

9/16



Town of Lexington ✓
Town Clerk's Office

Nathalie L. Rice, Town Clerk

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2017 00181850

Bk: 70204 Pg: 59 Doc: DECIS
Page: 1 of 16 11/08/2017 11:17 AM

Date: 8/25/2017

I hereby certify that twenty days have elapsed since the decision of the Planning Board on
7/21/2017:

Special Permit 0 Grove St ✓

Which was filed on 8/4/2017, in the office of the Town Clerk. No appeal was filed in the office of
the Town Clerk within the 20-day period.

17731-251 ✓

Attest:

Nathalie L. Rice
Town Clerk

North Shore Dev.
215 Salem St.
Woburn, MA
01801

#361



Town of Lexington
PLANNING BOARD

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Richard L. Canale, Chair
Ginna Johnson, Vice Chair
Bob Creech, Clerk
Charles Hornig
Nancy Corcoran-Ronchetti
Michael Leon, Associate

1625 Massachusetts Avenue
Lexington, MA 02420
(781) 698-4560
planning@lexingtonma.gov

SPECIAL PERMIT DECISION
“Liberty Ridge” Public Benefit Development
0 Grove Street, Assessors’ Map 89, Lot 3B

Date of Application: December 12, 2016
Dates of Hearing: February 1, 2017
March 15, 2017
April 12, 2017
May 10, 2017
June 7, 2017
Public Hearing Closed: June 21, 2017
Date of Decision: July 21, 2017
Date Filed: August 4, 2017

DEVELOPMENT INFORMATION

Applicant: North Shore Residential Development, Inc.
215 Salem Street
Woburn, MA 01801

Designer: Sullivan Engineering Group, LLC
PO Box 2004
Woburn, MA 01888

Current Owner(s): A Raymond Carchia Trust
Gerald Carchia, Trustee
227 Grove Street
Lexington, MA 02420

Location: Town Assessors’ Map 89, Lot 3B
0 Grove Street

Area: 12.4 ± Acres

Zoning: RO District (30,000 square foot lots, 150 feet of frontage, single-family)

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Plan # 1009 of 2017

PROJECT SUMMARY

Under the provisions of §135-6.9, the applicant proposes the construction of a 29 unit Public Benefit Development, including 3 affordable units. These units will be served by a private internal drive, creating two intersections with Grove Street. The plan preserves approximately 5.42 acres of contiguous wooded area as open space while maintaining 1.32 acres of wooded area within the development as well as 0.44 acres of additional open space for active recreational uses by residents of the development.

DOCUMENTS SUBMITTED**Submitted 12-14-16**

- Application & Fee Payment
- Covenant
- Cover Letter
- Plan Set (Sheets 1-14)
- Drainage Report
- Drainage Plan
- Fiscal Analysis Report (Fougere)
- Grant of Easement
- Traffic Study (MDM)
- Revised Traffic Memo (MDM)
- Water Pressure Report (Weston Sampson)

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Supplemental Materials submitted 5-04-17

- Comparison of 29 Unit Liberty Ridge (Public Benefit) to Vera Lane (Conventional)
- Cover Letter to Planning Board
- Revised Plan Set (Sheets 7-10)
- Additional Renderings Common Areas and Houses
- Pump Station Preliminary Design Report
- Tree Removal Summary Plan (Liberty Ridge)
- Tree Removal Summary Plan (Vera Lane)
- Photometric Detail (Liberty Ridge)
- Photometric Detail (Vera Lane)

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Supplemental Materials submitted 6-06-17

- Property Comparison – Liberty Ridge & Abutting Properties
- Comparison of Approved Lexington Balanced Housing Projects
- Cover Letter to Planning Board
- North Entrance Rendering
- South Entrance Rendering
- Pillar Entrance Rendering
- Response to Resident Fiscal Analysis (Fougere)
- Vera Lane Conventional Lot 4 & 5 – Conceptual Plot Plan

- Attorney Memo to Planning Board (RIW)
- Tree Removal Comparison Summary (Vera Lane & Liberty Ridge)

