



TOWN OF WAYLAND  
MASSACHUSETTS  
01778  
BOARD OF APPEALS

BOTH WAYS

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3600  
FAX: (508) 358-3606

RECEIPT FORM

APPLICATION NO. 05-22

RECORD OWNER'S NAME WAYLAND MEADOWS LIMITED PARTNERSHIP.

ADDRESS OF PROPERTY AFFECTED Assessor's Map 23, Parcels 52D, 52E, 52G, 52H, 52I, 52J, 52K, 52L and 52M; on and off Old Sudbury Road (Route 27), Wayland, Massachusetts

LOTS 2 + 3

DEED RECORDED: BOOK ~~3118~~ 47144 PAGE 323 ~~3118~~

AND

CERTIFICATE OF TITLE NO. ~~220301~~ 236350 BOOK N/A PAGE N/A

This is to certify that the attached is a true copy of the decision of the Board of Appeals

Comprehensive Permit Granted with conditions.

filed with the Town Clerk of Wayland on January 31, 2006

that twenty days have elapsed since the filing, and no appeal has been filed.



Bk: 01317 Pg: 46 Cert#: 236350  
Doc: DECIS 07/14/2006 01:58 PM

*Lois M. Toombs*  
Town Clerk/Asst. Town Clerk - Wayland

Date March 2, 2006

20 at                      o'clock and                      minutes

Received and entered with the Register of Deeds in the County of Middlesex

Book                      Page                     

ATTEST

Register of Deeds

OWNER = WAYLAND MEADOWS  
DEVELOPMENT INC.

OK  
SHELLA  
GRANTFIELD  
PHONE

236350 - 1317-410



# TOWN OF WAYLAND

MASSACHUSETTS  
01778

## BOARD OF APPEALS

TOWN BUILDING  
41 Cochituate Road  
TELEPHONE: (508) 358-3600  
FAX: (508) 358-3606

DECISION 05-22

OWNER- WAYLAND MEADOWS DEVELOPMENT

APPLICANT/PETITIONER WAYLAND COMMONS DEVELOPMENT, INC. INC

I, Member of the Board, certify that, in accordance with Massachusetts General Laws, Chapter 40A, Section 11, published in the Town Crier, a newspaper of general circulation in Wayland, on April 7, 2005, and on April 14, 2005, and that notice by mail, postage prepaid, was sent to the applicant/petitioner, abutters, owners of land directly opposite on any public or private street or way and abutters to abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list and to the Wayland Planning Board on April 7, 2005. I further certify that notice of the Decision was mailed to each of the parties in interest as above designated on January 31, 2006.

*James E. Grumbach*

James E. Grumbach Member

The record and decision was received and recorded as a public record on

1-31-2006

TOWN CLERK, WAYLAND, MASSACHUSETTS

*David R. St. Clair*  
TOWN CLERK/ASSISTANT

RECEIVED  
TOWN OF WAYLAND  
TOWN CLERK  
2006 JAN 31 AM 8:53



**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778

**BOARD OF APPEALS**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3600

Decision No. 05-22

**NAME OF APPLICANTS:**

WAYLAND COMMONS DEVELOPMENT, INC.

**APPLICATION FOR:**

Any necessary approvals as may be required for a Comprehensive Permit to construct 48 townhouse-type dwelling units with associated site work and infrastructure under Massachusetts General Laws Chapter 40B, Sections 20 through 23. The subject property is located on Old Sudbury Road, more specifically Assessors Map -- Plate 23, Parcels 52D, E & G through M, which is in a SINGLE RESIDENCE DISTRICT, AQUIFER PROTECTION DISTRICT, FLOOD PLAIN DISTRICT and, FEDERAL FLOOD PROTECTION DISTRICT.

LOTS 2 + 3-

**DATES OF HEARING:**

April 19, 2005, May 17, 2005, June 7, 2005, July 12, 2005, July 19, 2005, July 26, 2005, August 23, 2005, September 8, 2005, September 29, 2005, October 27, 2005, December 1, 2005, January 3, 2006, January 11, 2006, January 17, 2006 and January 26, 2006, which ended on January 27, 2006.

**BOARD CONDUCTING HEARING AND RENDERING DECISION:**

James Grumbach, Eric Goldberg, Michael Thomas and Linda Segal.

**DECISION:**

Comprehensive Permit Granted, with conditions.

**VOTE OF BOARD:**

Unanimous (4-0).

**DATE OF FILING OF DECISION:**

January 31, 2006

The decision and the reasons therefore are on file with the Town Clerk. Any person aggrieved by this decision, except for the Applicant, may appeal to the Framingham Division of the District Court Department, the Superior Court of Middlesex County or the Land Court by bringing an action within twenty (20) days after the decision has been filed in the office of the Town Clerk. Appeals, if any, shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17. Notice of appeal action, with a copy of the complaint, shall be given to the Town Clerk so as to be received within the same twenty-day appeal period. If the Applicant is aggrieved by this decision, the Applicant may appeal to the Housing Appeals Committee pursuant to Massachusetts General Laws Chapter 40B, Section 22.

