

Middlesex South Registry of Deeds  
Electronically Recorded Document

This is the first page of the document - Do not remove

---

Recording Information

Document Number	: 121445
Document Type	: DECIS
Recorded Date	: August 15, 2019
Recorded Time	: 02:41:09 PM
Recorded Book and Page	: 73117 / 238
Number of Pages(including cover sheet)	: 21
Receipt Number	: 2356869
Recording Fee	: \$75.00

**Middlesex South Registry of Deeds**  
**Maria C. Curtatone, Register**  
208 Cambridge Street  
Cambridge, MA 02141  
617-679-6300  
[www.middlesexsouthregistry.com](http://www.middlesexsouthregistry.com)

**TOWN CLERK**  
BEDFORD, MASSACHUSETTS 01730



www.bedfordma.gov

*Doreen Tremblay, Town Clerk*

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

Dtremblay@bedfordma.gov

Date: August 14, 2019

Petitioner Name and Address: Village at Bedford Woods, LLC  
100 Albion Road

Petitioner Number: 022-19

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:

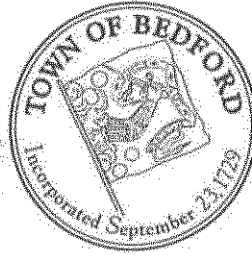
Doreen Tremblay  
Town Clerk

Deed in Book 71346  
Page 467

# TOWN OF BEDFORD

BEDFORD, MASSACHUSETTS 01730

19 JUL 23 10:18 AM



www.bedfordma.gov

**THE BOARD OF APPEALS**

**TOWN HALL  
10 MUDGE WAY  
BEDFORD, MASSACHUSETTS 01730  
Telephone 781-275-7446**

**PETITION NUMBER:** 022-19 (modification petition)  
035-04 (original petition)

**PETITIONER:** Village at Bedford Woods, LLC

**LOCATION OF PROPERTY:** 100 Albion Road, Bedford, MA

**MEMBERS VOTING:** Todd Crowley, Chair; Angelo Colasante, Vice Chair;  
Carol Amick, Clerk; Kay Hamilton, Member; Robert  
Kalantari, Member

**MOTION:** to grant Pamela Brown, Esq., for the Village at Bedford Woods LLC, a modification to Comprehensive Permit #035-04 to construct four buildings consisting of 30 garden style units (in one building, already constructed and occupied) and 26 townhouse style units (in three additional buildings), for a total of 56 units at the site, in lieu of the previously approved 88 garden style units originally approved in three buildings, and also to confirm the previously approved waivers to permit construction of the project in its modified form, substantially as shown on **Exhibit 1** (packet which includes Response to DPW Comments, letter dated 5/21/19, prepared by BSC Group; Snow Storage Plan, prepared by BSC Group, dated 4/18/19; Central Green Space Comparison Plan, dated 4/18/19, prepared by BCS Group; Comparison Plan, dated 4/18/19, prepared by BSC Group; Lighting Plan, dated 4/18/19 and revised 5/15/19, prepared by BSC Group; Layout & Materials Plan, dated 4/18/19 and revised through 5/21/19, prepared by BSC Group; Bridge Utilization Letter, dated 5/21/19, prepared by BSC Group; Fire Department Emergency Access, dated 5/23/19, prepared by BSC Group), **Exhibit 2** (packet which includes "Recommendations and Follow Ups from ZBA Hearing on 9 May" letter; Architectural building floor plan A.101, prepared by Maugel Architects; "Comparison of Approved 40B [Phase 2]" letter; memo from Chief David Grunes of the Bedford Fire Department, dated 6/3/19), **Exhibit 3** (Architectural building floor plans A.101, A.111A, A.111B, A.111C, A.112A, A.112B, A.112C dated 5/9/19 and revised through 5/23/19 prepared by Maugel Architects; Architectural elevations sheets A.1000, A.201A, A.201B, A.202, A.203 dated 5/9/19 and revised through 5/23/19 prepared by Maugel Architects; Architectural unit floor plans A.601, A.602, A.603, and A.604 dated 5/9/19 and revised through 5/23/19 prepared by Maugel Architects), and **Exhibit 4** (civil drawings including G-100, Title Sheet; V-100, Existing Conditions Plan; C-100, Site