Supplemental Materials submitted 6-14-17

- Comparison of 29 Unit Liberty Ridge (Public Benefit) to Vera Lane (Conventional)
- Cover Letter & Summary to Planning Board
- Full Drainage Report (Sullivan Engineering)
- Post Development Drainage Plan
- Pre Development Drainage Plan
- House Renderings
- Vera Lane Conventional Lot 3 – Conceptual Plot Plan
- Noise Report Engineering – Sound Report & Credentials
- REVISED Plan Set (Sheets 1-15)

Supplemental Materials submitted 6-20-17

- Photo Example of Liberty Ridge Amenity Area
- Cover Letter & Summary to Planning Board
- Declaration of Restrictive Covenants
- Revised Full Drainage Report (Sullivan Engineering)
- Vera Lane Conventional Lot 3 – Conceptual Plot Plan
- Vera Lane Conventional Lot 6 – Conceptual Plot Plan
- Grove St/Volunteer Way Crosswalk Memo (MDM)
- Restrictive Covenant Plan
- Post Development Drainage Plan
- Pre Development Drainage Plan
- Proposed Conditions for Special Permit by Applicant
- Revised Plan Set - Sheet 5 of 15 Drainage Plan
- Revised Plan Set - Sheet 12 of 15 Detail Sheet
- 435-439 Lincoln Street Conservation Restriction letter to Conservation (RIW)

Supplemental Materials submitted 6-30-17

- Liberty Ridge Units GFA and Impervious Area Measurements
- Liberty Ridge Development Data Summary

DECISION

The Planning Board hereby determines that the subject property is a proper parcel to be developed as a Public Benefit Development, as described under §135-6.9.3 of the Lexington Zoning By-Law and that it meets all required criteria for such approval, described in full below. The Board votes to **GRANT WITH CONDITIONS**, the special permit application for the proposed development in accordance with the plans, terms, and conditions stated below.

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FINDINGS & DETERMINATIONS

The plans and other submission materials were reviewed by the Planning Board and the Engineering and Planning Offices. In reaching its decision, the Board took into account the statements of the applicants and their representatives and public comments, all as submitted or made at the public hearing.

General Findings for a Special Permit (§135-9.4.2)

After review of the application documents submitted to the Planning Board, including the supplemental information provided to the Board during the public hearing process, given at the public hearing, and review and consideration of the applicable requirements and criteria set forth in the Zoning Bylaw with regard to special permits, the Planning Board finds that the proposed development's beneficial impacts to the Town or the neighborhood outweigh its adverse effects, including when evaluated against the most likely alternative development scenario – the previously approved, 13-lot conventional subdivision. In coming to this conclusion the Board considered each of the following:

1. *Specific factors set forth elsewhere in this bylaw for the proposed use or activity.*

The decision covers the specific requirements for a public benefit development found in §135-6.9.19 in detail below.

2. *Social, economic, or community needs which are served by the proposal.*

The Board considered the overall impact of the proposal on the Town's housing stock and determined that a project that produced more, but smaller units, including townhomes and duplexes (three of which would be affordable units), was important to create additional housing opportunities within the Town, particularly when weighed against other alternatives for use of the same site. When compared to the approved 13-lot conventional subdivision on the same site, this development also preserves a considerable portion of the site, over 5 acres of undisturbed woodland, contiguous to the Town of Lexington's Wright Farm parcel and the Town of Burlington's Landlocked Forest parcel.

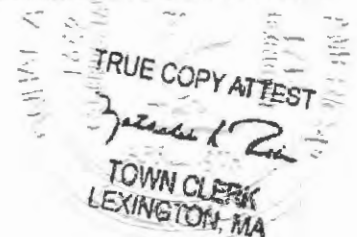
3. *Traffic flow and safety, including parking and loading.*

Under the provisions of §135-5.5.2, the proposed development does not trigger the traffic study analysis, as it contains less than 50 units. However, the potential impact on the transportation network was considered in some detail early in the review process. The applicant provided a transportation analysis in its submittal, which was reviewed by both the Planning and Engineering Offices. In addition to this, the Planning Office conducted its own data collection in the area which verified the existing conditions (approx. 5,700 vehicles per day on Grove Street). Contrasted to the conventional subdivision alternative, this proposal adds approximately 100 vehicles over a 24 hour period, which is less than 2% of the daily total. Based on the projected trips generated by the proposed development, which was reviewed by Town staff, the Board does not believe that the scale of this proposal will adversely affect current conditions, and has required a number of safety enhancements to improve pedestrian access and safety in the Grove Street area.

