first-time homebuyers whose annual income may not exceed 80% of area medium income, adjusted for household size, as determined by the Department of Housing and Urban Development (HUD).
2. The affordable units shall be constructed on a schedule that provides for the construction of one affordable unit for every three market-rate dwellings.
3. All affordable units shall remain so in perpetuity. An affordable housing restriction, enforceable by the Weston Housing Needs Committee or the Town of Weston, requiring that the affordable units remain affordable in perpetuity, in the form approved by Town Counsel, shall be recorded senior to any liens on the Premises to protect the continued availability of and requirement for the affordable units in the event of any foreclosure, bankruptcy, refinancing or sale. The Applicant shall not receive a building permit until evidence of the recording of such affordable housing restriction has been provided to the Board. The Condominium Documents shall provide that the premises described in the Master Deed are subject to the terms and provisions of this restriction and that any amendment purporting to alter, amend or delete this restriction shall be void and of no force and effect unless in compliance with the termination and extinguishment provisions of this restriction.
4. All affordable units must be owner-occupied and the affordable housing restriction shall so provide.
5. Individual deeds for the affordable units shall contain references to the affordable housing restriction and all unit deeds shall reference this Comprehensive Permit.
6. Insofar as allowed under M.G.L. c. 40B and the regulations promulgated there under, with respect to the affordable units, the Applicant shall provide a preference category as determined by the Board of Selectmen with the assistance of the Weston Housing Needs Committee prior to the execution of any purchase and sale agreements.
7. Prior to the issuance of any certificate of occupancy, the Applicant will execute a monitoring services agreement with the Weston Housing Needs Committee to monitor the Project and any monitoring fees required under said Agreement shall be paid for by the Applicant. The Weston Housing Needs Committee shall offer the affordable units through a lottery process and the Applicant shall be responsible for the costs associated with the conduct of the lottery, including but not limited to, photo copies, telephone calls, postage, etc.



8. Cost certifications shall be done in accordance with procedures established by MHFA and in accordance with the Regulatory Agreement approved by the Board. The Applicant shall provide to the Board a full certification of total development costs and total revenues on a federal income tax basis prepared and certified by a certified public accountant acceptable to the Board, to enable the Board to make its own determination as to whether the Applicant has complied with the Regulatory Agreement. If at any time it appears that the Applicant is in violation of the Regulatory Agreement, following a hearing of which the Applicant has been given prior notice, then the Board may pursue such enforcement rights as it may have under the Regulatory Agreement and/or the Affordable Housing Restriction and/or applicable law.

9. Prior to the issuance of any Certificate of Occupancy, the Applicant shall record the Master Deed, Declaration of Trust and By-Laws establishing the Post Road Green Condominium (the "Condominium Documents"). The Condominium Documents shall be subject to review by Town Counsel prior to recording with Middlesex South District Registry of Deeds. The Applicant's attorney shall submit to Town Counsel a certification that the Condominium Documents comply with the requirements of G.L. c. 183A, as amended. The Condominium Documents shall specifically require that the Trustees shall be responsible for the maintenance and repair of the drives serving the Site, the storm water management systems, the septic systems, and other common amenities and services.

#### CONSTRUCTION

10. The hours of operation for any construction activities onsite shall be between 7:30 a.m. and 5:00 p.m., Monday thru Friday. Once the buildings are buttoned up with windows and doors and no noise can be detected, indoor construction can occur on Saturdays between 8:00 a.m. and 4:30 p.m. No construction activities shall be allowed onsite on Sundays.

11. Prior to the commencement of any work on the Property, including but not limited to regrading, delivery of materials etc. but excluding removal of the current owner's personal property and site cleanup, a construction fence shall be erected by the Applicant along the "No Disturbance Line" shown on the Landscape Plan, Sheet 8 of 11 reference above. The existing trees shown on the Landscape Plan and located on the eastern edge of the Premises and along Route 20 that are included within the "Tree Protection Fence Line" shall be protected by a construction fence 6-8 feet off center encircling the trunk of each tree. The fences shall be maintained in good working order throughout the construction of the Project. Storage of materials, including but not limited to piping, excavated loam, etc., and the parking of vehicles is prohibited inside the "No Disturbance Line". Any tree located in the No Disturbance Line or within the Tree Protection Fence Line which is significantly damaged during construction shall be replaced by the Applicant with a 16-18 foot Red Maple (as measured from the base of the root ball) prior to the issuance of a Certificate of Occupancy.