TRUE COPY ATTEST

Town Clerk

Preparation Plan; C-101, Layout & Materials Plan; C-102, Grading & Drainage Plan; C-103, Utility Plan; C-200 – C-203, Details; L-100, Landscape Plan; L-101 Landscape Details, dated 4/18/19 and revised 5/24/19, prepared by BSC Group; and subject to the following conditions:

- 1) The affordable units shall be scattered throughout the four buildings;
- 2) The Conservation Commission's Order of Conditions are incorporated by reference on the Special Permit modification;
- 3) The plans and specifications shall be updated to conform to the May 24, 2019 memo from Brown and Brown, PC;
- 4) The plans shall be updated as necessary to comply with Building Code and DPW requirements.

A vote was taken on June 13, 2019. Approval of this Motion for a Modification to a Comprehensive Permit requires a majority vote of the Bedford Board of Appeals ("Board").

The Board voted 5 to 0 to grant this Modification to a 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 on July 23, 2019 and will be mailed to all parties, persons or boards as required by Massachusetts General Laws Chapter 40A. Pursuant to 760 CMR 56.05(11)(c), the decision granting the requested modification may be appealed to the Superior Court pursuant to M.G.L. c. 40B, § 21 and M.G.L. c. 40A, § 17.

The modified 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 bearing the book and page of the recording by the Registry, and notification by the Applicant of the recording, shall be furnished to the Board.

This Decision is intended to modify and restate the original Comprehensive Permit 035-04 recorded in Middlesex South Registry of Deeds in Book 43879 at page 320, without completely restating all of the procedural history, findings, or requirements, set forth in that permit. The original Comprehensive Permit 035-04 is expressly incorporated herein. To the extent provisions in this modification of Comprehensive Permit conflict with the original Comprehensive Permit 035-04, the provisions herein control.

## PETITION NUMBER: 022-19

THE VILLAGE AT BEDFORD WOODS MODIFICATION OF  
COMPREHENSIVE PERMIT

## CHAPTER I. FINDINGS

A. Procedural History

The original application for Comprehensive Permit was filed with the Bedford Town Clerk on January 20, 2004. The applicant at that time, Middlesex Point, LLC, sought and received, after notice and public hearing, a Comprehensive Permit pursuant to Massachusetts General Law, Chapter 40B, sections 20-23 ("Chapter 40B") to allow the parcel located at The Village of Bedford Woods, 100 Albion Road, Bedford, MA (the "Property") to be used as an eighty-eight (88) unit residential condominium development consisting of three three-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").

The original Decision was filed in the Office of the Town Clerk on August 27, 2004. The decision was not appealed and the first building which includes 30 units was constructed and is presently occupied by homeowners.

An application for modification of Comprehensive Permit 035-04 ("Application") was received by the Board on March 8, 2019. Pursuant to 760 CMR 56.05(11), the Board met on March 28, 2019 to consider and determine whether the modifications sought were substantial or unsubstantial. The Board voted on that date that the requested modifications were substantial, considering the factors set forth in 760 CMR 56.07(4).

A revised application for modification was submitted to the Board on April 18, 2019. Thereafter, the Board circulated the application for comment by Town departments, including Building, Conservation, Planning, Public Works, Health, Fire, and Police. The first public hearing was held on May 9, 2019. The public hearing was advertised in the Bedford Minuteman on April 25, 2019 and May 2, 2019. An additional public hearing was held on June 13, 2019. On June 13, 2019, the Board voted to close the public hearing and start deliberations. On June 13, 2019 the Board voted 5-0 to grant the modification to the Comprehensive Permit, with conditions.

B. Project Description

Under Comprehensive Permit 035-04, the Applicant was approved to build a total of three three-story buildings and 88 condominium units. Twenty five percent (25%) of those units were to be affordable. The original developer died after construction of the first building, which contains 30 units. The Applicant purchased the rights to construct the remaining

phases of the original project;<sup>1</sup> however, such project was no longer financially feasible. Therefore, a modification to the Comprehensive Permit was sought.