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4. *Adequacy of utilities and other public services.*

The proposed utilities for the site were deemed to be adequate and would not adversely affect the area. It should be noted however that a pre-existing problem with water pressure in the municipal main in Grove Street was a topic of concern early in the review process. This issue was unrelated to the proposed development and already identified by the Department of Public Works, which corrected this issue in the spring of 2017. The noise of the proposed sewer pump station's backup generator tests was also discussed and is addressed in the conditions below. The proposed rain water harvester, a 20,000-gallon cistem intended to irrigate the site, in addition to the proposed storm water infiltration system, also serves to distinguish this proposal from its conventional subdivision counterpart, which offers no such amenity.

5. *Neighborhood character and social structures.*

The proposed development's effect on the neighborhood was a matter of debate among the residents who attended the proceedings and submitted testimony to the Board. The current development pattern of the area in the vicinity of the development site is characterized by a range of housing sizes (1,500 to 10,281 GFA) on roughly 30,000 square foot (SF) lots. The proposed development would create a range of units (1,650 to 3,700 GFA) that would be similar to and in certain instances smaller than current homes in the area. The fact that the proposed units would also be smaller than what is authorized by the approved conventional subdivision plan is an important detail in favor of the special permit.

Proposing a development with more units than allowed under conventional zoning rules typically reveals the tension between the neighborhood's status quo and the Town's broad policy goal of creating a more diverse housing stock. Most of the comments received from the public throughout the process noted that this proposal may not adequately resolve that tension. The Board, however, is comfortable that the ultimate results of the review process and conditions contained below addresses this concern. The applicant has agreed to many adjustments to the plans including reducing the number from 36 to 29 and made changes to the siting of the units and the location and nature of the open space to address public comments.

The Gross Floor Area limitations regulating the by-right subdivision plan allows for a total of 132,854 SF over 13 lots, while § 6.9.6.3 of the Bylaw caps the potential maximum GFA of a PBD based on 13 units at 112,320 SF (13 units multiplied by 8,640 SF). The final proposal's total GFA, applying the standards of the Zoning Bylaw, incorporating amendments through Annual Town Meeting 2016, is 78,100 SF, 69% of the permitted GFA. This plan also complies with the unit size limitations expressed in § 6.9.7.3, which requires 25% of the proposed units have less than 2,700 SF of GFA, while a second 25% of the units must have less than 3,500 SF of GFA. The remaining units may be of any size, provided the overall GFA of the development does not exceed the maximum GFA cited above.

When applying the standards of the Zoning Bylaw incorporating amendments through Annual Town Meeting 2017, the proposed development does satisfy the overall GFA limitations of 6.9.6.3 (107,100 SF of GFA, 95% of the maximum), but fails to comply with the unit size limitations expressed in 6.9.7.3., and the Board's approval is

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conditioned to address this concern (see special condition #1 below). Under this scenario, the development is approximately 102,940 SF or 92% of the maximum allowed under the Bylaw.

6. *Impacts on the natural environment.*

The effect of the site's development on the environment was also considered by the Board. Presently the site is entirely wooded and provides informal access to the Town of Burlington's Landlocked Forest – a 250-acre piece of open space crisscrossed with trails that are popular with hikers, runners, and mountain bikers. The Board considers the increased distance (more than 100 feet) between the proposed area of land disturbance and the wetland delineation line, most notably the certified vernal pool, a significant positive feature of the Public Benefit Development proposal when compared to the by-right subdivision plan's 50 feet distance.

Further, under the approved conventional subdivision plan, the Town will only be able to regulate tree removal to the more limited extent permitted under the Town's Tree Bylaw. The applicant provided an estimated tree removal summary to the Board (dated June 6, 2017), depicting approximately over 1700 trees potentially being removed from the site under the conventional proposal. Although this is an estimate and less may be removed, under the Tree Bylaw this number represents the total number of trees that may be removed by right. The proposed development, however, guarantees the preservation of approximately six acres of the site from disturbance and removes approximately 1100 trees from the developed area. In addition, the PBD proposal replants over 330 trees within the disturbed area.