Eric Goldberg  
James Grumbach  
Steven Fugarazzo  
E. Michael Thomas

Jerry Boos  
Shaunt Sarian, Associate  
Linda Segal, Associate  
Aida Gennis, Associate



**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**BOARD OF APPEALS**

TOWN BUILDING  
41 COCHITUATE ROAD  
TELEPHONE: (508) 358-3600

**WAYLAND COMMONS COMPREHENSIVE PERMIT DECISION #05-22**

RE: Application of Wayland Commons Development, Inc. for a Comprehensive Permit

DATE: January 27, 2006

LOCATION: Assessors Map 23, Parcels 52D, 52E, 52G, 52H, 52I, 52J, 52K, 52L and 52M; on and off Old Sudbury Road (Route 27), Wayland, Massachusetts

TITLE REFERENCE: Middlesex South Registry of Deeds Book 32174, Page 145;  
and Land Registration Office Certificate of Title No. 220301

**PROCEDURAL HISTORY**

1. On March 30, 2005, Wayland Commons Development, Inc. (hereinafter, the "Applicant"), applied for a comprehensive permit from the Zoning Board of Appeals ("ZBA"), pursuant to M.G.L. c. 40B, §§20-23 to construct an affordable housing project at the property located on and off Old Sudbury Road (Route 27) in the Town of Wayland (the Application). The Applicant proposed to construct "for sale" 48 home ownership townhouse condominium dwelling units to be called "Wayland Commons" (the "Development"). As proposed, the Development would be located on two (2) parcels of land, totaling approximately 18.1 acres of land, separated by a private drive, and consisting of the "Southerly Parcel" containing approximately 11.4 acres and the "Northerly Parcel" being approximately 6.7 acres, being shown on Town of Wayland Atlas Plate 023, as Parcels 052-D, E, G, H, I, J, K, L and M (hereinafter, the "Subject Property"), Said private drive is limited access (emergency and special use) to an existing 2/3 story office-building complex known locally as the Wayland Business Center located at 400-440 Boston Post Road (Route 20), Wayland, Massachusetts (the "Wayland Bus. Ctr. Property"). The Subject Property is zoned Single- Residential as set forth in the Wayland Zoning By-Laws and the Zoning Map referenced therein ("the By-Laws").

2. A notice of the public hearing on this application, a true copy of which is on file in the Office of the Town Clerk, was:

- a.) Published in The Town Crier, a newspaper with general circulation in the Town of Wayland on April 7, 2005 and April 14, 2005;

- b.) Posted in a conspicuous place in the Wayland Town Building on April 7, 2005, which was at least fourteen (14) days prior to the first session of the hearing at which evidence was received; and
- c.) Mailed, postpaid, on April 7, 2005, which is at least fourteen (14) days before the first session of the hearing at which evidence was received, to the Applicant, abutters, owners of land directly opposite the property in question on any public or private street or way, abutters to the abutters within three hundred (300) feet of the subject property, the Planning Boards of the abutting towns. The notice was mailed to the names and addresses shown on the most recent tax list provided by the Assessors Office.

The public hearing was opened on April 19, 2005, and continued to the following dates:

May 17, 2005;  
June 7, 2005;  
July 12, 2005;  
July 19, 2005;  
July 26, 2005;  
August 23, 2005;  
September 8, 2005;  
September 29, 2005;  
October 27, 2005;  
December 1, 2005;  
January 3, 2006;  
January 11, 2006;  
January 17 2006; and  
January 26, 2006, which session of the hearing ended on January 27, 2006 at 12:30 A.M.

All continuances of the public hearing were agreed to by the Applicant.

With the Applicant's consent, the ZBA, various other Town board members, Town officials and residents of the Town walked and inspected the Subject Property on June 6, 2005.

3. The public hearing was closed on January 27, 2006 at 12:30 A.M.
4. The following documents and exhibits were received during the public hearing and are hereby incorporated by reference in this decision:
  - Application submitted March 30, 2005.
  - Letter from Wayland Housing Authority to Daniel Bennett, Building Commissioner dated May 13, 2005.

- Letter from Wayland Wastewater Management District Commission to Ms. Betsy Connolly, Chairman, Board of Selectmen, dated March 17, 2004.
- Vanasse Hangen Brustlin, Inc. plan dated March 25, 2005 entitled "Wayland Commons Old Sudbury Road (Route 27) Wayland, Massachusetts".
- Memorandum from Wayland Wastewater Management District Commission to ZBA dated May 24, 2005.
- Memorandum from Dave Fields, Water Department, to Jim Grumbach, Chairman, ZBA dated May 27, 2005.
- Delphic Associates, LLC letter to James Grunach (sic), Chairman, regarding the types of units based on the most recent 48 unit site plan.
- Memorandum from Stephen F. Kadlik, Wayland Highway Department to Daniel Bennett, Zoning Enforcement Officer dated June 3, 2005.
- Letter from Wayland Fire Department to Daniel Bennett, Zoning Enforcement Officer, dated June 6, 2005.
- Memorandum from Robert Irving, Chief of Police to Daniel Bennett, Building Commissioner, dated June 6, 2005.
- Letter from Planning Board to ZBA dated June 7, 2005.
- Letter from Attorney Robert A. Shelmerdine to Daniel Bennett, Building Inspector, dated June 9, 2005.
- Letter from Margery Baston to ZBA dated June 18, 2005 regarding Wayland Historic Houses.
- Letter from Wayland Housing Authority to James Grumbach, Chairman, ZBA dated June 29, 2005.
- Letter from Delphic Associates, LLC to Susan Koffman, ZBA dated June 21, 2005.
- Memorandum from Board of Selectman to ZBA dated June 28, 2005.
- Delphic Associates, LLC report dated June 27, 2005 submitted to the James Grunach (sic), Chairman, ZBA and to Wayland Housing Partnership Committee detailing the Affordable Housing Lottery.