The application for modification of Comprehensive Permit 035-04 is for three townhouse buildings containing 26 total units, located in the same area as the two remaining buildings approved in 2004. The three buildings will have 7, 7 and 12 units each. The proposed units are designed to provide a range of living styles, sizes, and price points, including three two-bedroom units contained entirely at the first-floor level. The remaining three-bedroom units are in two and three floor townhouse style units.

The circulation loop within the site and emergency access location remain the same as in the original approved application. Every unit will have a single garage parking space and driveway parking.

The modification presents a reduction in the number of units and bedrooms, building height, parking spaces, building footprint, impervious surface area, and floor area, as compared to the plan approved in Comprehensive Permit 035-04.

#### C. Jurisdictional Requirements

- 1). The Applicant is a Limited Dividend Organization, confirmed by MassHousing as eligible.
- 2). MassHousing provided a letter dated September 12, 2018 giving preliminary approval that the Applicant may enter into a regulatory agreement with MassHousing and meets the general eligibility standards of the New England Fund program to meet the requirements of 760 CMR 56.04(1)(b).
- 3). The Applicant has "control of the site" as required by 56.04(1)(c) and as defined in 760 CMR 56.04(4)(g) in that the Applicant has purchased the development interests and proportionate share of the site as evidenced by a foreclosure deed contained within the application and recorded in the Middlesex South Registry of Deeds at Book 71364, Page 467.

Based on this information, the Board finds that the Applicant has met the jurisdictional requirements for the application for modification to a Comprehensive Permit.

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

The Board finds that the Town of Bedford has met the statutory 10% minimum affordable housing, as required by M.G.L. c. 40B.

<sup>1</sup> In Village at Bedford Woods Condo. Trust v. Century Bank & Trust Co., MISC 14-483930 (June 4, 2015), the Land Court determined that the phasing rights do not expire until October 12, 2027.

### E. Evidence

In making its findings and reaching its decision, the Board considered the evidence presented at the public hearings and the evidence placed into the public record prior to the closing of the public hearing on June 13, 2019. The Board received comments from Town board and commissions, and from the public, and heard from the applicant and applicant's counsel and engineer.

### F. Recommendations of Local Boards

According to M.G.L. Ch. 40B Section 21, "[t]he board of appeals, in making its decision on said application, shall take into consideration the recommendations of the local boards." Here, the Board received comments from the following Boards and Commissions:

- Bedford Planning Board, in a memorandum dated May 8, 2019;
- Bedford Conservation Commission, through an Order of Conditions, dated June 20, 2019;
- Bedford Fire Chief David Grunes, through an email dated May 8, 2019, and a memorandum dated June 3, 2019;
- Bedford Department of Public Works, through a memorandum dated May 8, 2019.

All comments were in favor of the proposed modification, and made suggestions which were included in the final approved modified project.

### G. Exceptions from Local Zoning Bylaws

The Board finds that under both 760 CMR 56.05(2)(h) 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 waivers from local Bylaws. The Board is only obligated to rule on the requested waivers, under 760 CMR 56.05(7).

#### 1. Waivers Requested in 2004 Application

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 with respect to those waivers are set forth in Comprehensive Permit 035-04, and are not superseded by this modification.

#### 2. Waivers Requested in 2019 Modification Application

On April 18, 2019, the Applicant submitted a list of waivers required to build the additional units required in the application for modification. Those waivers are as follows:

6.2.13 Floor Area Ratio. An exception from Section 6.2.13 of the Bylaw, Floor Area Ratio in lieu of zoning maximum of 40% is requested. The building design is compatible with other developments in the area. GRANTED and CONFIRMATION that waiver was previously granted in 2004.

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 is requested. GRANTED and CONFIRMATION that this waiver was previously granted in 2004.

