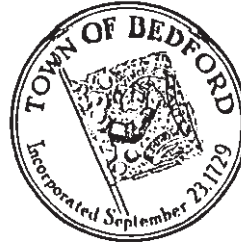


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TOWN OF BEDFORD  
BEDFORD, MASSACHUSETTS 01730



Doreen Tremblay, Town Clerk

Town Hall  
10 Mudge Way  
Bedford, Mass. 01730  
781-275-0083

Date: October 8, 2004



Bk: 43879 Pg: 320 Doc: DECIS  
Page: 1 of 35 10/13/2004 09:24 AM

Petitioner Name and Address: Middlesex Point, LLC  
100 Albion Road, Bedford, Mass.

Petitioner Number: 035-04

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

Attest:

Doreen Tremblay  
Town Clerk

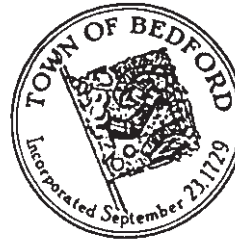
43879 / 317

100 Albion Road, Bedford

PLEASE RETURN TO:  
LANDAMERICA  
150 FEDERAL STREET, SUITE 200  
BOSTON, MA 02110  
ATTN: Philip Saha FILE NO. 06478

TOWN OF BEDFORD  
BEDFORD, MASSACHUSETTS 01730

RECEIVED  
TOWN OF BEDFORD  
TOWN CLERK



TTD/TTY: 781-687-6124

04 AUG 27 AM 9:02

PETITION NUMBER: 035-04  
PETITIONER: Middlesex Point, LLC  
LOCATION OF PROPERTY: 100 Albion Road, Bedford, MA  
MEMBERS VOTING: Robert Ellis, Chairman  
Herbert Aumann, Member  
Charles Theobald Jr., Member  
Louise Maglione, Alternate Member

MOTION: To grant to Middlesex Point LLC (the Applicant) at 100 Albion Road a Comprehensive Permit to construct 88 condominium units and associated below grade parking in three buildings in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of the Town of Bedford subject to the Conditions of Approval set forth in Chapter III of this Decision.

VOTING IN FAVOR

VOTING IN OPPOSITION

*Robert Ellis*  
*Herbert H. Aumann*  
*Charles E. Theobald*  
*Louise Maglione*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This vote was taken on August 26, 2004. Approval of this Motion for a Comprehensive Permit requires a majority vote of the Board.

The Board voted unanimously to grant this Comprehensive Permit.

The Board and the Applicant have complied with all statutory requirements for the issuance of this Comprehensive Permit on the terms hereinafter set forth. A copy of this Decision will be filed with the Town Clerk and will be mailed to all parties,

A TRUE COPY ATTEST

*[Signature]*  
Town Clerk

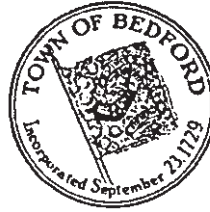
persons or boards as required by Massachusetts General Laws Chapter 40A.

The Decision was filed in the Office of the Town Clerk on August 27, 2004. Any appeal from this decision by any party other than Applicant shall be made pursuant to Massachusetts General Laws Chapter 40B, Section 21 and must be filed within twenty (20) days after the filing of the Decision with the Town Clerk.

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

## THE BOARD OF APPEALS

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TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 035-04  
THE VILLAGE AT BEDFORD WOODS COMPREHENSIVE PERMIT

### CHAPTER I. FINDINGS

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

In making its findings and reaching decisions, the Board is guided by M.G.L. Ch. 40B and its regulations 760 CMR 31.00, by the Board's own rules for a Comprehensive Permit and by current Zoning bylaws. The Board also considered evidence presented at the public hearings and evidence placed in the public record prior to the closing of the public hearing on June 30, 2004. The record includes, but is not limited to, the documentation listed in Chapter II.

#### 1. Procedural History

By an application ("Application") filed with the Bedford Town Clerk on January 20, 2004, the applicant, Middlesex Point, LLC (the "Applicant"), petitioned the Town of Bedford Zoning Board of Appeals (the "Board") for a Comprehensive Permit pursuant to Massachusetts General Law, Chapter 40B, Sections 20-23 ("Chapter 40B"), to allow the Property to be used as a 100 unit residential condominium development consisting of three four-story buildings with twenty-five percent (25%) of the housing units to be designated as affordable housing under the provisions of Chapter 40B, with a subsidy to be provided pursuant to the program requirements of the Housing Starts program administered by the Massachusetts Housing Financing Agency ("MassHousing").

Based upon comments made and concerns raised by the Board and by the public, the Applicant thereafter modified the proposal to reduce the number of proposed condominium units to eighty-eight (88) and the height of the proposed buildings was reduced from four-story buildings to three-story buildings (the "Project.") The proposed housing was depicted on preliminary plans entitled "The Village at Bedford Woods, Albion Road, Bedford, Massachusetts," dated April 29, 2004, revised June 30, 2004, consisting of six sheets, prepared by Symmes, Maini & McKee Associates and submitted in connection with the Application (collectively, the "Project Plans").

A public hearing for a Comprehensive Permit was advertised in the Bedford Minuteman on January 29, and February 5, 2004. All abutters were notified. The hearing was opened on February 12, 2004 and was continued to April 29, 2004, May 13, 2004, June 10, 2004, and June 30, 2004 (collectively the "Hearing"). All Town Boards were notified of the hearing and were requested to comment on the Comprehensive Permit as required by the Town of Bedford Zoning Board of Appeals Rules and Regulation for a Comprehensive Permit [1]. The Bedford Housing Partnership actively participated in the hearing. The Town's Chapter 40B Consultant, Edward Marchant, also actively participated in the public hearing.

Board members Robert Ellis, Herbert Aumann, and Charles Theobald, Jr., were present at the initial Hearing and each continuance of the Hearing. Alternate member Louise Maglione was also present at the initial Hearing and each continuance of the Hearing. Board Member Harold Ward was present at the initial hearing and at the continued hearings on May 13, 2004, June 10, 2004, and June 30, 2004. Alternate member Paul Bauer was present at the initial hearing and at the continued hearings on April 29, 2004 and June 10, 2004. Alternate member David Ezekiel was present at the initial Hearing and at the continued Hearings on April 29, 2004 and May 13, 2004. Voting members were Robert Ellis, Herbert Aumann, Charles Theobald, Jr. and Alternate member Louise Maglione.