- Memorandum from Board of Selectmen to ZBA dated June 28, 2005.
- Letter from CMG Environmental, Inc. to ZBA dated June 27, 2005, regarding the former Raytheon facility.
- Vanasse Hangen Brustlin, Inc. – June 2005 - Traffic Impact and Access Study submitted July 1, 2005.
- Memorandum from Desmond McAuley, AIA, MIRIAI for the Wayland Historic District Commission to ZBA dated July 1, 2005.
- Vanasse Hangen Brustlin, Inc. - Landscape Concept Plan entitled “Site Plan Exhibit” dated April, 2005 delivered to Town of Wayland on July 5, 2005.
- HPA Design - new Architectural drawings dated July 1, 2005 submitted on July 6, 2005.
- Letter from KGI Properties to ZBA dated July 12, 2005.
- Memorandum from Conservation Commission to ZBA dated July 12, 2005.
- Utility Plan submitted showing preliminary design of the entire sewer system, grading, drainage and sanitary sewer plan.
- Wetlands Notice of Intent plans and documentation including detailed drainage plans; Erosion and Sedimentation Control Plan and Stormwater Management Report submitted to the Town’s Engineer.
- Vanasse Hangen Brustlin, Inc - Notice of Intent, Stormwater Management Report, including Operation and Maintenance Plan, submitted on August 3, 2005.
- Letter from Wayland Fire Department to Daniel Bennett, Zoning Enforcement Officer, dated August 5, 2005.
- Letter from Wayland Housing Authority to Eric Goldberg, Chairman, ZBA, dated August 19, 2005.
- Letter from TEC Transportation Engineering & Construction, Kevin R. Dandrade, P.E., PTOE – Traffic Engineering Peer review to ZBA dated August 22, 2005.
- Memorandum from Joseph Laydon, Town Planner to ZBA dated August 24, 2005.

- Letter from Wayland Fire Department to Daniel Bennett, Zoning Enforcement Officer, dated August 25, 2005.
- Letter from Jill Braunwald Porter to ZBA dated September 8, 2005.
- Memorandum From Michael Jacobs to the ZBA dated September 28, 2005.
- Letter from Attorney Robert A. Shelmerdine to ZBA dated September 29, 2005.
- Letter from Board of Health to Curt Quitzau, P.E., of Vanasse, Hangen, Brustlin, Inc. dated October 21, 2005.
- Letter from Board of Health to Curt Quitzau, P.E., of Vanasse, Hangen, Brustlin, Inc., dated October 21, 2005.
- Comments from residents Margery and Prescott Baston on Wayland Commons dated September 17, 2005.
- Comments from resident Stephen Tise on Wayland Commons dated September 20, 2005.
- Comments from resident Edmund Rice on Wayland Commons dated September 25, 2005.
- Comments from resident Cindy Oliver on Wayland Commons dated September 26, 2005.
- Comments from resident Michelle Purrington on Wayland Commons dated September 28, 2005.
- Comments from residents Margery and Prescott Baston on Wayland Commons dated September 30, 2005.
- Comments from resident Stephen Tise on Wayland Commons dated October 19, 2005.
- Comments from resident Cindy Oliver on Wayland Commons dated October 24, 2005.
- Comments from resident Cindy Oliver on Wayland Commons dated October 26, 2005.
- Comments from resident Kerri Rice on Wayland Commons dated October 26, 2005.



- Comments from residents Margery and Prescott Baston on Wayland Commons dated November 19, 2005.
- Comments from resident Cindy Oliver on Wayland Commons dated January 12, 2006.
- Comments from residents Margery and Prescott Baston on Wayland Commons dated January 13, 2006.
- Comments from residents Margery and Prescott Baston on Wayland Commons dated January 16, 2006.
- Wayland Housing Partnership Comments dated May 13, 2005.
- Board of Health Comments dated May 20, 2005.
- Police Chief Comments dated June 6, 2005.
- Report dated July 1, 2004 from Roberts Consulting.
- Memorandum from Board of Health to ZBA dated August 22, 2005.
- Wayland Wastewater Management District Commission Memorandum dated August 23, 2005.
- Marchionda & Associates, L.P. Peer Review Letter dated September 6, 2005.
- Wayland Historic District Commission Meeting with Wayland Commons Architect dated September 15, 2005.
- Planning Board comments dated October 11, 2005.
- Letter from Town's Consultant CES dated October 27, 2005.
- Letter from Town Counsel Mark J. Lanza dated October 27, 2005.
- Letter from VHB dated December 15, 2005.
- Letter from Town's Consultant CES dated December 19, 2005.
- Wayland Commons Financial Report dated December 29, 2005, prepared by MHJ Associates.
- Wayland Commons Condominium Budget received December 30, 2005.

- Revised Pro Forma received December 30, 2005.
- Impervious Surface Summary Table Prepared by VHB dated January 5, 2006.
- Background for Town's 30% Impervious Surface Limitation dated January 10, 2006.
- Memorandum from WHDC dated January 11, 2006.
- Report from VHB dated January 13, 2006 re: Driveways.
- Letter from Marty Nichols, Wayland Housing Partnership, dated January 14, 2006.
- Memorandum from Stephen Kadlik, Highway Department, dated January 17, 2006 re: Sidewalk.
- Letter from Town's Consultant CES dated January 17, 2006 Re: Impervious Surface Review.
- Memorandum from Dave Fields, Water Department, dated January 18, 2006 re: Irrigation Well.
- Comments from resident Margery Baston on Wayland Commons dated January 20, 2006.
- Comments from resident Cindy Oliver on Wayland Commons dated January 20, 2006 Re: Waiving By-Laws.
- Comments from resident Cindy Oliver on Wayland Commons dated January 20, 2006 Re: APD ByLaw Enforcement.
- Letter from VHB dated January 20,2006, re: Impervious Surface Issues.
- Memorandum from Linda Segal, Associate ZBA Member, to Daniel Coughlin dated January 16, 2006, re: additional technical questions.
- Letter from Town's Consultant CES dated January 24, 2006, re: Impervious Surface Issues Letter from ZBA to R. Shelmerdine dated April 21, 2005.
- Memo from Joe Laydon, Town Planner, dated May 17, 2005 re: Planning Board Review of Wayland Commons