Another important difference between the conventional subdivision plan and the proposed development is the regulation of the public benefit development's amount of impervious surface. Under conventional zoning, there is no upper limit to the amount of impervious surface that may be associated with a single family home. The public benefit development proposal considered here limits the amount of impervious surfaces to approximately 105,754 SF (about 20,000 SF below the maximums imposed by § 6.9).

7. *Potential fiscal impact, including the impact on Town services, tax base, and employment.*

Public commenters raised the potential impact of the development on the Town's school system, which is at capacity and continues to experience rising enrollment. These residents are concerned that the additional number of units the public benefit development contains (above the conventional alternative) will result in additional overcrowding and significantly increased costs for education and public services. The Planning Board considers the fiscal impacts of development on Town services in a general fashion, as it is keenly aware that both state and federal fair housing law requires care when dealing with a protected class, such as families with children.

Nevertheless, in considering the fiscal impact analysis provided by the applicant, and the substantial comments provided by the public, the Board concluded that the projected differences between the conventional plan and the special permit plan estimates were not material. The Board further noted that the underlying assumptions used in the applicants' analysis, as well as those submitted by members of the public, are subject to debate, and

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the actual fiscal impacts on education services, in particular, would be determined by many variables specific to each development project, such as household size and demographics, which have proven to be difficult to forecast accurately. The Board understands that under some scenarios, it is possible that there may be some expenses associated with the additional units, but the quantifiable impacts do not outweigh the overall benefits the development represents to the Town.

All of these factors significantly increase the amount of public benefit provided by the special permit plan over the conventional subdivision previously approved by the Board.

Specific Findings & Determinations for a Public Benefit Development (§135-6.9.19)

Beyond those standards noted above, the Planning Board must also determine that the proposed development is consistent with standards and criteria specific to those for a special permit residential development, enumerated in §135-6.9.19 of the Zoning By-Law. The Planning Board has considered all of these criteria and is imposing conditions on its approval.

The Board grants the Special Permit for a Public Benefit Development because it has determined that the proposed development is consistent with the standards expressed in §135-6.9.19 that are applicable to this project:

1. *Open Space*

The proposed development includes ±312,525 SF of open space (57.8% of the site), as compared to the ±141,115 SF of open space (26% of the site) associated with the approved conventional plan. Some of this open space area includes wetland resource areas, approximately 70,000 SF, which do not count towards the Town's 33% requirement. Nonetheless, the proposed development exceeds the Zoning Bylaw's open space requirement of 180,338 SF. The proposed plan will preserve a much greater percentage of open space, most of which is adjacent to other open space areas. The proposed development will maintain areas of contiguous open space that is readily accessible to the public.

2. *Building Disposition*

The proposed dwellings have been positioned in such a manner to create complementary relationships with each other as well as their surroundings. The Applicant provided renderings of the proposed elevations to the Board at the public hearing.

3. *Visual Impacts*

By locating the dwellings within the site, the proposed development is designed to screen the project from adjacent properties and minimize any negative visual impacts that might affect abutters. The design also locates single-family houses at the two entrances to this development, maintaining the same streetscape character as the balance of Grove Street.

4. *Connectivity*

The applicant has agreed to work with Town to enhance trail network on the adjacent Wright Farm Property, which was recently purchased by the Town and is under the Conservation Commissions' jurisdiction. This trail network will connect with the trails

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located in the maintained wooded areas on the Grove Street property which will provide access to Burlington's Landlocked Forest.

5. *Multi-Family Building Design*

By creating 29 new townhouse units in 17 structures the proposed development is addressing the community's diverse housing needs. The creation of diverse housing types and size was revealed as critical in the Town's 2014 *Housing Production Plan*. Of the community's approximately 12,000 dwelling units, 11,000 are detached, single-family units. Increasing the variety of the Lexington's housing stock is one of the principal purposes of §135-6.9.