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

The Hearing was closed on June 30, 2004. On July 21, 2004 and August 26, 2004 the Board met at a duly noticed public meeting and deliberated on the Application. At the August 26, 2004 public meeting, following the conclusion of deliberations, a review of various of the Documents and a discussion of various testimony received by the Board at the Hearing, the Board voted unanimously to APPROVE the Application subject to certain conditions.

## 2. Project Description

The project site described in the Project Plans consists of approximately 7.17 acres. Access to the Property is available through 584.75 feet of frontage on Albion Road. Access, primarily for emergency purposes, is also available over Wyman Road at the rear of the Property.

The Property is located in the Limited Business Zoning District, as depicted on the Town of Bedford Zoning Map, dated February 1978, as amended through October 1997. A special permit to permit construction of an office building complex was previously issued for the Property.

The Applicant proposes to build a total of eighty-eight condominium units in three buildings on the Property. Of the eighty-eight (88) condominium units, sixty-six (66) units will be market rate units and twenty-two (22) units will be affordable units. There will be 79 two bedroom/two bath units and 9 one bedroom/one and one half bath units. Parking for all units will be in a below grade garage with two spaces for each two bedroom unit and at least one space for each one bedroom unit. A limited number of surface parking spaces, fifteen spaces, primarily for guests and service vehicles, will be provided as shown on the plans. The total number of combined garage and surface spaces is 227, a ratio of 2.58 spaces for each unit.

Based upon the needs of the Town, the Bedford Housing Partnership and the Board desire and the Applicant has agreed that all nine of the one bedroom/one and one half bath units will be available as affordable units. Therefore the affordable units will consist of thirteen (13) two bedroom/two bath units and nine (9) one bedroom/one and one half bath units. The affordable two bedroom/two bath units shall consist of no less than 1450 net residential square feet and the affordable one bedroom/one and one half bath units shall consist of no less than 1200 net residential square feet. Below grade parking for the two bedroom affordable units shall be allocated in the same

manner that below grade parking is allocated for the two bedroom market units. Each of the nine one bedroom affordable units shall be allocated either a single non-tandem below grade parking space or an entire tandem space (two parking spaces) as determined by the Applicant. There shall be no additional or separate acquisition cost for below grade parking spaces for the affordable units.

The Applicant proposes to finance the development under the Massachusetts Housing Finance Agency ("MassHousing") Housing Starts Program or the New England Fund Program of the Federal Home Loan Bank of Boston. Under these programs, the Applicant must comply with certain program requirements regarding the income and asset qualification of buyers and the pricing of the affordable units, as well as with other program requirements.

### 3. Jurisdictional Requirements

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

The Applicant submitted a Site Approval Letter, dated December 23, 2003, from MassHousing, stating that the project is conditionally eligible to be funded under the MassHousing Housing Starts Program or the New England Fund Program of the Federal Home Loan Bank of Boston.

The Applicant has "control of the site" as defined in 760 CMR 31.01 in that the Applicant has executed Purchase and Sale agreements for the acquisition of the site from the current owners of the site.

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

### 4. Statutory Minimum for Low and Moderate Income Housing

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

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



moderate-income housing nor is qualified Chapter 40 B housing located on more than 1.5 percent of the town's land area defined by M.G.L. c.40B and 760 CMR 31.04.

According to the 2000 U.S. Census, Bedford had 4,708 housing units, of which 210 units or 4.5 percent qualify as Ch. 40B units

No specific data on the percentage of land in the Town of Bedford occupied by affordable housing is available. However, in a letter to the Board filed in connection with another entity's Comprehensive Permit application, the Planning Director of the Town of Bedford stated that affordable housing does not exceed the 1.5 percent land area threshold.

The Board finds that the Town of Bedford has not met this statutory minimum land area requirement of M.G.L. Ch.40B.

2) Requirements imposed by the Board are "consistent with local needs" if the application before the Board would result in the commencement of construction in any calendar year of low and moderate-income housing on sites comprising 0.3 percent or ten acres, whichever is larger, of the town's land area defined by M.G.L. c.40B s.20.

According to the 2000 U.S. Census, the Town of Bedford contains a land area of 8,794 acres, and 0.3 percent of that area is 26.4 acres. The Town of Bedford asserts that 0.3 percent of the land area zoned residential, commercial or industrial use is 14.6 acres.

The Board finds that the site area currently under construction within the last year for affordable housing is less than 0.3 percent of Bedford's land area and is less than ten acres.

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



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

#### 5. Recommendations of Local Boards

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

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

All official recommendations were in favor of the proposed development in its final form.

#### 6. Exceptions from Local Zoning Bylaws

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

On May 25, 2004, the Applicant provided a revised list of exceptions from local regulations. The exceptions were discussed at the public hearing on the Application. The findings of the Board are summarized below.

##### 6.1 Building Height

An exception from Section 6.2.10 of the Bylaw, Height, to allow construction of three buildings to a mean building height of forty-eight (48) feet (as defined in the Massachusetts Building Code 780 CMR) The proposed height is compatible with the existing nearby commercial development

##### 6.2 Floor Area Ratio

An exception from Section 6.2.13 of the Bylaw, Floor Area Ratio to allow construction of three buildings with a floor area ratio of 0.58 has also been requested. The building design is compatible with other commercial developments in the area. The

allowable Floor Area Ratio in the underlying Limited Business Zoning District is 0.50.

### 6.3 Multi-Family Structures

An exception from Section 4, Table I of the Bylaw, Table of Uses, to allow construction of multi-family residential structures has been requested.

Under M.G.L. c.40B, Section 21, the Board is allowed to consider "site plan, size and shape" of a proposed development. The Board considers "housing density" a measure of assessing the impact of a development on the town, the suitability of the development for a particular location, and the conformance of the development to the approved 2001 town development master plan.

Here, the Applicant proposes the construction of three condominium buildings with a total of 88 units on an approximately 7.17 acre lot. Originally, the Applicant sought approval for 100 units, but that figure was reduced during the Hearing process to the currently proposed 88 units. The density was thus reduced from approximately 13.90 units per acre to 12.27 units per acre. .

