

05-20



TOWN OF SUDBURY  
Board of Appeals  
TOWN CLERK  
SUDBURY, MASS  
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Sudbury, Massachusetts 01776



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NOTICE OF DECISION  
COMPREHENSIVE PERMIT  
PARI HOLDINGS LLC  
SUDBURY MEADOWS  
534 NORTH ROAD  
SUDBURY, MA

ZONING BOARD OF APPEALS CASE NUMBER 05-19  
FEBRUARY 1, 2006

**I. Background**

The Sudbury Zoning Board of Appeals (the "Board") received application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23, from Pari Holdings LLC/Louis Mountzoures, Manager (the "Applicant") on March 8, 2005 to construct a 16 unit condominium development (which was subsequently reduced by the Applicant to 8 units), including two (2) affordable units, on a 4.927 acre parcel of land located at 534 North Road. Said property is within an A-Residential Zoning District and Zone II of the Water Resource Protection District, and is identified as parcel 34 on Town Assessor's Map B07 (the "Property"). The Property is owned by Pari Holdings LLC.

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

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

- a) it is a limited dividend corporation created in accordance with the general laws of the Commonwealth of Massachusetts for the express purpose of undertaking the development of the Property as a limited dividend corporation;
- b) it will receive a government subsidy in that it will receive a loan from the MassHousing or New England Fund financing from a Member Bank of the Federal Home Loan Bank of Boston in an amount sufficient to qualify the project as one eligible for a comprehensive permit; and
- c) it is the owner of the Property.

The Board convened the public hearing on this application on April 28, 2005. The public hearing was continued to May 19, 2005, June 2, 2005, June 22, 2005, July 21, 2005, August 30, 2005, September 20, 2005, December 8, 2005 and January 24, 2006. The hearing was closed at the end of the January 24, 2006 proceedings.

Plan # 267 of 2006

46334-466

Louis W. Mountzoures, Esquire  
1661 Worcester Rd., Suite 202  
Framingham, MA 01701

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Sitting as members of the Board and present throughout the hearing were Jeffrey P. Klofft, Acting Chairman, Jonathan G. Gossels, Clerk, Richard L. Burpee, Constantine Athanas, Elizabeth A. Taylor, and Nancy Rubenstein, alternate.

In reviewing the application of Pari Holdings LLC as well as evidence presented in written or oral form by citizens and Town Boards during the course of the public hearing, the Board has determined that the Town of Sudbury does not meet the specific statutory criteria for availability of low and moderate income housing as those units currently in existence constitute less than 10% of the housing units in the Town and are on sites which comprise less than 1.5% of the total land area of the Town which is zoned for residential, commercial or industrial use excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof. The Board has further determined that the allowance of this application will not result in the commencement of construction of low or moderate income housing units on a site comprising more than 0.3% of the area of land zoned for residential, commercial or industrial uses in Sudbury in a single calendar year excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof. The Board also finds that the development as proposed in the application, as modified during subsequent sessions of the public hearing and as modified by the attached conditions is consistent with local needs within the meaning of Massachusetts General Laws, Chapter 40B, Sections 20-23 and that it is consistent with the character of the zoning district. Finally, the Board notes that the Applicant has presented evidence of preliminary site approval by the Massachusetts Housing Finance Agency, Project Eligibility Letter dated January 3, 2005.

Therefore, the Board finds that there is compelling evidence to support the granting of a Comprehensive Permit (the "Permit") to enable the construction of the development described during the public hearing and known as Sudbury Meadows, subject to the following conditions.

## **II. Application Details**

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

1. Plan prepared by Sullivan, Connors & Associates entitled "Sudbury Meadows in Sudbury, Massachusetts", dated October 19, 2005, revised 12/7/2005 and 12/19/2005 consisting of 8 sheets – Sheet 1 of 1, Plan of Land; Sheets 1 and 2 of 7, Locus Plan; Sheet 3 of 7, Existing Conditions Plan; Sheet 4 of 7, Utility Plan; Sheet 5 of 7, Site Plan; Sheet 6 and 7 of 7, Construction Details, Plan prepared by Sudbury Design Group entitled "Landscape Plan for Snowberry Lane", dated October 31, 2005, revised 11/8/2005 and 12/12/2005, consisting of 1 sheet, and Architectural Plans prepared by Schopf Design