6. *Common Facilities*

The Applicant has acknowledged its responsibility to create a Home Owner's Association, which assigns responsibility for the operation and maintenance of the open space, the private internal drive, and its related infrastructure, notably the drainage system and snow and ice clearing. The decision is conditioned to ensure this.

7. *Multimodal Access*

As per the submitted plans, the applicant will be constructing sidewalks and installing crosswalks on Grove Street to enhance pedestrian accessibility in the area. The applicant will also be constructing a cedar-wood bus shelter and bench for residents who wish to utilize the Town's Lexpress shuttle service.

Sustainability

As a Public Benefit Development, the project generally reduces its development impact within the tract when compared to its conventional subdivision counterpart, particularly as it relates to land disturbance and tree removal. Other aspects of the development include a 20,000-gallon rainwater harvesting tank and permeable driveways for each dwelling unit. Given the site's proximity to a sensitive environmental resource, the Board has conditioned the decision to prohibit the use of chemical pesticides and fertilizers within the site.

9. *Public benefit development criteria*

As discussed above, the development proposal is below the permitted GFA maximum, even when calculated under the amended rules, such that the additional square footage permitted in PBDs above that which is permitted in BHDs, leads the Board to find that the benefit of the three affordable units warrants the additional square footage. Per §135-6.9.19.9.b The Board has conditioned its decision to ensure compliance with the affordable housing requirements expressed in the Bylaw.

WAIVERS

It is implicit and understood that in a special permit residential development many of the requirements contained in the Planning Board's *Subdivision Regulations* (Regulations) for a conventional subdivision layout and design of ways and lot plating do not apply. Therefore, in accordance with §135-6.9 of the Lexington Zoning Bylaw, the Board waives strict compliance with specific provisions that pertain to conventional subdivisions. The Board finds that strict

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compliance does not serve the public interest and would be inconsistent with the creation of a Public Benefit Development and the intent and purpose of the Board's rules.

TERMS & CONDITIONS OF APPROVAL

General Terms

1. Endorsement of the approval is conditional upon the provision of a performance guarantee as described in Section 135-9.4.5 of Lexington's Zoning Bylaw. Said form of guarantee may be varied from time to time by the applicant, subject to agreement on the adequacy and amount of said guarantee by the board.
2. Modifications, if any, must also be shown on the plan before its endorsement and recording.
3. The entire tract of land and buildings to be constructed may not be used, sold, transferred, or leased except:
 - a. As granted by this Decision;
 - b. As shown on the Definitive Site Development Plan; and
 - c. In accordance with subsequent approved plans or amendments to this Decision.
4. If any amendment is sought to this Decision all relevant plans and information must be submitted as required by the applicable rules.
5. The property deeds must contain the following provision: "The construction and operation of the development are governed by a Special Permit issued by the Lexington Planning Board on July 21, 2017, a copy of which is available for inspection at the Town Clerk's Office, Town Office Building, Lexington."
6. The property owners and their successors are responsible for, at their own expense, the maintenance of the internal drive, the Grove Street bus shelter, the trail system, the sewer pumping station and its associated generator and acoustical fence, the site's drainage system, the landscaping and vegetated screening, and all other utilities on site.
7. The terms and conditions of this decision must be enforced by the condominium unit owners to the extent necessary to comply with this decision, including, if necessary any proceeding at law or in equity (at no cost to the Town) against any person or persons violating or attempting to violate any such condition or restriction, either to restrain the violation or to recover damages. If the residential homeowners, or any association established by them, fail to enforce said conditions and/or restrictions, any one owner, or the Town of Lexington, may bring a proceeding at law or in equity against any person, persons, or association in violation thereof to enforce compliance with said conditions and/or restrictions. In certain instances, the Town may elect to take corrective action at the expense of the owners. Each deed or any association instrument, as applicable, must contain a provision with the foregoing language therein.