While the proposed number of units per acre exceeds the 9-units per acre present in certain other Ch. 40B developments in the Town, the location of the Property, the nature of the adjacent land uses, and the Applicant's willingness to provide substantial below grade parking support a higher density in this case.

### 7. Local Wetlands Bylaw

The Applicant has applied for an Order of Conditions from the Conservation Commission and is not requesting any exceptions from the requirements of the Local Wetlands Bylaw in connection with this Comprehensive Permit.

### 8. Exceptions from Subdivision Rules and Regulations

The Applicant has not requested relief from subdivision control laws and the access driveways will remain private and will not be subdivision roads. All interior driveways on the Property will be maintained by the Applicant and its successors.

## 9. Drainage

The Applicant proposes to manage runoff from the development with an infiltration system that is designed for a 100-year storm event. Parts of the infiltration system are located under pavement. The drainage system will meet the "Storm Water Management Guidelines" as reflected in the Town of Bedford Wetland Protection Bylaws Section 2.2.

The Engineering Department reviewed the Application and suggested certain revisions, which have been made. Based upon its review of the preliminary drawings and other information submitted by the Applicant, the Engineering Department is satisfied with the revised storm water management system. Based on the information submitted by the Applicant and the Engineering Department, the Board finds that the storm water management system is adequate to meet the needs of the Project and will not have a detrimental effect on the property or abutting properties. The Applicant will be required to submit final storm drainage engineering drawings as part of the Building Application process.

## 10. Sewer

The Engineering Department has commented favorably on the preliminary design of the sewer system. The Applicant will be required to submit final engineering drawings for review as part of the Building Application process.

## 11. Traffic

The Board received information demonstrating that the traffic volume to be generated by the Project is less than that allowed by the currently approved office use on the Property. Additionally, the Board received information demonstrating that the traffic generated by the Project will be spread out during the day to a greater extent than the traffic that would be generated by the approved office development. Therefore, the Board finds that the anticipated traffic impacts will not be detrimental to the health or safety of the occupants of the development or other residents of the Town. Traffic Impact Assessment prepared for Middlesex Point LLC by Gillon Associates, December, 2003.

## 12. Safety Issues

### 12.1. Building Access

At the Fire Department's request, the Applicant has proposed to maintain an area surrounding each building in order to provide fire equipment access to all buildings. The internal driveways and turning radii are sufficient to allow access of fire and emergency vehicles. Fire Department personnel have indicated that they are satisfied with the building access provided in the plans, as most recently revised by the Applicant.

### 12.2. Fire Safety

The Applicant has proposed to install fire protection sprinklers in the buildings. The Fire Department has indicated that it is satisfied with the sprinkler system proposed for the Project. The Applicant shall be required to meet all applicable fire protection building code requirements.

### 12.3. Emergency Site Access/Egress

The Fire Department and the Department of Public Works requested that the Applicant provide a second means of emergency access to and from the Property. The Applicant has agreed to install a gated emergency access way leading from Wyman Road to the Property. The Applicant provided evidence that the Property has rights in Wyman Road and may use Wyman Road as a means of providing all forms of access, including the proposed emergency access way. The gate installed by the Applicant will be a "crash gate" that will not preclude emergency vehicles from accessing the Property. Additional details on the location, specifications, and operation of the "crash gate" and the maintenance of the emergency access to assure access at all times of the year shall be provided in the Building Permit application.

The Fire Department indicated in a letter dated June 30, 2004 that it will be satisfied with the Project if the Applicant undertakes four specific recommendations contained in a letter from the Town of Bedford Department of Public Works, dated June 30, 2004. The Applicant agreed, at the June 30, 2004 Hearing, to undertake the four changes requested by the Department of Public Works. These requirements are listed in Document #49 listed in Section III of this decision and are related to the alignment, grading, provision of a security access gate, and documentation of the proposed access road.

Based on the Applicant's agreement to modify the plans in accordance with the request of the Department of Public Works and the Fire Department, the Board is satisfied that the Project will provide a sufficient alternative means of accessing the Property for emergency purposes.

### 13.0 Other Issues

#### 13.1 Building Permit and Other Fees

The Applicant has requested exceptions from any and all fees associated with the permitting or construction of the twenty-two (22) affordable units, including, but not limited to building permit fees, Certificate of Occupancy fees and water-tie in fees under Article 52 of the Town of Bedford General Bylaws and sewer tie-in fees under Article 51 of the Town of Bedford General Bylaws; and from any requirement that the sewer tie-in fee required under Article 51 of the Town of Bedford General Bylaws and the water tie-in fee required under Article 52 of the Town of Bedford General Bylaws be paid for all units at the commencement of construction of the first unit.

#### 13.2 Pro Forma Evaluation

The Board's Ch. 40B advisor, Edward Marchant, found that the estimated total development cost and other financial assumptions included in the pro forma are generally consistent with industry standards. Mr. Marchant also found that the estimated development fee is less than the maximum fee allowable in Chapter 40B developments. The Board's advisor requested and the Applicant agreed to prepare a detailed and realistic condominium operating budget/condominium fee estimate prior to the establishment of the sales prices for the affordable units.

#### 13.3 Lighting

The Applicant proposes to install appropriate on-site lighting that limits light overspill onto neighboring properties. Additional details shall be provided in the Building Permit application and shall be subject to final review. Applicant will comply with the Bedford Sign By-law illumination section.

#### 13.4 Snow Storage

The Applicant provided information as to the location of on-site snow storage. The Board felt that the area and location of the snow storage areas is adequate for the Project.

#### 14. Affordable Housing

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

The Applicant proposes to finance the development under either MassHousing's Housing Starts Program or the New England Fund Program of the Federal Home Loan Bank of Boston. Through either program, the Project will include the creation of twenty-two units that will be offered as affordably priced units, enabling qualified families to purchase the unit. Income qualified households shall be those with total household income at or below 80% of Median Family Income based upon family size as determined annually by the Department of Housing and Urban Development and as adjusted for unit size. To expand the "window of affordability", the sales prices for these twenty-two units will be based upon an assumption that the units must be affordable to households with total household income at or below 70% of Median Family Income. In addition to income qualification requirements, households must also satisfy the applicable asset limitation and first time homebuyer qualifications established for the MassHousing Housing Starts program or by the Guidelines for Housing Programs in Which Funding is Provided Through a Non-Government Entity, as published by the Massachusetts Department of Housing & Community Development.