H. Exception from Local Subdivision Rules and Regulations.

1. Waivers Requested in 2004 Application

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 with respect to those waivers are set forth in Comprehensive Permit 035-04, and are not superseded by this modification.

2. Waivers Requested in 2019 Modification Application

The Applicant has not requested relief from subdivision control laws and the access driveways will remain private and will not be subdivision roads. Consistent with the terms of Comprehensive Permit 035-04, all interior driveways on the Property will be maintained by the Applicant and its successors.

I. Exceptions from Local Wetlands Regulations

1. Waivers Requested in 2004 Application

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 with respect to those waivers are set forth in Comprehensive Permit 035-04, and are not superseded by this modification.

2. Waivers Requested in 2019 Modification Application

To allow grading for emergency access drive within the 25-foot buffer to wetlands. GRANTED and CONFIRMED that this waiver was previously granted in 2004.

Further, the Applicant has applied for and received an Order of Conditions from the Conservation Commission which was issued on June 20, 2019.

J. Exceptions from General Bylaws.

1. Waivers Requested in 2004 Application



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 with respect to those waivers are set forth in Comprehensive Permit 035-04, and are not superseded by this modification.

2. Waivers Requested in 2019 Modification Application

Section 2.3 Water-Sewer tie in fees. Timing of payment. The Applicant has requested payment of fee at time of each building permit, not at issuance of permit for first unit. GRANTED and CONFIRMATION that this waiver was previously granted in 2004.

K. Other Findings and Requirements.

All other findings and requirements, as set forth in Comprehensive Permit 035-04 remain in force and effect, except to the extent they are expressly superseded by the findings and requirements set forth in this modification.

## PETITION NUMBER: 035-04

## THE VILLAGE AT BEDFORD WOODS COMPREHENSIVE PERMIT

CHAPTER II. DOCUMENTSA. Original Comprehensive Permit application

The documents presented in the original application for Comprehensive Permit 035-04 are as set forth in Chapter II of that permit, and not re-listed here.

B. 2019 Modification application

The following documents were submitted in support of the application for modification:

- 1) Letter from Brown & Brown, PC dated April 18, 2019, with Application for Modification and attached documents.
- 2) Letter from Brown & Brown, PC dated May 24, 2019.
- 3) Applicant response to comments "Recommendations and Follow Ups from ZBA Hearing on 9 May" submitted June 14, 2019.
- 4) Engineering Plans (12 sheets) entitled "Village at Bedford Woods, Albion Road, Bedford, Massachusetts", prepared by BSC Group, dated April 18, 2019 and revised May 24, 2019
- 5) Architectural building floor plans A.101, A.111A, A.111B, A.111C, A.112A, A.112B, A.112C dated 5/9/19 and revised through 5/23/19 prepared by Maugele Architects.
- 6) Architectural unit floor plans A.601, A.602, A.603, and A.604 dated 5/9/19 and revised through 5/23/19 prepared by Maugele Architects.
- 7) Architectural elevations sheets A.1000, A.201A, A.201B, A.202, A.203 dated 5/9/19 and revised through 5/23/19 prepared by Maugele Architects.
- 8) The Village at Bedford Woods, Proposed Conditions rendering dated 5/9/19, prepared by Maugele Architects.
- 9) The Village at Bedford Woods, Perspectives dated 5/9/19, prepared by Maugele Architects.
- 10) Village at Bedford Woods – Response to DPW Comments, letter dated 5/21/19 prepared by BSC Group

- 11) Snow Storage Plan, prepared by BSC Group, dated 4/18/19
- 12) Central Green Space Comparison Plan, dated 4/18/19, prepared by BCS Group
- 13) Comparison Plan: 2004 (black) vs. 2019 (Red), dated 4/18/19, prepared by BSC Group
- 14) Lighting Plan, dated 4/18/19 and revised 5/15/19, prepared by BSC Group
- 15) Layout & Materials Plan, dated 4/18/19 and revised through 5/21/19, prepared by BSC Group
- 16) Village at Bedford Woods- Bridge Utilization Letter, dated 5/21/19, prepared by BSC Group
- 17) Village at Bedford Woods – Fire Department Emergency Access, dated 5/23/19, prepared by BSC Group
- 18) “Village at Bedford Woods ~ Comparison of Approved 40B (Phase 2) to 2018-2019 Phase 2 Modifications” chart (no date included)