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- Associates entitled "Sudbury Meadows, Sudbury, Massachusetts Typical Single Family Residence" dated September 12, 2005 consisting of 6 sheets (the "Plan").
2. Application for Comprehensive Permit with supporting documents dated March 28, 2005.
  3. Comprehensive Permit Traffic Study prepared by Greenman-Pedersen, Inc. dated March 28, 2005.
  4. Memo from ZBA to Town Boards/Depts. requesting input dated March 21, 2005
  5. Letter from Robert L. Devin, Esq. dated March 14, 2005 agreeing to an extension of time for commencement of the public hearing
  6. Letter from Town Engineer dated April 1, 2005
  7. Memo from Town Planner dated April 6, 2005
  8. Letter from Design Review Board dated April 14, 2005
  9. Letter from Town Manager for Selectmen dated April 19, 2005
  10. Memo from Building Inspector dated April 25, 2005
  11. Letter from Louis Mountzoures dated April 26, 2005 enclosing architectural drawings of a typical proposed dwelling unit
  12. Phone call April 27, 2005 from Lt. Nix/Police Dept. indicating no issues to date
  13. Memo from Conservation Coordinator dated April 28, 2005
  14. Letter from Town Manager for Selectmen dated May 6, 2005
  15. Email from Louis Mountzoures dated May 9, 2005 requesting extension of public hearing continuance
  16. Letter from the Planning Board dated May 13, 2005
  17. Letter from Louis Mountzoures dated May 25, 2005 enclosing revised Site Development Plans dated May 18, 2005, revised Architectural Floor Plans & Elevations dated May 24, 2005, updated Waiver Request List, Letter dated May 24, 2005 regarding preliminary funding
  18. Memo from ZBA to Town Boards/Depts. requesting input dated May 26, 2005
  19. Memo from Town Planner dated May 31, 2005
  20. Letter from Town Engineer dated June 1, 2005
  21. Examples of condominium developments for surrounding towns (received at June 2, 2005 public hearing)
  22. Letter from Robert Devin, Esq. dated June 2, 2005
  23. Email from Town Planner dated June 3, 2005 to Town Boards/Depts. providing update of June 2, 2005 public hearing
  24. Letter from Design Review Board dated June 9, 2005
  25. Letter from Louis Mountzoures dated June 15, 2005 enclosing revised Site Development Plans dated June 9, 2005, Market Analysis dated June 8, 2005, updated Waiver Request List as of June 15, 2005
  26. Memo from ZBA to Town Boards/Depts. requesting input dated June 17, 2005
  27. Email from Conservation Coordinator dated June 20 & 22, 2005
  28. Memo from Town Planner dated June 20, 2005 w/email dated June 21, 2005
  29. Letter from Administrative Assistant to Selectmen dated June 22, 2005

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30. Preliminary Construction Budget (received at June 22, 2005 hearing)
31. Letter from Louis Mountzoures dated July 14, 2005 enclosing revised Site Development Plans dated July 11, 2005, Architectural Street Elevations, Typical Unit Elevations and Floor Plans
32. Memo from ZBA to Town Boards/Depts. requesting input dated July 14, 2005
33. Email from Conservation Coordinator dated July 18, 2005
34. Letter from Town Engineer dated July 18, 2005
35. Letter from Louis Mountzoures dated August 22, 2005 enclosing revised Site Development Plan dated August 3, 2005, Market Analysis dated August 1, 2005, updated Waiver Request List as of August 10, 2005, revised pro forma dated August 8, 2005
36. Memo from ZBA to Town Boards/Depts. requesting input dated August 23, 2005
37. Letter from Design Review Board dated July 28, 2005
38. Letter from Jonathan D. Witten, Esq. with pro forma dated August 25, 2005
39. Letter from Town Engineer dated August 25, 2005
40. Letter from Conservation Coordinator dated August 25, 2005
41. Letter from Design Review Board dated August 25, 2005
42. Memo from Town Planner dated August 29, 2005 with email from Fire Chief dated August 28, 2005
43. Letter from Louis Mountzoures dated September 13, 2005 enclosing architectural house elevation, floor plans and North Road street elevations
44. Memo from ZBA to Town Boards/Depts. requesting input dated September 14, 2005
45. Email from Conservation Coordinator dated September 19, 2005 attaching August 25, 2005 letter
46. Letter from Planning Board dated September 19, 2005 enclosing Town Planner's memo dated June 21, 2005.
47. Email from Beau Schless, 43 Mary Catherine Lane, dated September 19, 2005
48. Memo from Building Inspector dated September 19, 2005
49. Letter from Design Review Board dated October 4, 2005
50. Letter from Louis Mountzoures dated November 1, 2005 with Definitive Site Development Plans dated October 19, 2005, Drainage Calculations, updated Waiver Request List as of November 1, 2005, copy of Deed dated October 24, 2005
51. Memo from ZBA to Town Boards/Depts. requesting input dated November 2, 2005
52. Letter from Louis Mountzoures dated November 8, 2005 enclosing Landscape Plan dated October 31, 2005, revised November 8, 2005
53. Memo from ZBA to Town Boards/Depts. requesting input dated November 9, 2005
54. Letter from Design Review Board dated November 10, 2005
55. Letter from Mary Ann Reynolds sent to Lou Mountzoures dated November 15, 2005
56. Letter from Town Engineer dated November 21, 2005
57. Memo from Town Planner dated November 23, 2005
58. Letter from Conservation Commission dated November 23, 2005
59. Memo from Fire Chief dated November 28, 2005

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60. Letter from Robert A. Schless, 43 Mary Catherine Lane, undated
61. Memo from Planning Board dated November 30, 2005
62. Letter from Town Engineer dated December 2, 2005
63. Email from Town Planner dated December 5, 2005
64. Email from Building Inspector dated December 5, 2005
65. Email from Water District dated December 5, 2005
66. Email from Lt. Richard Glavin, Police Dept., dated December 8, 2005
67. Letter from Louis Mountzoures dated December 30, 2005 enclosing Final Definitive Plans revised December 19, 2005, Final Landscape Plan revised December 12, 2005, Waiver Request List revised December 29, 2005, Lot Closure Calculations, Earth Removal Calculations, copy of letter from Pari Holdings to Andrew & Mary Ann Reynolds, 531 North Road
68. Memo from ZBA to Town Boards/Depts. requesting input dated January 3, 2006
69. Memo from Selectmen dated December 23, 2005
70. Letter dated January 12, 2006 from Design Review Board
71. Copy of WPA Form 5 – Order of Conditions dated January 11, 2006
72. Letter from David & Tara Stewart, 10 Mary Catherine Lane, dated January 23, 2006

### III. Exceptions

The Board hereby grants exceptions to the following local bylaws and regulations in approving this project.