The Applicant has agreed to give a lottery preference to applicants satisfying the local preference criteria established by the Bedford Housing Partnership, to the maximum extent permissible by law, for the purchase of the affordable units. Any such applicants must also satisfy the applicable income, asset, and first time homebuyer program requirements.

The Applicant has also agreed to fund into a cash reserve account or any other type of account as determined by the Bedford Housing Trust, for the benefit of the Town of Bedford, a dollar amount equal to the highest approved initial sales price for a two (2) bedroom affordable unit at The Village at Bedford Woods and to make such funds available as a condition of the issuance of the first Certificate of Occupancy for a market rate unit at the condominium development. The primary purpose of these funds will be to provide a revolving liquidity fund that will help preserve affordable units in Chapter 40B developments in Bedford in the event of foreclosure proceedings upon any affordable unit. The Bedford Housing Trust shall be responsible for preparing the guidelines for the use and maintenance of this revolving liquidity fund and shall submit such guidelines to the



Board of Selectmen for its approval within 90 (ninety) days of the issuance of the initial Building Permit for the Project.

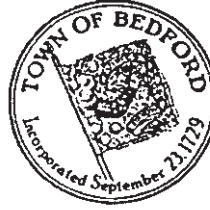
The Board finds that there is a shortage of affordable one-bedroom and two-bedroom condominium units in Bedford.

15. Water and Sewer

The Department of Public Works reviewed the Project, as revised, and is of the opinion that the design of the water and sewer system is adequate to meet the needs of the proposed development. The Department of Public Works has also reviewed the Project and provided information to the Board demonstrating that there is adequate water and sewer capacity in their respective systems to serve needs of the Project.

# THE BOARD OF APPEALS

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TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 035-04  
THE VILLAGE AT BEDFORD WOODS COMPREHENSIVE PERMIT

CHAPTER II. DOCUMENTS

- [1] Comprehensive Permit Rules of the Zoning Board of Appeals of the Town of Bedford amended November 9, 2000
- [2] Zoning Bylaws, Town of Bedford, Commonwealth of Massachusetts, as amended through the Annual Town Meeting of 2002
- [3] General Bylaws, Town of Bedford, Commonwealth of Massachusetts
- [4] Application for Comprehensive Permit, Dated January 20, 2004, received 01/23/04, Petition #035-04, Middlesex Point, LLC, including letters dated 01/16/04 and 01/21/04 addressed to the Bedford Zoning Board of Appeals, from Stephen F. Vazza, Manager, Middlesex Point LLC
- [5] Certified Abutters List-100 Albion Road prepared for Symmes Maini & McKee Ass. C/o Mark Levine
- [6] Thank you letter re: The Village at Bedford Woods Condominiums, from Stephen Vazza, Middlesex Point, LLC dated 12/23/03, received 02/18/04
- [7] Bedford MA, Board of Health letter, from David Black, Director, dated 01/26/04
- [8] Letter dated 02/02/04 from Stephen Vazza to the Bedford Zoning Board of Appeals, including new documents recently published by MassHousing: Regulatory Agreement, Rider to the Regulatory Agreement, Monitoring Services Agreement, Deed Rider.

- [9] Letter dated 02/10/04 from Adrienne St. John, Public Works Engineer, Bedford Department of Public Works, to the Zoning Board of Appeals
- [10] Letter dated 01/11/04 from Chief Kevin MacCaffrie, Bedford Fire Department to the Zoning Board of Appeals
- [11] Letter dated 02/12/04 from Dan Linscott, Middlesex Point, LLC, to Zoning Board of Appeals, regarding Fire Department Comments
- [12] Letter dated 02/12/04 from Richard Joly, Planning Director, Bedford Planning Board, to Zoning Board of Appeals
- [13] Letter dated 03/04/04 from Stephen Vazza, Middlesex Point, LLC, with attached letter from James Stubblebine, the Stubblebine Company, to Zoning Board of Appeals
- [14] Letter dated 03/29/04 from Stephen Vazza, Middlesex Point, LLC, Pro forma (preliminary construction budget) to Zoning Board of Appeals
- [15] Letter dated 04/01/04 from Stephen Vazza, Middlesex Point, LLC, thank you, with attachments from Board of Health, Fire Dept., Planning Board and Public Works to Robert Ellis, Chair, ZBA
- [16] Letter dated 04/13/04 from Stephen Vazza, Middlesex Point, LLC to Zoning Board of Appeals regarding list of other communities developed by Vazza Properties, Inc.
- [17] Letter dated 04/20/04 from Bedford Housing Partnership to Zoning Board of Appeals
- [18] Letter dated 04/22/04 and check for \$5000.00 for professional services to be rendered by Edward Marchant on behalf of Town of Bedford regarding Bedford Woods
- [19] Letter dated 04/27/04 from Stephen Vazza, Middlesex Point, LLC, regarding legal access and frontage, to the Zoning Board of Appeals
- [20] Email dated 04/27/04 from Stephen Vazza to Edward Marchant, regarding construction budget.
- [21] Email dated 04/27/04 from Stephen Vazza to Edward Marchant regarding "Requested Exemptions"