12. The Applicant shall locate all utilities within the Premise underground.

13. The interior and exterior of all buildings and structures shall be constructed substantially as represented on the Project Plans and Specifications submitted to the Board with the following changes:

- a. the proposed garage for Units 3 and 4 shall be moved 24 inches west so that it is no longer on the stone wall;
- b. the shed dormers for all Units shall be of the same style;
- c. the exterior house materials shall be as shown on the Project Plans and Specifications except where a conflict arises between these Project Plans and Specifications and the Preservation Restriction in which event, the Preservation Restriction shall control together with the following additions and/or changes:
  - i. all wood clapboard siding and exterior board trim shall have the wood backprimed;
  - ii. non-finger jointed wood shall be used on the rakes-frieze;
  - iii. details on the eave returns shall be reviewed and approved by the Historical Commission which approval shall not be unreasonably withheld or delayed;
  - iv. all railings and newel posts shall have wood caps;
  - v. railings shall be 1" x 1" nominal;
  - vi. Caradco windows shall not be used on Units 1 – 4 inclusive;
  - vii. shutter selection for all Units shall be approved by the Historical Commission which approval shall not be unreasonably withheld or delayed;
  - viii. no ridge vents shall be installed on the existing house and barn;
  - ix. all gutters, downspouts and leaders shall be seamless aluminum with baked enamel finish and there shall be no gutters on the side of the barn facing Route 20; and
  - x. Sheet A-21 of the Architectural Elevations referenced above shall be revised to show the basement windows lowered to the typical height above the basement level floor and reflect actual conditions of the exterior grade.

14. The Applicant shall submit to the Building Inspector detailed construction and engineering plans consistent with this permit and showing the location of all structures on the lots and the location of septic systems. If in the opinion of the Building Inspector, or if requested by the Applicant, the plans require peer review for compliance with the conditions stated herein, the Applicant agrees to reimburse the Town for the reasonable costs of the peer review. The Applicant shall construct the Project in accordance with the Project Plans and Specifications submitted with this Application. Notwithstanding the foregoing, no changes shall be made to the Architectural Elevations or the General Specifications for Exterior House Materials without the approval of the Historical Commission which approval shall not be unreasonably withheld or delayed.

15. The Applicant shall ensure safe and convenient vehicular access, including emergency vehicles to the Site during the entire duration of the Project. Areas under construction shall be accessed through a drive at least ten feet in width, capable of supporting construction and emergency vehicles, and shall be constructed of a stabilized all weather surface capable of being plowed. The Board and its representatives, the Historical Commission, and the Town's consultants shall be permitted access to the Site to observe and inspect the site and construction progress until such time as the Project has been completed.

16. Units 1 through 6 inclusive shall have no more than two bedrooms, as the term "bedroom" is defined in the State Environmental Code 310 CMR 202.0. Neither the Applicant nor any future owner shall design, construct, finish or use either attic or basement space as bedrooms as that term is defined in the State Building Code 780 CMR 202.0. No habitable space not indicated on the Architectural Plans as a bedroom shall be converted to a bedroom. These prohibitions shall be specified in all purchase and sale agreements for condominium units in the Project and each unit deed shall contain the following recitation:

Pursuant to 310 CMR 15.00 Title 5 and as a condition of the Comprehensive Permit granted pursuant to G.L. c. 40B, §§20-23 establishing the condominium, no habitable space not indicated on the Architectural Plans as a bedroom shall be converted to a bedroom and the number of bedrooms in the unit shall be limited to a maximum of two.

17. Unit 7 and Unit 8 shall have no more than three bedrooms, as the term "bedroom" is defined in the State Environmental Code 310 CMR 202.0. Neither the Applicant nor any future owner shall design, construct, finish or use either attic or basement space as bedrooms as that term is defined in the State Building Code 780 CMR 202.0. No habitable space not indicated on the Architectural Plans as a bedroom shall be converted to a bedroom. These prohibitions shall be specified in all purchase and sale agreements for condominium units in the Project and each unit deed shall contain the following recitation:

Pursuant to 310 CMR 15.00 Title 5 and as a condition of the Comprehensive Permit granted pursuant to G.L. c. 40B, §§20-23 establishing the condominium, no habitable space not indicated on the Architectural Plans as a bedroom shall be converted to a bedroom and the number of bedrooms in the unit shall be limited to a maximum of three.

18. The Applicant shall satisfy all standards of the Weston Fire Department and shall install residential sprinklers in all units in accordance with NFPA Standard 13D or 13R.

19. In the event the Applicant or its agents cause any damage to the stone wall located at or near the boundary line between the Premises and No. 805 Boston Post Road or to the stone wall located to the west of the Premises, the Applicant shall be responsible for the repair and restoration of said wall(s).

20. The Unit Number of each unit in the Project shall be established to the satisfaction of the Fire and Police Departments and the Historical Commission and Unit Numbers shall be designated on the front of each building.