#### 1. Zoning Bylaw, Article IX of the Sudbury Bylaws, Section 2600 Dimensional Requirements:

- Lot 1: Minimum lot area from 40,000 sq. ft to 8,008 sq. ft.  
Minimum lot frontage from 180 feet to 48 feet.  
Minimum front yard setback from 40 feet to 27 feet.  
Minimum side yard setback from 20 feet to 10 feet on north property line
  
- Lot 2: Minimum lot area from 40,000 sq. ft to 5,180 sq. ft.  
Minimum lot frontage from 180 feet to 44 feet.  
Minimum front yard setback from 40 feet to 14 feet.  
Minimum side yard setback from 20 feet to 10 feet on both sides.  
Minimum rear yard setback from 30 feet to 25 feet.
  
- Lot 3: Minimum lot area from 40,000 sq. ft to 6,299 sq. ft.  
Minimum lot frontage from 180 feet to 39 feet.  
Minimum front yard setback from 40 feet to 19 feet.



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Minimum side yard setback from 20 feet to 9 feet on north, 10 feet on south.  
Minimum rear yard setback from 30 feet to 12 feet.

Lot 4: Minimum lot area from 40,000 sq. ft to 6,841 sq. ft.  
Minimum lot frontage from 180 feet to 36 feet.  
Minimum front yard setback from 40 feet to 20 feet.  
Minimum side yard setback from 20 feet to 7 feet on west, 8 feet on east.  
Minimum rear yard setback from 30 feet to 28 feet.

Lot 5: Minimum lot area from 40,000 sq. ft to 6,951 sq. ft.  
Minimum lot frontage from 180 feet to 36 feet.  
Minimum front yard setback from 40 feet to 24 feet.  
Minimum side yard setback from 20 feet to 9 feet on west and east sides.  
Minimum rear yard setback from 30 feet to 19 feet.

Lot 6: Minimum lot area from 40,000 sq. ft to 8,096 sq. ft.  
Minimum lot frontage from 180 feet to 35 feet.  
Minimum front yard setback from 40 feet to 19 feet.  
Minimum side yard setback from 20 feet to 9 feet on north, 10 feet on south.  
Minimum rear yard setback from 30 feet to 26 feet.

Lot 7: Minimum lot area from 40,000 sq. ft to 4,949 sq. ft.  
Minimum lot frontage from 180 feet to 53 feet.  
Minimum front yard setback from 40 feet to 14 feet.  
Minimum side yard setback from 20 feet to 9 feet on north, 10 feet on south.  
Minimum rear yard setback from 30 feet to 22 feet.

Lot 8: Minimum lot area from 40,000 sq. ft to 8,835 sq. ft.  
Minimum lot frontage from 180 feet to 47 feet.  
Minimum front yard setback from 40 feet to 26 feet.  
Minimum side yard setback from 20 feet to 10 feet on north.

2. Section 2641A, Lot Perimeter, including lot width.

3. Planning Board Rules and Regulations Governing the Subdivision of Land

Section IV C.3.v, Definitive Plan Requirement to locate trees greater than 18 inches on the Plan. The development is concentrated in an area containing few large trees. Other significant site features are shown.

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Section IV C.3.w, Definitive Plan Requirement to show topography of the entire site. Topography is shown in areas proposed for development.

Section IV C.5, Site Evaluation. Adequate information was presented at the public hearings to evaluate.

Section V B.2.f, Design Standards, Alignment and Width. The proposal is for a 40 foot wide right of way instead of 50 foot wide. The roadway will be constructed to an adequate width.

Section V B.2.g, Design Standards, Alignment and Width. The proposed road separation from Mary Catherine Lane to Snowberry Lane is 160 feet instead of 360 feet. Sight distance improvements will be required to ensure adequate visibility when entering or exiting the roadway.

Section V B.4.b , Design Standards, Dead End Streets. The proposed turnaround layout radius is 50 feet instead of 60 feet. The roadway will be constructed with an adequate turning radius.

Section VI B, Subdivision Improvements, Inspection Fees.

Section VI D.2, Street and Roadway Construction. The plan proposes 22 feet width of pavement instead of 24 feet. This width is acceptable to the Sudbury Fire Chief. The roadway will remain in private ownership.

Section VI G, Fire Alarm.

Section VI J, Shade Trees. Request is to waive the requirement to plant street trees at less than 40 foot intervals along the roadway. The installation of both the wastewater disposal system and the stormwater management system underneath the roadway prohibit the planting of trees above ground. Landscaping as shown on the Plan will be installed within the front yards of all the lots.

Section VI N, Walkways. No walkways are proposed within the subdivision, however the Applicant will be constructing walkways outside the development linking it to the surrounding neighborhoods.

Section VI O.1, Curbing and Guard Rails. No granite curbing is proposed within the subdivision. Bituminous concrete curbing will be installed along the entire length of the roadway and around the landscape island.

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4. Rules and Regulations Governing the Subsurface Disposal of Sewage:

Section III requires a variance to utilize leaching beds. Applicant shall comply with all Title V requirements.