- [22] Letter dated 04/29/04 from Paul Feldman, Davis Malm & Dagostine P.C. Attorneys at Law to Stephen Vazza regarding Lot A1 Albion and Wyman Roads, Bedford (see 06/10/04 legal opinion document #45)
- [23] Email dated 04/29/04 from Stephen Vazza to Edward Marchant regarding Bedford Pro forma
- [24] Stephen Vazza's notes from 04/29/04 ZBA meeting emailed to ZBA secretary on 05/03/04
- [25] Letter dated 05/03/04 from Chief Kevin MacCaffrie, Bedford Fire Department to Daniel Linscott, Project Manager, Bedford Woods
- [26] ZBA memo emailed 05/07/04 to David Coelho, Director of Finance, Bedford Public Schools
- [27] Memo faxed, dated 05/10/04 to Zoning Board of Appeals from David Coelho, Director of Finance, Bedford Public Schools, regarding bus routes for potential Village at Bedford Woods
- [28] Letter dated 05/10/04 from Stephen Vazza, Middlesex Point, LLC to the Zoning Board of Appeals and attached letter from Chief Kevin MacCaffrie, Bedford Fire Department dated 05/03/04 regarding mutual aid agreement between the Towns of Bedford, Burlington and Billerica
- [29] Letter dated 05/10/04 from Stephen Vazza, Middlesex Point, LLC, to the Zoning Board of Appeals, regarding language in Deed that notifies future residents that the Sportsman's Club is an abutter
- [30] Letter dated 05/12/04 from Dennis Lowry, Wetland Ecologist, ENSR International to Michael Holland, P.E. regarding mosquito issues associated with stormwater detention basins
- [31] Letter dated 05/13/04 from Richard Dyer, President, Woburn Sportsmen's Association, Inc. to Robert Ellis, Chair, ZBA
- [32] Letter dated 05/18/04 from Stephen Vazza, Middlesex Point, LLC to Zoning Board of Appeals, regarding reserve cash fund for preservation of the affordable units
- [33] Letter dated 05/21/04 from Stephen Vazza, Middlesex Point, LLC, to Zoning Board of Appeals, regarding Construction/Finish Standards for the Affordable Rate Units

- [34] Email dated 05/25/04 from Dan Linscott to ZBA secretary, revised list of exemptions
- [35] Letter dated 05/27/04 from Richard Warrington, Director, Bedford Department of Public Works, to Zoning Board of Appeals
- [36] Letter dated 05/27/04 from Chief Kevin MacCaffrie, Bedford Fire Department, to Zoning Board of Appeals
- [37] Letter dated 05/27/04 from Steve Hanna, Chair, Bedford Housing Partnership, to Zoning Board of Appeals
- [38] Letter dated 05/27/04 from Elizabeth Bagdonas, Conservation Administrator, to Zoning Board of Appeals
- [39] Email dated 05/27/04 from Richard Joly to Zoning Board of Appeals--no Planning Board comments until June 10
- [40] Email dated 06/01/04 from Stephen Vazza to ZBA secretary, Bedford Woods pro forma
- [41] Email dated 06/01/04 from Dave Black, Bedford Board of Health, to ZBA secretary--response of January still applies
- [42] Letter dated 06/07/04 from Steve Hanna, Chair, Bedford Housing Partnership to Zoning Board of Appeals, regarding revisions to Bedford Woods project by developer
- [43] Letter dated 06/09/04 from Richard Joly, Planning Director, Bedford Planning Board to Zoning Board of Appeals, regarding sidewalk, park benches and play area
- [44] Letter dated 06/10/04 from Lt. David Grunes, Bedford Fire Department to Zoning Board of Appeals
- [45] Email dated 06/10/04 from Stephen Vazza to ZBA secretary regarding legal opinion on the status of Wyman Road (see 04/29/04 document #22)
- [46] Letter dated 06/11/04 from Thomas Frisardi to Zoning Board of Appeals, regarding title examiner's report, and attached report
- [47] Email dated 06/25/04 from Steve Hanna regarding notes from June 17, 2004 meeting between Mr. Vazza, Mr. Marchant, Ms. Prosnitz and Mr. Hanna

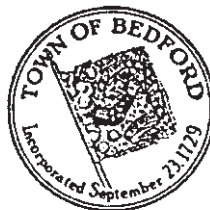
- [48] Email dated 06/30/04 from Gordon Feltman, Selectman, suggestions to be read during 06/30/04 meeting
- [49] Letter dated 06/30/04 from Richard Warrington, Director, Bedford Department of Public Works regarding access-listing four requirements
- [50] Letter dated 06/30/04 from Chief Kevin MacCaffrie, Bedford Fire Department
- [51] Letter dated 06/30/04 signed by Stephen Vazza to allow ZBA extension of time for final decision
- [52] Letter dated 07/01/04 from Daniel Linscott, Middlesex Point, LLC to the Zoning Board of Appeals, regarding waiver of municipal fees on affordable units
- [53] Email dated 07/02/04 from Michael Holland to Zoning Board of Appeals, regarding Floor Area Ratio
- [54] Minutes of Meeting dated 02/12/04
- [55] Minutes of Meeting dated 04/29/04
- [56] Minutes of Meeting dated 05/13/04
- [57] Minutes of Meeting dated 06/10/04
- [58] Minutes of Meeting dated 06/30/04
- [59] Minutes of Meeting dated 07/21/04
- [60] Plans-elevation dated 05/12/04 and 06/24/04
- [61] Plans-elevation dated 05/12/04 and 05/19/04
- [62] Existing conditions plan
- [63] Topographic survey, 01/22/04
- [64] Last set of plans-elevations dated 05/12/04 and 06/24/04 and drawings C1.0-C5.0
- [65] Plans entitled "The Village at Bedford Woods, Albion Road, Bedford, Massachusetts," prepared by Symmes, Maini & McKee, dated April 29, 2004, revised June 30, 2004, consisting of six sheets, and submitted in connection with the Application



- [66] Architectural Plans prepared for "The Village at Bedford Woods, Albion Road, Bedford, Massachusetts" by PCI Architecture, submitted to the Zoning Board of Appeals on January 20, 2004
- [67] Landscape Plans prepared for "The Village at Bedford Woods, Albion Road, Bedford, Massachusetts" by Hawk Design, submitted to the Zoning Board of Appeals on January 20, 2004 to the Board, dated February 10, 2004.

# THE BOARD OF APPEALS

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TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

PETITION NUMBER: 035-04  
THE VILLAGE AT BEDFORD WOODS COMPREHENSIVE PERMIT

## CHAPTER III. CONDITIONS OF APPROVAL

Based upon the findings of the Bedford Zoning Board of Appeals (the Board), the Board grants to Middlesex Point, LLC (the Applicant) at 100 Albion Road, Bedford, Massachusetts a Comprehensive Permit to construct eighty-eight (88) condominium units in three buildings and associated below grade parking in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of Appeals of the Town of Bedford subject to the Conditions and Limitations set forth in this Decision.