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8. No site preparation work or construction may begin until the Planning Office has confirmed in writing that the following have been satisfied:
 - a. The approved perimeter Limit of Work (LOW) line is clearly marked with construction fencing, hay bales, silt fencing, or approved substitute, as appropriate. The LOW may not be modified without the prior authorization of Planning Office. Construction activity outside the LOW is strictly prohibited, except when approved by the Planning Office in advance.
 - b. Trees slated for preservation are protected from damage or loss by construction activities by the use of construction fencing or protective barricades. This protection must be located according to one of the following methods:
 - i. At the drip line of the tree; or
 - ii. From the trunk at a distance of one foot for each inch of trunk diameter; or
 - iii. From the trunk at a distance of five times the diameter of the trunk.
 - c. All protective fencing and LOW lines must be maintained until all construction is complete.
9. No work, including site preparation, land disturbance, construction, and redevelopment, may begin unless and until pollution prevention, erosion and sediment controls are in place. If and when applicable, the Storm water Pollution Plan required by the National Discharge Elimination System Construction General Permit Program must be implemented until the site is fully stabilized.
10. This Decision is not intended to interfere with, abrogate, or annul any other local bylaw, rule or regulation, statute, or other provision of law.
11. The following sheets of the Plan must be recorded with the decision (and when required, registered with the Land Court):
 - a. The Property Rights and Dimensional Standards Plan; and
 - b. The Site Construction Plan.

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Special Conditions

1. Unit Size. The table below reflects the maximum square footages, impervious surface areas, and building heights for each unit.

The issue of which GFA definitions apply to the project was raised during the review process as the conceptual plans were under active review by the Board in June of 2016, at the same time the changes to the definitions were being developed. The Preliminary Subdivision plan for the site was filed on August 2, 2016, and followed up by a definitive plan on November 15, 2016, which was approved February 15, 2017. Under MGL chapter 40A, section 6, that approval granted the site an eight-year definitive plan exemption from future zoning amendments.

However, the Board finds that compliance with the 2017 amendment is reasonable given the applicant's awareness of the Board's work and the concerted effort that has been made over the last several years to clarify and refine the measurements of these standards

with the goal of increasing the diversity of the Town's housing stock, of which PBDs represent one of the only methods towards implementing this policy.

In order to comply with the 2017 amended Bylaw the GFAs of the following units must be modified:

- The GFA of units 3 and 4 must be reduced to comply with the 2,700 SF limit.
- The GFA of units 5 and 6 must be reduced to comply with the 2,700 SF limit.
- The GFA of units 28 and 29 must be reduced to comply with the 3,500 SF limit.

Before the Board endorses the plans, sheets 4 and 5 of the plan must be amended to reflect the details expressed here:

Unit Number	Regulated Unit Type	Gross Floor Area		Impervious Surface Area	Building Height
		2016 Bylaw	2017 Bylaw		
1	< 3,500 SF	2,620 SF	3,460 SF	1,260 SF	39 FT
2	< 3,500 SF	2,620 SF	3,460 SF	1,260 SF	39 FT
3	< 2,700 SF	2,400 SF	< 2,700 SF	1,530 SF	34 FT
4	< 2,700 SF	2,400 SF	< 2,700 SF	1,530 SF	34 FT
5	< 2,700 SF	2,400 SF	< 2,700 SF	1,530 SF	34 FT
6	< 2,700 SF	2,400 SF	< 2,700 SF	1,530 SF	34 FT
7	Unregulated	2,860 SF	3,810 SF	1,470 SF	35 FT
8	Unregulated	2,860 SF	3,810 SF	1,470 SF	35 FT
9	Unregulated	2,860 SF	3,810 SF	1,500 SF	35 FT
10	Unregulated	2,860 SF	3,810 SF	1,500 SF	35 FT
11	Unregulated	2,860 SF	3,810 SF	1,450 SF	33 FT
12	Unregulated	2,860 SF	3,810 SF	1,450 SF	33 FT
13	Unregulated	3,700 SF	4,980 SF	1,760 SF	39 FT
14*	< 2,700 SF	1,650 SF	2,250 SF	930 SF	38 FT
15	< 2,700 SF	1,650 SF	2,250 SF	930 SF	38 FT
16*	< 3,500 SF	2,620 SF	3,460 SF	1,250 SF	33 FT
17	< 3,500 SF	2,620 SF	3,460 SF	1,250 SF	33 FT