Section VI requires a variance to utilize a pump. Applicant shall comply with all Title V requirements.

**IV. General Conditions**

1. This Permit shall run to the Applicant. The Permit does not run to the site.
2. This Permit shall become void if Applicant does not commence with development as approved herein within three (3) years of the filing of this decision with the Town Clerk.
3. This Permit shall be limited to eight (8) residential building lots. Any further division of said Property into more than eight (8) building lots shall require Board approval pursuant to M.G.L. Chapter 40B, Sections 20-23.
4. This Permit approves the construction of a subdivision, consisting of 8 units of detached single family residential housing, with associated infrastructure and landscaping as identified in the Plan. Two (2) units shall be reserved for sale and occupancy by low or moderate income residents at established sales prices pursuant to the MassHousing's Housing Starts Program. If the Subsidizing Agency is not MassHousing, the Applicant shall comply with the Department of Housing and Community Development's Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity.
5. Any substantial deviations, as determined by the Board, from the approved Plan, including but not limited to changes in the building sizes, number of units, exterior façade, roadway and infrastructure locations or design specifications, lighting or screening, shall require approval of the Board. It shall be the decision of the Board whether such modification requires a public hearing.
6. Construction of the development shall be in conformance with the Plan as identified herein, with modifications as required by this decision.
7. The two (2) affordable units shall have the same exterior amenities and design as the market-rate units.
8. Walkways shall be constructed at the Applicant's expense, in accordance with Town specifications, along the north side of North Road from Snowberry Lane to Mary Catherine Lane, and on the south side of North Road from Mossman Road to Longfellow Road. The town shall be responsible for obtaining any required easements for the walkway construction. In addition, a cross walk shall be painted by the Applicant at the intersection of Mary Catherine Lane to guide pedestrians across North Road.



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9. The Applicant shall be permitted to remove approximately 4,000 cubic yards of earth incidental to the construction of the residential buildings, the construction of the wastewater disposal system, and the construction of the roadway and drainage system. Hours of operation for earth removal shall be 9:00 am - 3:30 pm, Monday through Friday; no Saturday or Sunday hauling. The truck route from the site shall be limited to the major streets of the Town of Sudbury, including but not limited to North Road, Concord Road, Route 27, and Pantry Road. Trucks shall not use using residential side street, including but not limited to Longfellow Road, Mary Catherine Lane, Mossman Road, Powers Road and Powder Mill Road. Appropriate measures shall be taken to stabilize the soil on outgoing trucks via the use of covers.
10. Appropriate measures shall be taken to prevent the tracking of material onto any public way. Such measures shall include the installation of a stone apron at the entrance to the site as shown on the Plan. Any material tracked onto a public way will be swept up and removed on a daily basis.
11. Exterior construction activities shall be confined to the hours between 7:00 am and 6:00 pm, Monday through Friday and between the hours of 9:00 am and 6:00 pm on Saturday. There shall be no construction on federal holidays.
12. Demolition of existing structures shall be confined to the hours between 9:00 am and 3:30 pm, Monday through Friday. No demolition shall be allowed on Saturday or Sunday. Trucks carrying demolition materials from the site shall be limited to using the major streets of the Town of Sudbury as described in condition 9 above. Trucks shall avoid using residential side streets. Appropriate measures shall be taken to keep dust and noise of demolition to a minimum.
13. Applicant shall comply with all conditions of the Order of Conditions issued by the Sudbury Conservation Commission.
14. The Applicant shall submit a Phase I Site Assessment Report pursuant to M.G.L. Chapter 21E indicating the absence of hazardous or toxic materials on the site, or the method of remediation, to the Board and the Building Inspector prior to issuance of a building permit.
15. Any construction trailer located on site during the development of the Property shall be located in an already disturbed area, shall not require the need to remove any vegetation, shall not obstruct sight distance entering or exiting the Property, and shall not be located within 30 feet of any property line. No further approval shall be necessary.
16. There shall be no disturbance to the Property until the Plan has been revised according to this decision, the Plan is endorsed by the Board, and the vegetation along both sides of the Property is properly marked and shielded from impact by construction vehicles. The Town Planner shall be called to inspect the site prior to disturbance.
17. Any disturbance to the shoulders of Route 117 in front of the development shall be restored with loam and seed after construction.
18. Addresses for the dwellings shall be Snowberry Lane, and shall be issued by the Town Engineer/Director of Public Works. All mailboxes shall be located on Snowberry Lane.