- Letter from R. Shelmerdine dated July 19, 2005 re: Test Pit Evaluation Report.
- Letter from M. Intoccia dated August 16, 2005 re: 10 Old Sudbury Road.
- Applicant's responses to comments Draft 4 dated September 8, 2005.
- Letter from VHB dated September 22, 2005.
- Comments from resident Cindy Oliver on Wayland Commons dated October 7, 2005.
- Letter from VHB dated November 2, 2005.
- Memo from D. Fields, Water Department, dated November 15, 2005.
- Memo from Wayland Housing Partnership sent December 16, 2005.
- Memo from Brian Monahan, Conservation Administrator, dated January 3, 2006 re: Order of Conditions.
- Memo from Board of Health dated January 4, 2006.
- Letter from M. Nichols, Wayland Housing Partnership, received January 9, 2006.
- January 26, 2006 email from Fire Chief Loomer re: sprinkler protection.
- January 23, 2006 Planning Board meeting minutes re: 30% impervious surface requirement.
- January 26, 2006 Letter from Attorney Matthew Watsky re: Title V issues for senior qualified housing.
- January 26, 2006 email from Attorney Shelmerdine, Memo of Issues for Final Discussion.

Any documents or other evidence received during the public hearing which are not listed above are unintentionally omitted. All documents and plans received during the public hearing are part of the record on file relative to this decision.

During the public hearing, the Applicant, through its Attorney, Robert Shelmerdine, its Engineer, Curtis R. Quitzau of Vanasse, Hangen, Brustlin, Inc., and its consultant, Paul Cusson of Delphic Associates, LLC, presented the ZBA with the Applicant's plans and supporting materials. Representatives of the

Applicant were present at all sessions of the public hearing at which evidence was presented and received.

Pursuant to M.G.L. c. 44, §53G and its rules and regulations relative to comprehensive permits, at the Applicant's expense, the ZBA engaged the services of and received advice from the following consultants concerning the following aspects of the Applicant's proposed project:

- Traffic Engineers: TEC Transportation Engineering & Construction, Inc., Kevin R. Dandrade, P.E., PTOE., Wayland, MA;
- Civil Engineers: Marchionda Associates, LP;
- Environmental Engineer: Coughlin Environmental Services, LLC;
- Special Legal Counsel: Mark J. Lanza, Esq., Concord, MA; and
- Chapter 40B and Financial Consultant: MHJ Associates, Brookline, MA

The ZBA sought and received input and recommendations relative to the Applicant's proposed Development from various Town boards, committees and officials including the Board of Selectmen, Town Administrator, Planning Board, Board of Health, Conservation Commission, Police Chief, Fire Chief, Board of Road Commissioners, Housing Partnership, Building Commissioner, Historic District Commission and the Wayland Wastewater Management District Commission and the Wayland Housing Authority ("WHA").

Numerous parties in interest, persons residing in the area of the Subject Property and other residents of the Town appeared at the public hearing and gave the ZBA input relative to the anticipated impacts of the proposed Development.

During the public hearing, the Applicant made numerous revisions to its plans for the Development in response to concerns, comments and recommendations made by the ZBA, other Town boards and committees, Town officials, the ZBA's consultants, parties in interest and other persons residing in the area of the Subject Property. Substantively, the Applicant modified its project plans by making the revisions shown on the Project Plans referenced below.

The ZBA deliberated on this decision at its meeting of January 27, 2006, which began on January 26, 2006, and made the following findings and decision based on the evidence submitted at the public hearing.

#### **FINDINGS**

1. The Applicant submitted the following information pursuant to 760 CMR 31.01:
  - a) Information demonstrating that it is or will become a "limited dividend corporation" by executing a Regulatory Agreement as that term is used in M.G.L. c. 40B, § 21 and 760 CMR 31.01 (1) prior to the issuance of any building permits to construct dwelling units authorized by this comprehensive permit;
  - b) The project eligibility/site approval determination letter dated February 4, 2005 issued by the Massachusetts Housing Finance Agency ("MassHousing") establishing fundability by a subsidizing agency under a low and moderate income housing program; and
  - c) Information demonstrating that it has "control of the site" as that term is used in 760 CMR 31.01, by virtue of the Purchase and Sale Agreement dated October 22, 2004.
2. Less than ten percent (10%) of the total number of housing units in the Town of Wayland are "low or moderate income housing" units within the meaning of M.G.L. c. 40B, §20 or 760 CMR 31.04.
3. Low or moderate income housing does not exist on sites comprising one and one-half percent (1.5%) or more of the total land area in the Town of Wayland zoned for residential, commercial or industrial use.
4. The approval of the Applicant's proposed Development would not result in the commencement of construction of low or moderate income housing on sites comprising more than three-tenths of one percent (3/10th's of 1%) of the total land area in the Town of Wayland zoned for residential, commercial or industrial use or ten (10) acres, whichever is larger, in any one calendar year.
5. At least .75% of housing units have not been produced in the Town within the last year accordance with a Massachusetts Department of Housing and Community Development ("DHCD") approved affordable housing plan.
6. The Subject Property will be accessed from Old Sudbury Road (Route 27) as shown on the plans entitled, "Wayland Commons Old Sudbury Road (Route 27) Wayland, Massachusetts, prepared by Vanasse, Hangen, Brustlin, Inc., dated March 25, 2005, and consisting of seven (7) sheets (cover sheet, C-1 through C-5 and SV-1) (hereinafter referred to as the "Site Plans"), which are hereby incorporated into and made a part of this decision, including any revisions thereto necessitated by this decision.