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Unit Number	Regulated Unit Type	Gross Floor Area		Impervious Surface Area	Building Height
		2016 Bylaw	2017 Bylaw		
18	Unregulated	3,700 SF	4,980 SF	1,730 SF	30 FT
19	Unregulated	3,700 SF	4,980 SF	1,780 SF	37 FT
20	Unregulated	3,700 SF	4,980 SF	1,810 SF	36 FT
21	Unregulated	3,700 SF	4,980 SF	1,760 SF	33 FT
22	< 3,500 SF	2,620 SF	3,460 SF	1,260 SF	27 FT
23	< 3,500 SF	2,620 SF	3,460 SF	1,260 SF	27 FT
24	Unregulated	2,860 SF	3,810 SF	1,300 SF	18 FT
25	Unregulated	2,860 SF	3,810 SF	1,300 SF	18 FT
26*	< 2,700 SF	1,650 SF	2,250 SF	750 SF	25 FT
27	< 2,700 SF	1,650 SF	2,250 SF	750 SF	25 FT
28	< 2,700 SF	2,400 SF	< 3,500 SF	1,530 SF	31 FT
29	< 2,700 SF	2,400 SF	< 3,500 SF	1,530 SF	31 FT
TOTALS		78,100 SF	< 102,940 SF	40,360 SF	
* Denotes an affordable unit.					

All conveyances of deeds must include the maximum gross floor area and impervious surface limits associated with the site subject to the prior approval of the Planning Office.

2. Before the Board endorses the plans, the proposed grading must be refined to catch any "open" grading lines.
3. Plant Materials. Due to the sensitivity of the adjacent resource areas and conservation lands, all plant material specified for installation on the drive, the common areas, and around the individual units must be plant species native to Middlesex County, per *The Vascular Plants of Massachusetts: A County Checklist*. This condition must be included in the condominium documents.
4. Construction Mitigation.
 - a. Hours of construction. Construction activity is allowed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. Construction activity is prohibited on Saturdays, Sundays, as well as federal and state holidays. The applicant may request exceptions to this condition for special circumstances to the Planning

Office. The Planning Director will evaluate the request and will provide express written permission or denial.

- b. The developer must submit to Town Planning and Engineering staff, for review and approval, a phased construction plan.
 - c. Off-site parking of construction vehicles and associated equipment during construction is prohibited.
5. Public Access & Trails.
- a. This permit requires that before the 15th market rate unit may be conveyed, either:
 - i. The applicant constructs the proposed path network, or
 - ii. The applicant provides a payment, based on the estimated construction costs of building the paths, in lieu of the trails described in the approved plan set.
 - b. The Applicant must work with the Town Conservation and Greenway Committee on design, permitting and installation of the hiking trail from Grove Street to the Burlington Landlocked forest, as shown on the Applicant's Plans, during the time period of construction of the proposed development, including construction of a public sidewalk from the proposed development's northerly entrance to Wright Farm hiking trail entrance location as shown on approved Plans, or in the alternative should the trail construction become infeasible as a result of permitting, property ownership issues or otherwise, as confirmed by the Planning Office, the Applicant must make a payment to the Town through the Land Use, Health, and Development Department of an amount equivalent to the cost to the Applicant of completing the construction of this trail, such amount, not to exceed \$30,000.00. Such funds will be estimated by the Applicant and confirmed by the Town's Engineering Office and may be used by the Town exclusively for Trail construction within Lexington.
 - c. Trail Access: The condominium documents must specifically permit public pedestrian access from the development's northerly entrance, directly down the internal drive and sidewalk to the Trail path located between Units 4 & 5. Public Access does not include vehicular access on the property nor access across other areas of the lot, and all public access is subject to the same conditions that regulate residents of the development such as pet regulations, trail use, etc.
 - d. Trail Maintenance. The condominium documents must include provisions requiring the maintenance of the common area landscaping and the buffer area conditions, including the lighting restrictions, in perpetuity.
6. Building Permits. Building permits will not be issued for new construction until the Planning Office indicates that Town Counsel has approved the final form of the following documents:
- a. The various utility maintenance easements; and