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19. The Applicant shall review the proposed Architectural Plan dated September 12, 2005 with the Design Review Board for further input. If agreed upon, other than changes to foundation footprints, all recommendations of the Design Review Board shall be incorporated into the final Architectural Plan. If any aspect of these recommendations is disputed by the Applicant, the Board shall discuss those items and make a final determination. Final Architectural Plans, stamped by a registered architect, shall be submitted to the Board prior to issuance of a building permit.
20. Building permits shall not be issued until final building plans have been submitted and approved by the Building Inspector.
21. At least one affordable home must be completed prior to the issuance of an Occupancy Permit for the fourth market home. At least two affordable homes must be completed prior to the issuance of an Occupancy Permit for the sixth market home.
22. The Applicant shall pay for the Town to hire an independent accounting firm to review the revenues and costs of the project to determine if the profits from the development exceed 20% of approved costs. Revenues and costs associated with upgrades and/or options must be included within the cost certification submission prepared by the Applicant. The estimated cost of this Monitoring Service shall be calculated and added to the performance bond.
23. All local regulations and bylaws shall be complied with, with the exception of the waivers granted in Section III above.
24. The Board has considered the recommendations of the boards and committees of the Town of Sudbury regarding the Water Resource Protection District Bylaw, the Public Way Access Permit Bylaw and the Earth Removal Bylaw, and finds that reasonable conditions relative to these regulations have been incorporated herein.
25. All revised plans or documents submitted to other Town departments or Boards, including the Building Inspector and Town Engineer, shall also be submitted to the Board.
26. All construction, including the construction of walkways external to the Property and as described in condition IV.8, shall be completed within two years from the date of issuance of the building permit unless a request is filed with, and approved by, the Board extending such time.
27. If MassHousing, as Project Administrator, requests a modification of a specific condition(s) of this Comprehensive Permit so as to conform and/or comply with program requirements and/or Massachusetts Law, said modification(s) to this Permit can be implemented with the consent of the Applicant and the Board, without the requirement of a public hearing.

#### **V. Plan Revisions Prior to Endorsement**

1. A notation shall be placed on the Utility Plan that all utilities shall be installed

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- underground.
2. The Plan shall be revised to show the installation of bounds at lot corners and along the roadway as required by the Rules and Regulations Governing the Subdivision of Land, section VI.M.
  3. The total impervious surface percentage shall be added to the Site Summary on sheet 1 of 1.
  4. The words “under the subdivision control law” and “acting for the Sudbury Planning Board” shall be eliminated from the notation on sheet 1 of 1 indicating approval by the Zoning Board of Appeals.
  5. The words “Town of Sudbury” shall be eliminated from the notations regarding easements on sheet 1 of 1 and sheet 4 of 7.
  6. A signature block for the Town Clerk shall be added to the Plan.
  7. Sight easements twenty (20) feet in width along North Road on Lots 1 and 8 shall be added to the Plan.

#### **VI. Construction Details**

1. Detailed plans of the following utilities and services shall be prepared in accordance with all applicable regulations and requirements and shall be submitted for review and approval of the listed authorities prior to endorsement of the Plan:
  - ◆ Water mains - Water District Superintendent
  - ◆ Fire hydrant locations – Water District Superintendent and Fire Chief
  - ◆ Fire alarm cable and boxes – Fire Chief
  - ◆ Primary and secondary electrical cables including distributions boxes and transformers – Wiring Inspector
  - ◆ Telephone cables and Street lighting – Wiring Inspector
2. The roadway shall be constructed to the specifications of the typical cross-section found in the Regulations Governing the Subdivision of Land in Sudbury, MA, except where expressly waived above.
3. All utilities serving this development shall be installed underground, including any extensions from existing lines or poles external to the subject property. All existing overhead utilities and poles located on the premises shall be removed and replaced with underground service.
4. Building plans shall conform to the current Massachusetts Building Code.
5. Town water shall be extended to serve the development. Installation of water mains and hydrants shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief. No drinking water wells shall be permitted on the Property.
6. Board of Health approval pursuant to Title V approval shall be obtained for construction

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of the wastewater disposal system.

7. Stormwater management shall be constructed as shown on the Plan.
8. Any underground irrigation system installed in this development shall comply with the Town Bylaw regulating in-ground irrigation systems.

## **VII. Signage**

1. The only signage at the entrance of the development shall be a standard street sign as approved by the Department of Public Works. No formal entrance sign shall be permitted.
2. Other traffic signage shall be installed on Route 117, at the Applicant's expense, if determined necessary by the Safety Officer to warn motorists of the development or other safety issues associated with this development. This condition shall be complied with prior to final release of the performance bond.

## **VIII. Lighting**

1. Lighting within the development is approved as shown on the Plan.
2. All exterior lighting shall be arranged to prevent glare and light spilling over to neighboring properties or the public way. There shall be no building flood lighting. Lighting along the roadways in the development shall be limited to 75 watts or less of incandescent lighting per fixture.
3. The Applicant shall install shields on all lights if the Board determines that such lighting produces glare onto abutting properties.
4. The Homeowner Association documents shall contain a provision prohibiting light spilling over to neighboring properties and onto the abutting Open Space.
5. The Board or their representative shall inspect the Property prior to release of the performance bond for the development (or anytime prior) to certify that lighting meets the intent of these provisions. If, in the opinion of the Board, the lighting is not shielded from the adjoining properties, the Applicant shall forthwith rectify such complaint to the satisfaction of the Board.

## **IX. Landscaping/Screening**

1. Landscaping and screening around the development shall be installed as shown on the Plan. It is the intent of this decision to screen abutting properties from the development by the use of the existing vegetation along the side property lines, supplemented with additional plantings as shown on the Plan.