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

The terms and conditions of this Comprehensive Permit, together with the execution copy of the Deed Rider, Regulatory Agreement, and Monitoring Services Agreement to be entered into, governing the affordable units, shall control the development of the Project. To the extent the Comprehensive Permit is inconsistent with any other instrument, document, agreement or plan submitted in connection with the Project, the Comprehensive Permit shall control to the full extent permitted by law.

## 1. Exceptions from the Bylaw

- 1.1. Exception from Use Regulations, Section 3 at Table I, Part 4.2 prohibiting "Planned Residential Developments," a Multi-Family Use in the Limited Business District: **GRANTED.**

A Comprehensive Permit requires allowing a multi-family dwelling of the Property, which is located in the Limited Business District.

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

The Board finds that a Comprehensive Permit allows higher housing densities than permitted by local Bylaws. Bedford has not met the statutory quantity minima affordable housing required by M.G.L. c. 40B.

The Board is allowing approximately 12.25 units per buildable acre because, among other things, of the location of the Property in the Town's Limited Business zoning district, the compatibility of that density with other land uses in the vicinity of the Property, the fact that all parking for residents will be provided through a below grade parking garage, and the need for affordable housing in the Town.

- 1.3. Exception from 6.2.10 and Table II Dimensional Regulations Maximum Height: **GRANTED**

The mean building height (as defined in the Massachusetts Building Code 780 CMR) of 48 feet is acceptable for each building given the location of the Property, the design of the Project and the need for affordable housing in the Town.

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

The Board finds that the proposed Floor Area Ratio of the three buildings of 0.58 is acceptable given the location of the Property, the design of the Project and the need for affordable housing in the Town.

## 2. Exceptions from General Bylaws

- 2.1. Waiver of fees for Building Permits, Plumbing and Electrical Permits associated with affordable units: **DENIED.**

2.2. Waiver of fees for water and sewer connection associated with affordable units: **DENIED.**

2.3 A waiver from any requirement that the sewer tie-in fee required under Article 51 of the Town of Bedford General Bylaws and the water tie-in fee required under Article 52 of the Town of Bedford General Bylaws be paid for all units at the commencement of construction of the first unit. In waiving this requirement, the Board specifically determines that the sewer and water tie-in fees applicable to individual units located within one of the buildings are due and payable when the building permit is issued for the specific building in which those units are located. No sewer tie-in fees are waived; only the timing of the payment of such fees has been adjusted. **GRANTED**

### 3. Compliance with Requirements

3.1 The development shall be built according to the Town of Bedford Zoning Bylaws, Rules and Regulations Governing the Subdivision of Land, and Wetlands Bylaws and this Decision, unless a specific exception was granted.

### 4. General Conditions/Affordable Housing Requirements

4.1 The Comprehensive Permit is granted based on the latest issue of a set of engineering plans prepared by Symmes Maini & McKee Associates entitled "The Village at Bedford Woods, Albion Road, Bedford, Massachusetts," dated April 29, 2004, revised June 30, 2004, consisting of six sheets (Cover Sheet, Existing Conditions Plan, Layout & Materials Plan, Grading & Drainage Plan, Utilities Plan, and Planting Plan), and submitted in connection with the Application and upon a set of preliminary architectural plans prepared by The Martin Architectural Group entitled "The Village at Bedford Woods, Bedford, Massachusetts, Middlesex Point LLC" consisting of five sheets (Front Elevations, showing a Mean Roof Height of forty-eight feet; Side Elevation and Rear Elevation; 1 st Floor Plan; 2<sup>nd</sup> & 3<sup>rd</sup> Floor Plan;, and Garage Level Plan, all dated May 12, 2004, revised June 24, 2004). In the event of any inconsistencies between this Decision and The "Project Plans", this Decision shall prevail. The Project must be designed and built substantially in accordance with the Project Plans except as noted in paragraph 6.1 below.

4.2 The development shall contain no more than 88 condominium units and project amenities on 7.17 acres as shown on the

Project Plans. The 88 units are to be constructed in three buildings with two of the buildings containing 29 units and one building containing 30 units. The Applicant may decide which of the three proposed buildings will contain 30 units and allocate the interior layout accordingly.

Each of the three buildings and each of the three associated below grade parking garage areas must be serviced by an elevator. The minimum number of elevators shall be three.

- 4.3 Of the eighty-eight (88) condominium units, sixty-six (66) units will be market rate units and twenty-two (22) units will be affordable units. With respect to the affordable units, thirteen (13) units shall be two bedroom/two bath units, each with a total net residential living area of not less than 1,450 square feet. The remaining nine (9) affordable units shall be one bedroom/one and one half bath units, each with a total net residential living area of not less than 1,200 square feet.

These twenty-two affordable units shall contain in perpetuity affordable housing restrictions in conformance with Mass. Gen. Laws c. 184, §§ 31-33 and shall be reserved for sale and occupancy by households earning at or below eighty percent (80%) of the Boston PMSA Median Family Income ("Affordable Units"). Interior finishes and appliances in the Affordable Units shall be in accordance with the specifications provided by the Applicant dated May 21, 2004. Central air conditioning equipment shall be included in all Affordable units.

If a winner or winners of a lottery for the initial sale of the twenty-two affordable units has within its household a person with a physical disability that requires modification to an affordable unit that the household is eligible to purchase, the Applicant shall make such modifications in accordance with the 521 CMR Massachusetts Architectural Access Board at the Applicant's expense.

- 4.4 The Applicant shall obtain financing for the project through the MassHousing Housing Starts Program or the New England Fund Program of the Federal Home Loan Bank of Boston. The affordable units shall be available to families who meet the income, asset, and first-time homebuyer qualifications of the selected financing program and will be priced in accordance with the methodology provided in Exhibit A of this decision, unless such

price that is higher than that derived by utilizing the initial sales price guidelines of the selected financing program or by the Monitoring Agent. Except as noted in this decision, market-rate and affordable units shall be substantially similar to each other.

- 4.5 This Comprehensive Permit shall be filed in the Registry of Deeds prior to filing any financing or related documents imposed or requested by MassHousing or any other Subsidizing Agency, lender or mortgagee. Applicant shall provide the ZBA and the Building Department with documentation of the filing of this decision or a copy of the decision with all recording information thereon
- 4.6 The Applicant shall serve as lottery agent and work with the Bedford Housing Partnership in this capacity.