**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 grants to Village at Bedford Woods, LLC (the Applicant) at 100 Albion Road, Bedford, Massachusetts, a modification to existing Comprehensive Permit 035-04 to construct four buildings consisting of 30 garden style units (in one building already constructed and occupied) and 26 townhouse style units (in three new buildings), for a total of 56 units at the site, in lieu of the previously approved 88 garden style units originally approved in three buildings, in accordance with M.G.L. c. 40B, Sections 20-23 and its implementing regulations 760 CMR 56.00, 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. These 26 townhouse units are to be constructed in addition to the 30 units already on site. By virtue of the Board's approval of this modification to Comprehensive Permit 035-04, the approval to construct 88 units allowed under that permit is hereby withdrawn.

This modified 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 the requested modifications to the 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 ongoing need to provide affordable housing.

The terms and conditions of this modified 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 modified Comprehensive Permit is inconsistent with any other instrument, document, agreement or plan submitted in connection with the Project, the modified Comprehensive Permit shall control to the full extent permitted by law.

1. Exceptions from the Zoning Bylaws

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 and REAFFIRMED  
The modified Comprehensive Permit requires allowing a multi-family dwelling use of the Property, which is located in the Limited Business District.

Exception from Section 6.2.13, Floor Area Ratio: GRANTED and REAFFIRMED:

The Board finds that the proposed Floor Area Ratio of the Project 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

2.3 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 and REAFFIRMED.

## 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.

3.2 The Conservation Commission's Order of Conditions granted on June 20, 2019, are incorporated by reference into this modified Comprehensive Permit.

## 4. General Conditions/ Affordable Housing Requirements

4.1 The modified Comprehensive Permit is granted based on the engineering plans (12 sheets) entitled "Village at Bedford Woods, Albion Road, Bedford, Massachusetts," prepared by BSC Group, dated April 18, 2019 and revised May 24, 2019; and upon a set of preliminary architectural building floor plans A.101, A.111A, A.111B, A.111C, A.112A, A.112B, A.112C dated 5/9/19 and revised through 5/23/19 prepared by Mangel Architects and a set of preliminary architectural unit floor plans A.601, A.602, A.603, and A.604 dated 5/9/19 and revised through 5/23/19 prepared by Mangel Architects (collectively, the "Project Plans").

In the event of any inconsistencies between this Decision and 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 26 additional townhouse style condominium units (56 total units) and project amenities on 7.17 acres as shown on the Project Plans. The 26 additional units are to be constructed in three (3) buildings with two of the buildings containing seven (7) units and one building containing twelve (12) units. The Applicant may decide which of the three proposed buildings will contain each unit and allocate the interior layout accordingly.

4.3 Of the 26 additional units, twenty (20) shall be market rate units and six (6) units will be affordable units. With respect to the affordable units, they shall be scattered throughout the buildings, as per DHCD regulations, and as voted by the Board in its June 13, 2019 approval.

These additional six (6) affordable units shall contain in perpetuity affordable housing restrictions in conformance with Mass. Gen. Laws c.184, sections 33-31, 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 consistent with all market rate units. Central air conditioning equipment shall be included in all Affordable Units.

If a winner or winners of a lottery for the sale of the six affordable units has within its household a person with 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 Board 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.

4.7 The Applicant shall select and hire an individual or entity which 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.

4.8 To the maximum extent permitted by law, the Applicant shall market and provide a local preference to selling affordable units. Allowable local preference categories are as follows: 1. Current residents: A household in which one or more members is living in the city or town at the time of application. Documentation of residency should be provided, such as rent receipts, utility bills, street listing or voter registration listing.

2. Municipal Employees: Employees of the municipality, such as teachers, janitors, firefighters, police officers, librarians, or town hall employees.
3. Employees of Local Businesses: Employees of businesses located in the municipality.
4. Households with children attending the locality's schools, such as METCO students. 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. 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.