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2. Existing natural vegetation along the side property lines shall not be disturbed. All construction, utility installation and landscaping shall preserve this natural buffer as shown on the Plan. The vegetation along the sides of the Property shall be adequately marked and protected from destruction by construction vehicles prior to commencement of any work on the Property.
3. Plant species shall be revised on the Sudbury Design Group Plan, as recommended by the Design Review Board in a memo dated 1/12/06.
4. Screening at the rear of Lot 3 shall be subject to the reasonable approval of the abutting property owner. If, within 12 months after installation, vegetative screening is not satisfactory to the abutter of Lot 3, the Applicant shall be required to install fencing for a length of no more than 120 feet along the rear property line of lot 3.
5. Any trees greater than 1 ½" diameter required to be removed within the town right-of-way for sight distance purposes, or for utility installation, construction of the roadway or walkway construction, shall be flagged and the Town Planner called for an inspection prior to removal. No further hearings or approval under M.G.L. Chapter 87 shall be required.
6. No structural fencing, other than that shown on the Plan, shall be erected along North Road on Lots 1 and 8 without the approval of the Board.
7. The Board shall inspect the site at the time of substantial completion of the project to determine if additional screening vegetation is necessary. The Applicant has agreed to fill in gaps where necessary to shield abutting residential properties.
8. All landscaping required by this decision shall be secured for a period of 2 years by the performance bond. The Applicant will be responsible for replacing dead plantings within this time period. A maintenance bond shall be submitted to secure this condition.

#### **X. Legal Requirements**

1. The Applicant is required to form a Homeowners Association for the continued maintenance of the infrastructure in the development. Homeowner Association documents shall be submitted for review and approval by Town Counsel and the Town Planner prior to the issuance of occupancy permits for any units. These documents shall pro-rate the maintenance fees for the affordable units according to the sale price of each unit. The Board reserves the right to approve the maintenance fee schedule for all the units in the development. Maintenance schedule and responsibilities for the roads, development infrastructure, wastewater disposal system, and stormwater management system shall be specified in the Homeowners Association documents. A copy of the documents shall be forwarded to the Board for its information.
2. Twenty five percent (25%) of the total units in this development shall be available for purchase and occupancy by households whose income is no more than 80% of the Boston



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- PMSA Median Family Income, adjusted for household size and as determined by the United States Department of Housing and Urban Development. These units shall be indistinguishable on the exterior from the market value units in the project. Before any unit is sold, the Applicant shall submit to the Board the proposed form of Deed Rider to be attached to and recorded with the Deed for each and every affordable unit in the project at the time of each sale and resale, which Deed Rider shall restrict each such unit in accordance with this requirement in perpetuity in accordance with the requirements of M.G.L. Chapter 184, sections 31-33. The proposed Deed Rider shall set forth the period of affordability to be in perpetuity, or the maximum term allowed by law, but in no case less than ninety-nine (99) years.
3. The standard Massachusetts Housing Finance Agency Regulatory Agreement for the Housing Starts Program, or a similar agreement for Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, between the Applicant, the Town of Sudbury, and MassHousing, as Project Administrator, shall be executed prior to the issuance of a Building Permit for any of the units in this development. This Regulatory Agreement shall set forth the terms and agreements relative to the sale and resale of the affordable units in the development. The Regulatory Agreement shall be submitted for review and approval of the Town Planner and Town Counsel prior to its execution by the Town of Sudbury. A copy of the document shall be forwarded to the Board for its information.
  4. Each affordable unit will be sold for no more than the Maximum Initial Sales Price/Maximum Resale Price established in the Regulatory Agreement.
  5. The standard Massachusetts Housing Finance Agency Monitoring Agreement for the Housing Starts Program, or a similar agreement for Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, between the Applicant, the Town of Sudbury, MassHousing, as Project Administrator, and the designated Monitoring Agent shall be executed prior to the issuance of a Building Permit for any of the units in this development. The Monitoring Agreement designates the entity who monitors the affordable units, and sets forth the responsibilities for monitoring the sale and resale of the affordable units, including income eligibility of prospective buyers, requirement for submittal of annual compliance reports to the Town of Sudbury, and requirement for an accounting of the project costs and revenues after completion to determine if profits are within the limited liability requirement. All costs associated with the Monitoring Agreement shall be paid by the Applicant. The Monitoring Agreement shall be submitted for review and approval of the Town Planner and Town Counsel prior to its execution by the relevant parties and prior to occupancy of any unit. A copy of the document shall be forwarded to the Board for its information. The Town of Sudbury reserves the right to choose a Monitoring Agent.
  6. Local preference for the purchase of one (1) unit shall be given to financially qualified residents of the Town of Sudbury. For the purpose of this condition, and subject to any legal requirements, "residents of the Town of Sudbury" shall include but not be limited

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to the following: current Sudbury residents; the children and parents of current Sudbury residents; former Sudbury residents with five (5) or more years of residency in Sudbury; Town of Sudbury/Sudbury Public School employees; Sudbury Water District employees; Lincoln Sudbury Regional High School District employees; Sudbury Housing Authority employees; families who have children currently participating in the METCO program of the Sudbury Public Schools or the Lincoln Sudbury Regional High School; and persons who can demonstrate 2 years of continuous employment within the Town of Sudbury .

The Monitoring Agent, in conjunction with the Town of Sudbury shall conduct a lottery to solicit interest for the purchase of these units. Such lottery shall be advertised in a newspaper of local circulation in the Town of Sudbury for at least 3 weeks prior to the lottery. All governmental employees noted above shall receive notice of the lottery and the availability of affordable units.