Citizens' Housing and Planning Association (CHAPA) shall serve as the Monitoring Agent for the selection of purchasers of the Affordable Units. Prior to conducting the lottery, the Applicant shall submit a final Lottery plan to the Monitoring Agent for its review and approval. The Applicant shall simultaneously submit a copy of a final Lottery plan to the Bedford Housing Partnership for its review and comments, but not approval. The Applicant shall pay all Monitoring Agent costs.

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

1. Present resident of Bedford (for at least one year);
2. Past resident of Bedford (for at least one year);
3. Current municipal employees of the Town of Bedford (for at least six months);
4. Parents of a Bedford resident as defined in 1. above;
5. Children of a Bedford resident as defined in 1. above;
6. Past or present enrollment of a member of the household in the Bedford Public Schools, including METCO students;



7. Active duty military personnel currently stationed at Hanscom Air Force Base.

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

- 4.7 Middlesex Point LLC shall, prior to the issuance of the first Certificate of Occupancy for a market rate unit in the Project, fund into a cash reserve account, for the benefit of the Bedford Housing Trust or its designee, an amount equal to the approved sales price for a two (2) bedroom affordable unit in the Project

- 4.8 A proposed Regulatory Agreement, form of Deed Rider, and Monitoring Services Contract shall be submitted to the Board of Selectmen for its review and approval prior to the issuance of a Building Permit.

- 4.9 The Applicant may construct the development in phases. Affordable units shall be dispersed evenly throughout the three buildings. Two buildings shall have 7 affordable units and one building shall have 8 affordable units. The proposed locations of the twenty-two affordable units shall be identified in the Regulatory Agreement and shall be generally consistent with the locations shown on the Project Plans. Applicant shall make best efforts in each phase to sell affordable units simultaneously with market rate units. To make this possible, the Applicant will prepare and submit all Lottery-related materials in a timely manner and will conduct the Lottery in a timely manner.

5. Site Design

- 5.1. The site layout shall substantially conform to the Project Plans and as modified by this Decision. Document #64
- 5.2 Landscaping shall be carried out substantially as shown on the Project Plans. Document #64

## 6. Unit Design

- 6.1 The Applicant has submitted unit layouts for the market rate units. The Board recognizes that based upon market conditions certain changes to the market rate units may be necessary. The Applicant is permitted to revise unit layouts of the market rate units provided that (1) the number of units does not change, (2) the building footprint does not change, (3) the building height does not change, (4) the number of bedrooms in any unit is not increased and (5) any such proposed changes do not adversely affect the quality of the affordable units. Any such proposed changes are subject to review by the Building Inspector.

## 7. Storm Water Management/Environmental Impact

- 7.1. On-site snow storage areas shall be located so as not to create run-off onto abutting property or wetlands.
- 7.2 The Applicant shall include reasonable disclosure language in the marketing materials, condominium documents, and deeds for each unit in the Project stating that the Bedford Sportsmen's Club is an abutter to the Property.

## 8. Town Services

- 8.1 The Applicant will comply with all Federal, State and Local requirements for the installation of fire suppression /detection systems throughout the complex as required by the Town of Bedford Fire Department. Document #36
- 8.2 The Applicant will comply with the recommendations of the Department of Public Works in its June 30, 2004 letter to the Board (Document #49).
- 8.3 The Applicant or its successors shall accept full responsibility for all maintenance of driveways, sidewalks and emergency access, including snow removal within the development and emergency access.
- 8.4 The Applicant or its successors shall accept full responsibility for refuse removal from the development and recycling services. As part of the building permit application, the Applicant shall provide information on proposed type of dumpsters, locations and screening of dumpsters.

9. Detailed Building Plan Review
- 9.1. Prior to issuance of a building permit, the Applicant shall submit a detailed set of architectural and engineering plans acceptable to the Town of Bedford Building Inspector. Said definitive plans shall be in compliance with all conditions of this Decision and all building code requirements, including handicap access requirements.
- 9.2. Changes in the plans following the issuance of this decision shall be identified by the Applicant and submitted to the Town of Bedford Building Inspector, who may approve minor changes. If the Building Inspector, in his opinion, determines that the proposed change is a major change, the Applicant shall appear before the Board and present the change pursuant to Chapter 40B and its regulations.
- 9.3. Any substantial changes or modifications to this Comprehensive Permit shall only be made by the Board upon written request and upon holding a public hearing in accordance with the Comprehensive Permit Rules of the Town of Bedford and the provisions of Mass. Gen. Laws c. 40B, §21 and the provisions of 760 CMR 31.03. The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such a substantial change, and will then determine whether the change or requested relief is to be approved and the decision amended accordingly. "Substantial change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 31.03 (2(a)). If it deems necessary the Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed changes.
- 9.4 A construction-phasing and construction mitigation plan shall be submitted with the final construction plans for approval by the Town of Bedford Building Inspector. The construction mitigation plan shall include, but not be limited to, a phasing plan, including a schedule for inspections, measures to control erosion and sedimentation, limitations on hours of work, a description of proposed earth removal, types and numbers of vehicles and vehicle trips involved with construction, tree and brush clearing and grading and general site mitigation measures.
- 9.5 Prior to any site work, if necessary, a street opening permit shall be obtained from the Department of Public

Works. In addition, a water and sewer permit must be obtained prior to the issuance of each building permit.

9.6 Applicant must submit written confirmation that the selected Subsidizing Agency or its agent has granted or approved construction financing and subsidy funding for the Project has been committed.

10. Limited Dividend Restriction/Cost Certification/Monitoring Agent Requirements

10.1 The Applicant's profits shall be limited to no more than twenty percent (20%) of approved total development costs. All cost certification and limited dividend reporting requirements shall be prepared in conformance with Mass. Gen. Laws c. 40B cost certification and limited dividend return reporting requirements.

10.2 Any limited dividend return that exceeds the maximum allowable 20 percent limited dividend return as regulated under the Chapter 40B limited dividend policy shall be returned to the Town of Bedford Housing Trust.

10.3 The Monitoring Agent for this project shall be CHAPA. The Applicant has agreed to enter into an agreement with CHAPA to act as the Monitoring Agent to monitor the limited dividend restrictions imposed under Chapter 40B, and to monitor compliance of the development with the Comprehensive Permit, including eligibility requirements for the Affordable units. The Applicant has agreed that the content and format of such agreement, when executed, shall be subject to approval by the Board of Selectmen and shall be submitted and approved prior to the issuance of any building permit. The Applicant shall provide adequate funding to provide for a monitoring agent to provide these monitoring services.