4.9 Applicant 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, amount equal to the approved sales price for a two (2) bedroom affordable unit in the Project

4.10 A final form of Regulatory Agreement, form of Deed Rider, and Monitoring Services Contract shall be submitted to the Board prior to the issuance of any Building Permit.

4.11 The Applicant may construct the development in phases. Affordable units for phases yet to be constructed at the time of this decision shall be dispersed evenly throughout the three new buildings. The proposed locations of the six additional affordable units shall be identified in the Regulatory Agreement. Applicant shall make best efforts in each phase to sell affordable units simultaneously with market rate units at a rate of one affordable unit to each five market rate units phased and sold. 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 May 24, 2019 memo and exhibits from Brown & Brown, PC, as modified by this Decision.

5.2 Landscaping shall substantially conform to the May 24, 2019 memo and exhibits from Brown & Brown, PC, as modified by this Decision.

## 6. Unit Design

6.1 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. All building plans shall comply with the Building Code and requirements of the Department of Public Works.

## 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.

8.2 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.

8.3 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, s.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.

9.7 Site plans and specifications shall substantially conform to the May 24, 2019 memo and exhibits from Brown & Brown, PC, as modified by this Decision.

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 Applicant shall select and hire an individual or entity which shall serve 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 submitted to the Board prior to the issuance of any Building Permit 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.

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 be completed.

11.2 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.

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

12.3 The condominium documents shall provide:

- (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.
- (d) All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
- (e) 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 sufficient percentage of such Unit Owners are unwilling to be trustees.
- (f) The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.
- (g) Underground parking spaces shall only be used for vehicles and bicycles. No general storage shall be allowed in the parking spaces.

## 13. General

13.1 The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The provisions of this modified Comprehensive Permit shall be binding upon the successors and assigns of Village at Bedford Woods, 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 modified Comprehensive Permit shall be binding upon the purchaser, transferee or assignee. The provisions and limitation of 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.

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

## 14. Lapse

14.1 In accordance with the powers conferred on the Board by 760 CMR 56.05(c), if construction authorized by this decision has not commenced within three (3) years of the date on which this Decision becomes final, except for good cause, the permit granted by this

decision shall lapse. Notwithstanding this condition, the Board may grant an extension of this deadline upon written request from the Applicant.

15. 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 remaining six affordable units ("Maximum Price") shall be based upon the following methodology:

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.

The Maximum Price shall be calculated based upon the following assumptions and methodology:

A maximum down payment of 5% of the approved Sales Price is to be assumed.

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.

The maximum household size to be used in determining Median Family Income for the purpose of calculating the Maximum Price shall be four persons for the three-bedroom affordable units, 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 different household size be used.

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.

**DATE DECISION FILED: July 23, 2019**

**PETITION NUMBER: 022-19**

Notice is hereby given that the Bedford Zoning Board of Appeals GRANTED a modification to Comprehensive Permit 035-04 for 26 townhouse style housing units in lieu of 58 garden style housing units previously approved at 100 Albion Road, Bedford, Massachusetts, under M.G.L. c. 40B, section 21-23 and the Comprehensive Permit Rules of the Zoning Board of Appeals of the Town of Bedford, subject to the Conditions of Approval set forth in Chapter III of the Decision.

**PETITIONER:** Village at Bedford Woods, LLC

**PROPERTY:** 100 Albion Road, Bedford Massachusetts

**The hearings were held on:**

May 9, 2019  
June 13, 2019

**And voted on June 13, 2019,**

**The Board voted 5-0 in favor of granting the modification to Comprehensive Permit.**

\_\_\_\_\_  
Todd Crowley

\_\_\_\_\_  
*Carol Amick*  
Carol Amick

\_\_\_\_\_  
*Robert Kalantari*  
Robert Kalantari

\_\_\_\_\_  
*Angelo Colasante*  
Angelo Colasante

\_\_\_\_\_  
*Kay Hamilton*  
Kay Hamilton