7. The Subject Property is presently vacant of buildings, except for two small range houses on the Northerly Parcel. The existing conditions of the Subject Property, including but not limited to the access way, stone wall, exercise trails, topography, trees and natural resource areas are shown on Sheet SV-1 of the Site Plans.

8. The Subject Property is zoned Single-Family Residential and is within the overlays of the Aquifer Protection District, the Federal Flood Protection District, and the Floodplain District.

9. If developed in accordance with the conditions set forth herein, the proposed Development will be consistent with local housing needs.

### **DECISION**

Pursuant to M. G.L. c. 40B, §§20-23, based on the above findings and the evidence submitted at the public hearing, the ZBA hereby grants a comprehensive permit to the Applicant for the construction on the Subject Property of forty eight (48) two-bedroom home ownership townhouse condominium dwelling units with associated infrastructure and improvements, subject to the following conditions. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors, transferees, and assigns.

### **CONDITIONS**

#### **General Conditions**

1. The Subject Property, as shown on the Site Plans and the following plans, shall not be changed, altered, or reconfigured or used in any way, except as provided in this Comprehensive Permit:

- a.) the plan of land entitled "Screening Plan Wayland Commons, Wayland, Massachusetts", prepared by VHB dated June 14, 2005, as revised Through October 17, 2005 (the "Landscaping Plans");
- b.) the architectural plans entitled "Typical Two-Unit Building, Typical Three-Unit Building and Typical Four-Unit Building" prepared by F. Paul Frederick dated July 1, 2005, consisting of floor plans and Front, side and rear elevations and typical wall construction detail (the "Revised Architectural Plans");
- c.) the plans detailing fire truck turning movement entitled "Fire Truck Turning Movement Layout Dimensions Wayland Commons, Wayland, MA" dated June 3, 2005, prepared by VHB containing three figures (the "Fire Truck Movement Plans");

- d.) the architectural plan prepared by HPA Design showing seven (7) exterior detail describing architectural features to be incorporated by the Applicant in the final architectural plans for the Development;
- e.) the affordable housing plans entitled "Affordable Housing Plans", last revised August 8, 2005 (the "Affordable Unit Distribution Plan"); and
- f.) the Notice of Intent entitled "Site Plan Wayland Commons drawn for Wayland Meadows Realty Corporation", dated July 28, 2005 and last revised October 17, 2005 (the "Notice of Intent Plan").

The plans referenced in subparagraphs a.) through f.) of this condition are hereinabove and hereinafter referred to as the "Project Plans".

2. Duly authorized agents of the Town, including, but not limited to the Building Commissioner, the Fire Chief, the Director of Highway Operation their respective assistants and staff, shall have the right, with reasonable notice to the on-site project manager, which notice may be oral, to enter upon the common areas of the Subject Property and any common areas of the buildings thereon to ensure compliance with the terms and provisions of this Comprehensive Permit.

3. During construction, all local, state and federal laws and regulations shall be followed regarding noise, vibration, dust and blocking Town ways. At all times the Applicant shall use reasonable means to minimize inconvenience to the residents in the area of the Subject Property. Construction shall not commence on any day before 7:00 A.M. and shall not continue beyond 6:00 P.M. There shall be no construction or other related activities which are audible to persons off-site on any Sunday or state or federal legal holiday. All trucks delivering earth materials of any type to the Subject Property shall be covered in compliance with state law.

4. The Applicant shall comply with all by-laws, rules and regulations, guidelines and codes of the Town and rules, regulations, codes and laws of the Commonwealth of Massachusetts pertaining to the development of the Subject Property and all pertinent requirements of the Americans with Disabilities Act ("ADA"), unless specifically waived herein.

5. Before beginning any dwelling unit construction under this Comprehensive Permit, except for the requirements set forth in General Conditions 7 and 8 below, the Applicant shall:

- a.) Furnish evidence to the Building Commissioner, adequate in the opinion of the Town Counsel, showing that it owns, in fee simple absolute, the Subject Property;

- b.) Furnish evidence to the Building Commissioner, adequate in the opinion of the Town Counsel, that Applicant is a limited dividend organization.
- c.) Furnish evidence to the Building Commissioner, adequate in the opinion of Town Counsel, that the status of the Development has been preserved as fundable by a subsidizing agency under a low and moderate income housing as set forth in the MassHousing approval referenced above and that all necessary extensions have been granted. No notice that the Eligibility Letter issued by MassHousing dated February 4, 2005 has been rescinded and is still effective through February 4, 2007 shall be deemed adequate until February 4, 2007.
- d.) Furnish financial security to the Town, as obligee, using one of the methods set forth in M.G.L. c. 41, §81U(1) or (2) or (4), in a form acceptable to Town Counsel, in an amount, sufficient in the opinion of the ZBA, to secure the performance of all conditions in this Comprehensive Permit pertaining to the remaining construction of infrastructure (roadways and access ways, drainage facilities, utilities, wastewater disposal systems, water systems, walkways, parking areas and landscaping) in the common areas in that particular phase, if phased. In determining the amount of the security, the ZBA shall be guided by the following formula:
  - (i) the ZBA's reasonable estimate of the cost to complete the work; plus
  - (ii) a fifteen percent margin of error; plus
  - (iii) an appropriate rate of inflation over a five year period.