7. The Applicant shall submit a marketing plan to the Board for all of the units in the development. The marketing plan shall comply with all Fair Housing Laws. Said plan shall contain, to the extent legally allowable, a strategy for marketing units under the "local preference" described in condition 6 above. A pre-marketing campaign directed at Sudbury residents shall be undertaken for a 3 month period prior to sale of units to the general public. The marketing plan shall further demonstrate a strategy for occupying all constructed units within a finite time period.
8. The Applicant, in conjunction with the Monitoring Agent, shall submit a detailed procedure to the Board for determining income eligibility for the affordable units, consistent with other state affordable housing programs. Items such as income level for eligibility, maximum household income based on household size, method of reviewing income, and determining asset limits for eligibility shall be included.
9. The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Initial Price shall be three persons for a two bedroom home, unless the subsidizing agency or other public agency requires that a smaller household size be used.
10. A utility easement shall be granted to Verizon on Lot 8 to allow proper access to the existing cable equipment.
11. All necessary easements shall be granted by the Applicant where required by public utility companies or the Town of Sudbury. Evidence of recordation of all easements shall be submitted to the Board prior to occupancy.
12. Sight easements prohibiting the installation or growing of vegetation greater than 3 feet high, or the construction of any structure greater than 3 feet high, within 20 feet of the pavement of North Road on Lots 1 and 8 shall be submitted to the Board for review and approval.
13. Evidence of financing approval and MassHousing Final Approval shall be submitted to the Board prior to the issuance of building permits.
14. The deed granting the Open Space Lot 9 to the Town of Sudbury for conservation purposes pursuant to M.G.L. section shall be submitted for review and approval by Town

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Counsel prior to the issuance of occupancy permits for any unit in the development.

15. Restrictive covenants shall be recorded stating that the lots within the development are within the Water Resource Protection District and are subject to restrictions regulating the amount of impervious surface that can be installed on each lot, including a 1/8 allowance for the open space area to be allotted to each house lot, as follows:

Lot 1	3,966 sq. ft.
Lot 2	3,541 sq. ft.
Lot 3	3,709 sq. ft.
Lot 4	3,790 sq. ft.
Lot 5	3,807 sq. ft.
Lot 6	3,979 sq. ft.
Lot 7	3,507 sq. ft.
Lot 8	4,090 sq. ft.

Exceeding these limits shall require individual lot owners to apply for a Water Resource Special Permit from the Planning Board. This restriction shall be recited in each deed conveying a lot within the development.

16. A covenant satisfactory to the Board guaranteeing the construction of ways and installation of municipal services in the subdivision within two (2) years of issuance of the building permit shall be submitted prior to endorsement of the Plan.
17. A performance bond shall be required by the Board to ensure installation and proper functioning of the roadway, drainage system, screening, landscaping, walkways, crosswalk, emergency accesses, as-built plans and all other conditions as required by this decision. Such cost estimate shall be determined by the Director of Public Works at the then current bonding rates established by the Town, and shall be submitted to the Board prior to the issuance of Certificates of Occupancy for any unit in the development. The type and form of such performance bond shall be submitted for the review and approval of Town Counsel prior to being accepted by the Board. The performance bond shall not be released below \$25,000 until the development is complete, all conditions of this Decision have been fulfilled, the cost accounting showing less than 20% profit on the development has been verified by an independent Certified Public Accountant chosen by the Board (described in condition IV.22 above), and an as-built plan indicating conformance with the approved Plan is submitted and approved.
18. This decision shall be recorded at the Middlesex South Registry of Deeds senior to any other liens other than pre-existing easements of records. Recording information shall be submitted to the Board prior to the issuance of building permits.
19. The affordability requirement of this Comprehensive Permit shall be senior to any mortgage liens on the affordable units.
20. If at any time during construction, any Town official or representative determines that a violation of the approved Plan or this decision has occurred, the Town shall notify the Applicant by certified mail and the Applicant shall be given 30 days to rectify said violation or construction activities shall be ordered to cease until the violation is

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corrected.

21. This permit shall expire if construction does not begin within three (3) years of the date of filing this decision with the Town Clerk. The Board may grant extensions for good cause.

#### **XI. Maintenance/Inspections**

1. Enforcement of the conditions of this decision shall be by the Building Inspector.
2. A construction schedule shall be submitted to the Board, Town Engineer and Building Inspector prior to the issuance of building permits in order to facilitate inspections. Such schedule shall be revised quarterly to reflect work completed and changes in construction timing.
3. The Applicant shall notify the relevant town departments of installation of utilities and infrastructure for inspections prior to backfilling.
4. The Applicant and the subsequent Homeowners Association created for the development shall be responsible for maintaining the stormwater management structures and drainage system in the development in accordance with the Operation and Maintenance Plan submitted.
5. Snow removal, maintenance of roads and walks, lighting and utilities shall be maintained by the Applicant and the Homeowners Association created for the development. The Town of Sudbury does not accept responsibility for any infrastructure improvements or maintenance in this development.

#### **XII. Modifications**

1. There shall be no allowance for upgrade to affordable units. All affordable units shall be resold pursuant to the conditions of the Regulatory Agreement and Deed Rider.
2. Any changes to the exterior of structures will require compliance with the approved setbacks, building coverage requirements, etc. in this Permit, or will require a special permit from the Zoning Board of Appeals.

#### **XIII. Plan Endorsement**

The Board shall not endorse the Definitive Plan until the following conditions have been complied with to the satisfaction of the Board:

1. The Definitive Plan has been revised as described in section V above.

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2. A covenant guaranteeing the construction of ways and installation of municipal services in the subdivision within two (2) years of issuance of the building permit.
3. All required signatures from the Fire Chief, Water District, Wiring Inspector and Town Clerk have been obtained.