21. During the course of construction, the Applicant shall submit to the Building Inspector Construction Progress Reports, prepared and certified by a licensed professional engineer evidencing compliance of the construction with the Plans as follows:

- a) Erosion control devices, clearing, site preparation and rough grading;
- b) Installation of water system;
- c) Installation of septic system;
- d) Installation of drainage system;
- e) Roadway sub grade preparation and sub base construction;
- f) Roadway binder course installation; and
- g) Roadway surface course, berms, sidewalks, street lighting, finish grading, loam/seed, landscaping, signage.

22. The Applicant shall not sell or convey any units within the Project until the construction of all infrastructure, ways, utilities, and landscaping has been completed in accordance with the terms of this Permit unless the Applicant has secured the completion of the Base Infrastructure and the Final Completion by one, or in part by one and in part by another, of the methods similar to those described in M.G.L. Chapter 41, Section 81-U. Such security shall be in a form approved by Town Counsel and, in the Board's opinion, sufficient to secure performance of the construction and installation of roads and/or driveways, installation of water services, the installation of landscaping pursuant to the Project Plans and the construction of the wooden fence also shown on the Project Plans. The Board may withhold final release of any security deposited by the Applicant until the Building Inspector is satisfied that the pavement has maintained its integrity after one winter, and that the planting areas are healthy and sufficiently established. The required time period for the landscaping shall be one year from the time of planting to the next July 1<sup>st</sup> for grassed areas and two years from the time of planting to the next July 1<sup>st</sup> for shrubs and trees.

23. The drives shall be constructed in accordance with the plans referenced above. The main driveway shall have 4 inches of Type 1- bituminous concrete pavement laid in two courses, the first of which shall be measured 3 inches in thickness and the second of which shall be one inch in thickness, compacted measure. The Town Engineer shall be notified a minimum of 48 hours prior to the commencement of site preparation and paving.

24. The Applicant shall furnish water to the Project in compliance with the specifications established by the Weston Department of Public Works. If requested by the Department, the Applicant shall grant a utility easement to the Town of Weston, in form satisfactory to the Department of Public Works and Town Counsel, which shall be recorded prior to the Condominium Documents. After installation of water mains and utilities, the Applicant shall restore the sidewalk on Boston Post Road in accordance with the specifications of the Department of Public Works.

#### ENVIRONMENTAL CONDITONS

25. Prior to the issuance of any building permit the Applicant shall have completed the following:

- a. the abandoned above ground storage tanks and any underground storage tanks shall be removed and properly disposed;



- b. a licensed site professional ("LSP") shall confirm through a subsurface investigation of the gravel drive fronting the barn and the southeastern shed that there is no soil or groundwater contamination in this area. The results of this investigation shall be reported to the Building Inspector;
  - c. upon the removal of the Owner's personal property, a LSP shall inspect the Premises to confirm that there are no additional environmental conditions that should have been addressed in the report by Action Environmental dated September 2003 and the Applicant shall provide the Board with a written report on site conditions from said LSP; and
  - d. the Applicant shall comply with all federal, state and local requirements for the removal and disposal of hazardous materials, including but not limited to lead paint and asbestos and shall establish health and safety protocols for construction workers, abutters and members of the public.
26. The Applicant shall comply with the Order of Conditions issued by the Weston Conservation Commission dated December 23, 2003 and recorded with Middlesex South District Registry of Deeds in Book\_\_\_\_\_, Page\_\_\_\_\_. Any violation of the Order of Conditions shall also be a violation of this Comprehensive Permit.
27. The Applicant shall comply with the Septic Permit issued by the Weston Board of Health. Any violation of Septic Permit shall also be a violation of this Comprehensive Permit.
28. The Applicant shall construct the storm water system in compliance with the approved Project Plans. The Applicant shall provide the Town Engineer at least 48 hours notice for inspection of the storm water system during installation and prior to backfilling. Upon installation, the designer of the Storm Water System shall provide certification to the Building Inspector and the Town Engineer that the system has been installed in accordance with the Project Plans.
29. Prior to the issuance of any certificate of occupancy, the Applicant shall deliver to the Board of Health a copy of the maintenance contract for the septic system and a copy of the condominium budget showing line items for the cost of the contract as well as the establishment of a condominium reserve fund.
30. The areas of the Property designated on the Project Plans as "No Disturb" shall be subject to the following restrictions which shall be recited in the Master Deed for the Project:
- a. No construction or placement of buildings, driveways, signs, billboards or other advertising, or other structures, including swing sets on or above the land;
  - b. No tree or brush cutting, uprooting, clearing, limbing or seeding, however the unit owners may supplement existing plantings with indigenous plants;
  - c. No grading, excavating or blasting or alteration of terrain;
  - d. No parking of construction vehicles or storage of materials or dumpsters;
  - e. No storage of debris or disposal of waste material.