Such performance guarantee shall be contingent on the completion of such infrastructure not later than three years from the date that all permits and approvals, except for building permits for housing units, have been received by the Applicant, which period shall be extended by any appeal hereof. Failure to so complete shall result in the automatic rescission of this Comprehensive Permit, unless the ZBA extends said period, for good cause shown, after the written request of the Applicant prior to the expiration of said period.

Any performance bonds furnished as such performance guarantee shall contain the following provision:

If the Principal shall fully and satisfactorily observe and perform in accordance with the qualifications and time schedule set forth herein specified all the covenants, agreements, terms and provisions set forth in the following:



a. The Project Plans and Site Plans; and

b. This Decision attached hereto as Exhibit A with all Exhibits thereto, then this obligation shall be void; otherwise, it shall remain in full force and effect and the aforesaid sum shall be forfeited to the Town of Wayland and shall be used to complete such infrastructure, but only after three (3) months written notice and the opportunity to cure or make adequate provisions for the satisfaction of any default.

Performance bonds, if any, shall be released by the ZBA in accordance with the Subdivision Rules and Regulations of the Planning Board allowing for partial or full releases of such security.

6. Furnish evidence to the Building Commissioner that a copy of this decision and the Plans, with any revisions necessitated by this decision, have been recorded with the Middlesex South Registry of Deeds and registered in the Land Registration Office at said registry of deeds.

7. Prior to the issuance of the first certificate of occupancy for any housing unit, prepare and submit to the Building Commissioner condominium documents for the units in the Development, to be reviewed by Town Counsel for compliance with all of the terms and conditions of this Comprehensive Permit.

8. Prior to the issuance of the first certificate of occupancy for any housing unit prepare and submit to the Building Commissioner, in a form acceptable to Town Counsel, a monitoring services agreement between the applicant and Citizens Housing and Planning Association ("CHAPA").

#### Age Restriction

9. Each Unit of the Development must be occupied by an individual or individuals where at least one (1) of the resident individuals in the Unit is fifty-five (55) years in age or older. In the event that the dwelling unit is leased, at least one of the occupants of the leased unit must be fifty-five (55) years or older.

Each Unit designated as affordable shall be sold with a Deed Rider specifying that, in perpetuity or for the longest period allowed by law, it can be occupied only by individuals, where at least one of the individual occupants of each Unit must be fifty-five (55) years old or older and that all occupied dwelling Units shall have at least one resident who is fifty-five (55) years or older.

While the Applicant or any successor dwelling unit owner is obligated to find a qualified affordable homebuyer, in the event that the Applicant or any successor dwelling unit owner is unable to find a qualified affordable homebuyer for any age-restricted "affordable" unit within a reasonable time period after an occupancy permit has been

issued, then the Applicant or any successor dwelling unit owner may be relieved of the age-restricted obligations and may sell such "affordable" unit to a qualified non-age-restricted homebuyer; provided that, (i) the Wayland Wastewater Management District Commission has unallocated waste water capacity to offer the Development, and that (ii) such sale would not result in the Development violating the requirements of Title V of the State Sanitary Code or violation of any permissible twenty (20%) percent non-age restricted residency allowance as may be provided or specified in Title V of the State Sanitary Code or regulations promulgated pursuant thereto.

### **Two Bedrooms Restriction**

10. The Development shall be limited to forty-eight (48) dwelling units. All of the dwelling units shall have two bedrooms, in accordance with the plans dated July 1, 2005 as prepared by HPA entitled Wayland Meadows, Wayland, Massachusetts and the Project Plans. A deed restriction, approved as to form by Town Counsel, shall be established to limit all dwelling units to not more than two bedrooms. It is expressly the ZBA's condition that the loft shown on the plan of record shall not be considered a bedroom, nor shall it be used as a bedroom, and this restriction shall be stated in each deed. Further, it is expressly the ZBA's condition that any basement, while allowed to be "finished", shall not be used as a bedroom, and this restriction shall be stated in each dwelling unit deed.

### **Affordability Conditions**

11. The Affordable Condominium Units created within Wayland Commons shall be "affordable" as that term is defined by Massachusetts General Laws Chapter 40B and DHCD's regulations, in perpetuity, or as long as legally permissible. Twenty-five percent (25%) of the dwelling units, which, as proposed, is twelve (12) of the dwelling units (the "Affordable Units"), shall be reserved, in perpetuity, for sale to households earning no more than eighty percent (80%) of the median household income for the region / Boston PMSA, or the otherwise applicable PMSA in the event of a change. The initial sale price for the affordable two bedroom condominium single-family units may not exceed \$159,900.00, unless the Subsidizing Agency or Monitoring Agent (CHAPA) require a lower sales price. Thereafter, the price for such Affordable Units shall be set at seventy percent (70%) of the median household income in the region / Boston PMSA, adjusted for household size, with a five percent (5%) down payment used to calculate such price. In determining the sales price base of 70% of the area median income (Family of 3), insurance is to be based on full value and condominium fees are to be based on value in accordance with Massachusetts General Laws Chapter 183A (Condominium Law). The condominium fees and betterment fees for the Affordable Condominium Units shall be based on such units' proportionate value to the market rate units considering the Deed Rider (for example, if market rate unit sales price is \$525,000.00 and the Affordable Condominium Units value is \$175,000.00 the condominium fee for the Affordable Condominium Units will be 1/3rd of the condominium fee for the market rate unit). If the Development is funded by the New England Fund of the Federal Home Loan Bank of

Boston, pricing shall be in accordance with the "Guidelines for Housing Programs in which Funding is Provided through a Nongovernmental Entity," as published by DHCD.