#### **XIV. Building permits**

Building Permits shall not be issued until the following conditions have been complied with to the satisfaction of the Board:

1. The Plan has been endorsed by the Board.
2. Evidence of financing approval and MassHousing Final Approval has been submitted to the Board.
3. Receipt of a recorded copy of this decision from the Middlesex South Registry of Deeds.
4. The Regulatory Agreement, including an approved form of Deed Rider, has been executed.
5. Board of Health approval for construction of the wastewater disposal system.
6. Final written approval from all Town Officials listed in Section VI above.
7. Receipt of a Phase I Site Assessment Report as required in condition IV.14.
8. Final architectural plans stamped by a registered architect have been submitted and approved.
9. The Building Permit plans shall reflect the recommendations of the Building Inspector detailed in a memo dated September 19, 2005.
10. A construction schedule as required by condition XI.2 above is submitted.
11. All permit fees normally required for building permits and other Town permits shall be paid to the Town.

#### **XV. Occupancy**

Occupancy of the units in this development shall not occur until the following conditions of this approval have been complied with:

1. The Homeowners Association documents have been approved by Town Counsel.
2. Written procedures for determining eligibility for sale and resale of affordable units have been approved by the Board as required by condition X.8.
3. Receipt of the proposed form of Deed Rider to be attached to and recorded with the Deed



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- for each affordable unit, as required by condition X.2.
4. Monitoring Agreement for the continued enforcement of the affordable units has been executed, as required by condition X.5.
  5. A performance bond ensuring installation and proper functioning of the roadways, drainage system, screening, landscaping, walkways, crosswalk, emergency accesses and all other conditions as required by this decision, as approved by Town Counsel and the Town Planner, has been submitted to the Board.
  6. Receipt of an executed utility easement on Lot 8 as described in condition X.10 above. All easements are subject to review and approval of Town Counsel prior to recording.
  7. Receipt of executed roadway and utility easements granting rights to the lot owners and utility companies to service the infrastructure in the development, as required in condition X.11. All easements are subject to review and approval of Town Counsel prior to recording.
  8. Submittal of sight easements to the Town of Sudbury on Lots 1 and 8, as required in condition X.12. All easements are subject to review and approval of Town Counsel prior to recording.
  9. Restrictive covenants regarding the Water Resource Protection District as detailed in condition X.15.
  10. Installation of the stormwater management system as detailed in condition VI.7 above.
  11. Submittal of a Marketing Plan as required in condition X.7 above.
  12. The Deed transferring Lot 9 to the Town of Sudbury for conservation purposes is submitted to the Town, as required in X.14.

#### **XVI. Release of the Performance Bond**

No request to reduce funds from the Performance Bond below \$25,000.00 shall be granted until the following conditions have been met:

1. As-built plans demonstrating the roadways, buildings, walkways and infrastructure have been constructed in general conformance with the approved Plan are submitted to and approved by the Town Engineer.
2. A cost accounting determining the profits earned on the development has been completed and if profits exceed twenty percent (20%), payment has been made to the Town.
3. Receipt of all recorded documents, including but not limited to the Plan, the Permit, easements, Restrictive Covenants, Covenant, Release of Covenant, Regulatory Agreement, Deed Rider, and Monitoring Agreement.
4. Certification of lighting as described in condition VIII.5.
5. Certification of adequate landscaping as described in condition IX.7.
6. Certification of adequate signage as described in condition VII.2.

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On Motion:

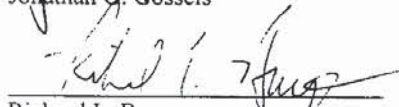
To conditionally approve the application of Pari Holdings LLC (the "Applicant") for a comprehensive permit under the provisions of General Laws chapter 40B, sections 20-23, inclusive, to permit the construction of an eight (8) lot subdivision and the construction of eight (8) single family dwellings thereon, including two (2) units to be sold for occupancy by low or moderate income residents at established rates pursuant to the Massachusetts Housing Finance Agency's Housing Starts Program, on land owned by Pari Holdings LLC consisting of 4.927 acres at 534 North Road in Sudbury (Assessor's Map B07, parcel 34) as described in the application submitted to the Zoning Board of Appeals (the "Board"), as modified during subsequent sessions of public hearing and subject to the previous conditions:

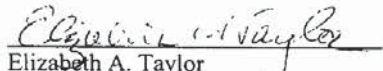
Voted:

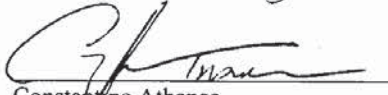
Date: February 1, 2006

  
Jeffrey P. Klofft, Chairman

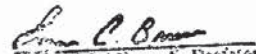
  
Jonathan G. Gossels

  
Richard L. Burpee

  
Elizabeth A. Taylor

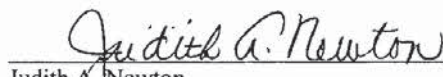
  
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SUDBURY, MASS  
06 FEB - 8 PM 12:43

  
Attest: Middlesex S. Registrar

March 1, 2006

This is to certify that no notice of an appeal from the Board of Appeal's Case #05-19 was filed in this office within 20 days after such decision was filed on February 8, 2006

  
Judith A. Newton  
Assistant Town Clerk

A TRUE COPY, ATTEST:  
  
Asst. TOWN CLERK  
March 1, 2006