PRESERVATION OF HISTORIC RESOURCES

31. Prior to the recording of the Condominium Documents, the Applicant shall record a duly authorized and executed Preservation Restriction for the benefit of the Town of Weston and approved by the Historical Commission, the Board of Selectmen, and the Massachusetts Historical Commission. The Condominium Documents shall provide that the premises described in the Master Deed are subject to the terms and provisions of the Preservation Restriction and that any amendment purporting to alter, amend or delete this Restriction shall be void and of no force and effect unless in compliance with the termination and extinguishment provisions of this Restriction. Any violation of the Preservation Restriction shall be deemed a violation of this Comprehensive Permit.

GENERAL CONDITIONS

32. This permit shall expire, if the Applicant has not, for whatever cause, commenced construction on the Project within two years of the date this decision becomes final. The decision is deemed to have become final upon the expiration of the appeal period with no appeal having been filed, or upon the final decision following the filing of any appeal, whichever is later.

33. The Board reserves the right, insofar as consistent with state law, to further review and amend this decision based upon any information that comes before the Board as a result of Applicant's future need to acquire permits from any local, state or Federal authority, specifically including filings under the Massachusetts Environmental Policy Act which information affects the Plans submitted with the Project and approved by the Board.

34. The Applicant or its successors shall pay, in perpetuity, any fees imposed for the purpose of monitoring the compliance of the Project's construction and occupancy, provided, however, that the monitoring and the fees charged therefore shall be consistent with the monitoring and fees for similarly sized communities in Middlesex County, Massachusetts.

35. This Comprehensive Permit shall issue to Post Road Green LLC and shall not be transferable, except in accordance with the provisions of M.G.L. c. 40B.



- D. WAIVERS**
1. **Zoning By-Laws**
    - a. Waive Section V(2) and V(B)(1) to allow multiple unit dwelling (8 town house condominium units) in Residence B District grant
    - b. Waive Section VI(B)(1) and (2) Table of Conventional Dimensional Requirements:
      - i. Minimum street frontage and total width at setback for existing dwelling and barn grant
      - ii. Minimum setback from street sideline for existing dwelling and barn grant
      - iii. Minimum setback from street centerline for existing dwelling and barn grant
      - iv. Minimum setback from Lot line grant
    - c. Waive Section VI(E)(1) and (2) maximum building height grant
    - d. Waive Section VI(F)(2) number and location of dwellings grant
    - e. Waive Section VI(B)(1) and (2) minimum lot size (per dwelling) grant
    - f. Waive Aquifer Overlay District deny
    - g. Waive Wetlands and Flood Plain Protection District deny
    - h. Waive Section XI Site Plan Approval grant
  2. **General By-Laws**
    - a. Waive Article VXXV (Scenic Roads By-Law) to permit excavation within the limits of, or affecting, Boston Post Road for installation of utilities, or other installation or construction in connection with the Project grant
  3. **Planning Board Regulations**
    - a. Waive Site Plan Approval Rules and Regulations grant
    - b. Waive Subdivision Control Rules and Regulations grant
  4. **Waive Building Permit Fees** deny but grant 25% reduction

## E. DEPARTURES

If, between the date that this decision is filed with the Office of the Town Clerk and the completion of the Project, Applicant desires to change any details of the Project (as set forth in the plans referred to in this Decision, or as required by the terms of this Decision) the Applicant shall promptly inform the Board in writing of the requested change. In the event that the requested change is determined by the Board to be of insignificant impact upon the Project or the neighboring area, the requested change may be approved by the Board without a public hearing. If the Board deems the requested change to be significant, or if requested by the Applicant, the Board shall hold a public hearing. The Board may refuse to approve the change by written decision within thirty (30) days of receipt of notice from the Applicant if the Board finds the change not consistent with the standards imposed by 760 CMR 31.03.

Any material departure from the Project Proposal approved by this decision shall require an amendment to this Comprehensive Permit to be acted upon through the same procedures as if for a new Comprehensive Permit, unless the Zoning Board of Appeals determines that the nature and location of the departure is of no discernible consequence to any off-site party including the Town.

## F. SUCCESSORS AND ASSIGNS

The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of the Applicant, and the obligations hereunder 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, and any such sale, transfer or assignment shall be subject to the prior approval of the Zoning Board of Appeals, which approval shall not be unreasonably withheld or delayed.

RECEIVED & ENTERED  
MIDDLESEX COUNTY  
REGISTER OF DEEDS  
SOUTHERN DISTRICT  
ATTEST:

  
REGISTER

**G. RECORD OF VOTE**

**Vote to Approve:**

**3 in favor none opposed**

Attest: *Robert P. Cook*  
Robert P. Cook, Chairman  
Weston Board of Appeals

Attest: *W. Bedford Q.*  
Winifred I. Li  
Weston Board of Appeals

Attest: *Elizabeth H. Munro*  
Elizabeth H. Munro, Acting Secretary  
Weston Board of Appeals

Application Granted, as Conditioned  
A True Record.