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- b. The condominium association (or similar entity as described above), including the operation and maintenance responsibilities requirements for the private water, sewer, stormwater, and irrigation facilities.
7. Occupancy Permits. Certificate of occupancy permit will not be issued for any new dwelling until the Planning Office indicates that:
 - a. The record drawings (as-built) of the sewer and water mains have been provided to the Department of Public Works (DPW), unless waived, in writing, by the DPW Director.
 - b. The final grading and landscaping of the parcel are completed, as demonstrated by an as-built plan. Provided, the Planning Office may accept security sufficient to ensure the performance of this condition, in accordance with §135-9.4.5 of Lexington's Zoning Bylaw.
 - c. The Gross Floor Area (GFA), as demonstrated by an as-built plan, meets or is less than the applicable GFA limit as detailed in special condition 1 above.
 - d. The DPW has received the appropriate sewer and water tie-in information on the unit for which a CO is sought.
8. The Applicant must arrange for and complete the sale of three (3) affordable units in accordance with DHCD guidelines so the affordable units are eligible for the Subsidized Housing Inventory.

The affordable units are numbered on the plan as Units 14, 16, and 26. One of the affordable units must receive its Occupancy Permit before the 15th market rate unit receives its Occupancy Permit. The second affordable unit must receive its Occupancy Permit before the 20th market rate unit receives its Occupancy Permit. Certificates of Occupancy for all three of the Affordable Units must be issued prior to the 25th Certificate of Occupancy being issued for the newly constructed market rate Dwelling Units.

Alternatively, the applicant may sell some or all of the completed affordable units to LexHAB with approval of Board of Selectmen before the first certificate of occupancy in the development is issued.

9. The Applicant must execute and record the agreed upon Declaration of Restrictive Covenant protecting the 5.42-acre parcel of land on this site on or before the completion of construction of the proposed development.
10. The development's condominium bylaws must include the following restrictions or conditions, which may not be modified without the express consent of the Lexington Planning Office (in addition to any other conditions required to be included in the Condominium Documents pursuant to this Special Permit):
 - a. Exterior lighting within the development is subject the provisions of §135-5.4, Outdoor Lighting, but for units 5 through 15 conditioned to apply to the limit of work line detailed on the Site Construction Plan. In all other cases, it is to the property line.
 - b. The condominium association will refrain from posting No Trespassing signs without obtaining written approval from the Planning Office.

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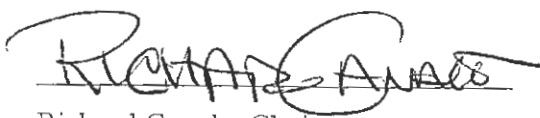
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- c. The use of chemical fertilizers, pesticides, herbicides, and sodium based products is prohibited in order to reduce any potential negative impacts to the nearby and adjacent resource areas when materials from the development may be transported by storm water or by leaching through the soil.
- d. The backup generator for the Sewer Pumping Station must:
 - i. Comply with the Lexington Noise Bylaw;
 - ii. Be enclosed in a sound resistant fenced enclosure; and
 - iii. Ensure that:
 - a. The condominium rules must afford the owners of Units 7, 8, 9, and 10 the opportunity to provide their preferences to the Association as to the timing of the facility's weekly 15-minute generator test; and
 - b. All conveyances of Units 7, 8, 9, or 10, requires notice of the weekly 15-minute generator tests to the new owners.

RECORD OF VOTE

The members of the Planning Board, on July 21, 2017, voted 4 to 1, with Ms. Johnson in the negative, to grant the special permit, subject to the above-stated terms and conditions.

For the Board,



Richard Canale, Chair
Planning Board

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Copy of Decision to:

- Applicant (by Certified Mail)
- Board of Health
- Conservation Commission
- Police Chief
- Director of Public Works

- Town Clerk
- Building Commissioner
- Fire Chief
- Town Assessor
- Revenue Officer

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MIDDLESEX S.S. _____

SOUTH DIST. REGISTRY OF DEEDS

CAMBRIDGE, MA

I HEREBY CERTIFY THE FOREGOING

IS A TRUE COPY OF A PAPER 70204

RECORDED IN BOOK _____

PAGE 59 _____

Alma C. Cantatore

REGISTER