Should the Monitoring Agent be dissolved or become incapable of fulfilling its obligation, or if the Monitoring Agent consistently fails to exercise reasonable care and diligence in carrying out its responsibilities, the Town and the Applicant or its successor shall have the right to mutually appoint a successor to serve as Monitoring Agent.

## 11. Maintenance of Storm Drainage System

11.1 The Applicant shall be responsible, until the later of, either the date of the completion of construction of the last condominium unit, or the date when the condominium association takes over control, and thereafter the Association shall be responsible, for the annual maintenance of the drainage system. The detention basins shall be inspected at least twice annually, once in the Spring and once in the Fall, and immediately after heavy rainfall events to ensure that they are operating as intended. Inspection and maintenance of the detention ponds shall include inspection of the inlet and outlet structures, and the removal of any accumulated sediment. Detention basins shall be mowed at least twice a year, and all brush leaves and clippings shall be removed immediately from the site. Catch basins shall be cleaned at least twice a year, with a vacuum truck and the street swept annually, in the early spring after the street sanding is likely to have ended.

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

## 12. Condominium Documents

12.1 The Affordable Units shall constitute a percentage (beneficial) interest in the condominium that shall be in proportion to the initial price of the Affordable Units to the sum of the initial prices of the affordable and market-rate units.

13.2 The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.

13.3 The condominium documents shall provide that:

- (a) There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this decision without Board of Appeals approval.
- (b) Conditions set forth in the decision concerning condominium governance must be set forth in the documents (it does not suffice to simply reference the decision); in the event of any conflict between the condominium document and the decision, the terms of the decision shall control.
- (c) The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
- (e) All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
- (f) To the extent permitted by law, upon turnover of the Association by the Applicant to the unit owners, at least 25% of the trustees of the Association shall be owners of Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
- (g) The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.
- (h) Underground parking spaces shall only be used for vehicles and bicycles. No general storage shall be allowed in the parking spaces.

14. Project Impact and Needs

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



## 15.0 General

15.1 The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of Middlesex Point LLC, and the obligations shall run with the land. In the event that the Applicant sells, transfers or assigns any of its interest in the Project, this Comprehensive Permit shall be binding upon the purchaser, transferee or assignee. The provisions and limitation of the Limited Dividend Organization shall apply to the Project regardless of sale, transfer or assignment. The final Project audit shall include all costs, profits and fees incurred as part of all sales, transfers or assigns. The affordability component conditioned herein and within the Regulatory Agreement shall survive foreclosure and bankruptcy of the Applicant, its successors, and assigns during the construction of the project.

15.2 This Comprehensive Permit shall not be transferable without the prior written approval of the Zoning Board of Appeals.

## 16. Lapse

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

## 17. Recording

This Decision with its conditions shall be recorded with the Middlesex South Registry of Deeds. The decision shall run with the land and be binding on the Applicant and/or its successors or assigns and shall be recorded senior to any other liens.

**Exhibit A**  
**METHODOLOGY FOR DETERMINING MAXIMUM PRICE**  
**FOR INITIAL SALE OF AFFORDABLE UNITS**

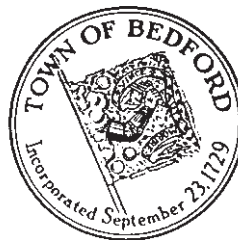
The maximum price for the initial sale of the twenty-two affordable units ("Maximum Price") shall be based upon the following methodology:

1. Eligible Households are those households with incomes at or below eighty percent (80%) of the Median Family Income, as defined by the Department of Housing and Urban Development (HUD) for the Boston, MA-NH PMSA and as adjusted for household size. Eligible Households must also meet any other applicable eligibility requirements, including asset limitation requirements and first-time homebuyer requirements.
2. The Maximum Price shall be calculated based upon the following assumptions and methodology:
  - A. A maximum down payment of 5% of the approved Sales Price is to be assumed.
  - B. The total annual costs of any and all principal, interest, mortgage insurance premiums, property taxes, property insurance, condominium fees and/or homeowner's association fees shall not exceed thirty percent (30%) of the household income for a household whose income is at seventy (70%) of the Median Family Income, as published and as adjusted for family size. Condominium fee estimates must be based upon a realistic condominium budget prepared by a qualified property manager with experience in managing condominiums comparable to the subject project.

The mortgage loan debt service payment assumptions must be based upon a conventional, zero points, fixed interest rate, level payment, amortizing loan with a term of thirty (30) years.
  - C. The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Price shall be three persons for the two bedroom affordable units and two persons for the one bedroom affordable units, unless the subsidizing agency or other public agencies require that a smaller household size be used.
3. The Maximum Price calculation must be reviewed and approved in writing by the Monitoring Agent prior to the official Affordable Housing Lottery and the approved Maximum Price must be included in any lottery information package.

# THE BOARD OF APPEALS

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TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730

**DATE DECISION FILED:** August 27, 2004

**PETITION NUMBER:** 035-04

Notice is hereby given that the Zoning Board of Appeals GRANTED a Comprehensive Permit to construct 88 condominium units and associated below grade parking in three buildings in accordance with M.G.L. c. 40B, Section 20-23 and its implementing regulations 760 CMR 30-31, as well as the Comprehensive Permit Rules of the Zoning Board of the Town of Bedford subject to the Conditions of Approval set forth in Chapter III of this decision.

**PETITIONER:** Middlesex Point, LLC

**PROPERTY:** 100 Albion Road, Bedford, Mass.

The hearings were held on February 12, 2004, April 29, 2004, May 13, 2004, June 10, 2004, June 30, 2004, July 21, 2004 and August 26, 2004.

*Harold Ward* BR  
Harold Ward, Clerk

An appeal from the decision of the Zoning Board of Appeals may be made by any person aggrieved by the decision of the Board pursuant to M.G.L. c 40A, Section 17, as amended, within twenty (20) days after the date of the filing of the decision in the Office of the Town Clerk.

*Christina C. B...*  
Attest: Christina C. B...  
Town Clerk