12. To the extent permitted by law, preference for the sale of seventy percent (70%) of the Affordable Units in the initial round of sales and to re-sales shall be given to persons or families who are first-time buyers and who (a) are Wayland residents, regardless of duration of residency; or (b) have a parent, grandparent or child, whether by birth, adoption, step-relation or marriage, residing in Wayland at the time of application; or (c) are employees (including new hires who haven't started work) who work for the Town of Wayland, regardless of duration of employment; or (d) have resided in Wayland within five years immediately prior to the time of application; or (e) have a child enrolled in the Wayland Public Schools at the time of application. The Town of Wayland shall retain the right to further define "local preference." The local preference shall be implemented by a Lottery Agent approved by the ZBA. Prior to conducting the Lottery, the Lottery agent shall submit a final Lottery plan to the ZBA, or its agent for its approval. All costs associated with the Lottery shall be exclusively borne by the Applicant.

13. Prior to the issuance of any building permit for a housing unit, the Applicant shall prepare the final draft of a Regulatory Agreement and a Deed Rider and submit same to the ZBA for approval as to form and substance by Town Counsel and for execution by and with the appropriate Town Board or official. Should the Town request any substantial or material change, the Town will need to receive approval from legal counsel of the appropriate federal and state agencies. Such document(s) shall contain at a minimum, the following terms:

- (a) The Affordable Units shall be reserved for sale in perpetuity to households earning not more than eighty percent (80%) of the median household income for the Boston PMSA. The initial sale price for the two bedroom condominium single-family homes may not exceed \$159,900.00, unless the Subsidizing Agency or Monitoring Agent (CHAPA) require a lower sales price. Thereafter, the price for such Affordable Unit shall be set at seventy percent (70%) of the median household income in the Boston PMSA, adjusted for household size, with a five percent (5%) down payment used to calculate such price.
- (b) After the initial sales of the Affordable Units, the Monitoring Agent shall be the Resale Agent responsible for all Affordable Unit resales within Wayland Commons.
- (c) The actual Affordable Units shall be identified in the Regulatory Agreement and the Affordable Unit Distribution Plan.
- (d) The Affordable Units shall be owner-occupied and the principal residence of the owner-occupant only; provided, however, that the monitoring agent in accordance with the Regulatory Agreement, Deed Rider and Monitoring

Agreement, upon written notice to the Town, may authorize the temporary rental of such unit at a price affordable to a household earning not more than 80% of area median household income where the owner demonstrates that there is a bona fide reason for same, such as military duty, or the like. Rental fees charged cannot exceed 30% of 70% of the applicable Area Median Income as defined by the U.S. Department of Housing and Urban Development.

- (e) The Affordable Units shall remain affordable, in perpetuity.
- (f) The project shall be subject to a cost certification in accordance with the Regulatory Agreement paid for by the developer on behalf of the Town and the monitoring agent.
- (g) The owners and occupants of the Affordable Units shall cooperate with and provide all information reasonable requested by the monitoring agent(s).
- (h) The amount of any loan or loans secured by a mortgage on an Affordable Unit shall not exceed the maximum initial or re-sale price of the Affordable Unit.
- (i) All Affordable Units shall remain affordable in perpetuity or the longest period allowed by law but in no case less than ninety-nine (99) years. An affordable housing restriction, enforceable by the Town of Wayland, requiring that the affordable units remain affordable in perpetuity, in the form approved by Town Counsel, shall be recorded senior to any liens on the Premises to protect the continued availability of and requirement for the affordable units in the event of any foreclosure, bankruptcy, refinancing or sale. Should the Applicant after diligent efforts, be unable to obtain financing due to the aforementioned requirement that the affordable housing restriction be senior to any liens on the premises, then the Applicant may request that the ZBA waive same. Upon a showing by the Applicant that diligent efforts were made, then the ZBA shall waive said requirement. The Applicant shall not receive a building permit until evidence of the recording of such affordable housing restriction has been provided to the Board. The Condominium Documents shall provide that the premises described in the Master Deed are subject to the terms and provisions of this restriction and that any amendment purporting to alter, amend or delete this restriction shall be void and of no force and effect unless in compliance with the termination and extinguishment provisions of this restriction.

14. Prior to the issuance of any certificate of occupancy, the Applicant shall enter into a monitoring agreement with CHAPA, approved as to form by Town Counsel. Such agreement(s) shall be consistent with the terms of this decision. All costs associated with

monitoring shall be borne by the Applicant, and, after the first round of sales, by the sellers of the Affordable Units. The Monitoring Agent shall be CHAPA, subject to the approval of the ZBA, said approval not to be unreasonably withheld. All reports of the monitoring agent shall be provided by certified mail to the ZBA. The ZBA reserves the option to select an independent monitoring agent, which may be a Certified Public Accountant ("CPA") to review the financial work of the monitoring agent selected by the Applicant. The CPA shall be provided reasonable access by the Applicant to any financial information necessary to make these determinations and to verify the income and expenses of the Development. All costs of retaining any such CPA, including legal fees incurred by the Town, not to exceed \$10,000.00, shall be paid by the Applicant. Additionally, the Town, or, alternatively, WHA may, at its option, retain the services of an independent monitoring agent to oversee CHAPA to monitor compliance with the terms and conditions of the Affordable Unit deed riders. Pursuant to its offer during the public hearing, the Applicant shall donate \$22,500.00 to the Town, as a gift, for said independent monitoring agent prior to the issuance of a certificate of occupancy for the first Affordable Unit.

The following project cost guidelines or standards shall be used by CHAPA or any independent CPA retained by the Town:

- (1) For cost certification purposes, General Conditions, Builder's General Overhead, Developer's Overhead, and Builders Profit must be consistent with normally accepted industry standards and "Local 40B Review and Decision Guidelines" dated November 2005 signed by the Department of Housing and Community Development, MassHousing Partnership, MassHousing and MassDevelopment.
- (2) Should there be an identity of interest between the Applicant and the real estate broker; the brokerage fee, including advertising costs but not applicable costs attributable to a model unit, shall not exceed 5% on Market-rate units.

15. The Affordable Units shall not be segregated from the Market-Rate Units. The Affordable Units shall not be substantially different in exterior appearance from the standard Market-Rate Units.

16. All financial information submitted by the Applicant to CHAPA and the Town for the cost certification after all initial sales shall be provided by certified mail to the ZBA at the same time. The required cost certification shall be conducted not later than 60 days after the conveyance of the final dwelling unit in the Development.

17. The numbers of each model-type shall be substantially in the same proportion for both the Affordable Condominium Units and market-rate Condominium Units. There should be no material difference in size or in external appearance between the Affordable Condominium Units and Market-Rate Condominium Units. The Affordable

Condominium Units should not be easily identified by any attribute of their physical appearance. The Affordable Condominium Units shall be interspersed within the Development so as to prevent easy identification. While the Affordable Condominium Units need not be given the same interior finishes and amenities as the market-rate Condominium Units, the Building Commissioner shall determine that the interiors meet the standards of the State Building Code. The Condominium master insurance policy shall include an "all-in" clause (HOG) insurance for all dwelling units providing coverage for loss of or damage to improvements and betterments which are not common elements or common facilities.

18. In the case of all winners of the lottery for an Affordable Condominium Unit who have a disability, the Applicant shall adapt the Affordable Condominium Unit to the disability in accordance with the ADA at no cost to the homebuyer(s).

19. The rate of issuance of building permits and certificates of occupancy for the Affordable Condominium Units and Market-Rate Condominium Units during the Development shall be one building permit or certificate of occupancy for an Affordable Condominium Unit for every three (3) building permits or certificates of occupancy for Market-Rate Condominium Units. Prior to the issuance of the certificate of occupancy for the last three Market-Rate Condominium Units, the Applicant shall complete construction and obtain the certificate of occupancy for the last Affordable Condominium Unit.

20. The prior written approval of the Town of Wayland shall be required, in addition to that of CHAPA, before an Affordable Condominium Unit owner may lease, refinance, encumber, or mortgage the property (except for the original mortgage(s) necessary to finance the purchase of the Unit) to ensure that the Affordable Unit remains affordable.

21. All Affordable Condominium Unit Owners shall grant the Town or its designee the right, but not the obligation, to purchase the residence, in the event that the Town has notice of a pending mortgage or other lien foreclosure or similar proceeding (e.g., a sheriff's sale against the residence) or has notice that the residence is being taken for unpaid taxes. CHAPA shall have 180 days to find an eligible purchaser for an Affordable Unit and that the Town or its designee shall have 180 days to purchase the Affordable Unit. This provision is subject to approval by MassHousing's legal counsel.

22. Upon notice by the Affordable Condominium Unit Owner of intention to sell the Unit, CHAPA shall have 180 days to find an eligible purchaser and the Town (or its designee) shall have 180 days to purchase the Unit.

### **Construction Conditions**

23. A preconstruction conference with Town departments shall be held prior to the commencement of construction. For the purposes of this decision, "commencement of construction" shall occur when the clearing and grubbing (removal of stumps and topsoil) has been initiated. The contractor shall request such conference at least one week prior to commencing construction by contacting the Building Commissioner in writing. At the conference, a schedule of inspections shall be agreed upon by the Applicant and the Town officials and boards responsible for the inspections.
24. All utilities (gas, telephone, electric, fire alarm, cable television, sewer and water) shall be installed underground and in pipes or conduits, as the case may be.
25. During construction the site shall be secured in a manner approved by the Building Commissioner so as to prevent injury or property damage to the residents of the Town.
26. Blasting, if any, shall be performed in accordance with regulations of the Commonwealth of Massachusetts, 527 CMR. 13.00, and in accordance with any existing written regulations for blasting issued by the Town's Fire Department.
27. After review and approval by the Chief of the Town's Fire Department, the Applicant shall install in each dwelling unit the type and kind of fire sprinklers, which shall be determined at construction level detail. The Applicant will comply with all rules and regulations of the State Building Code for Fire Suppression Systems.
28. Street numbers will be provided on each Condominium Unit in accordance with Section 158-4 of the Code of the Town of Wayland.
29. The Applicant shall provide a ten feet (10') horizontal and eighteen inches (18") vertical separation for water mains and sewers, or drainage and sewers, to the extent practicable. Sleeving ten feet (10') in each direction will be provided on both sides of crossing and at other locations where this separation cannot be obtained. Construction details and material specifications for sleeving shall be provided in construction documents.
30. The final design of the sewer collection system will be provided to the Wayland Wastewater Management District Commission for its review and approval.
31. Physical Alteration permits to construct new access ways off of Old Sudbury Road are required. The \$250.00 permit application fee for each access way shall be paid by Applicant.
32. Drainage structures and basins shall remain in private ownership and as such shall be maintained by a Homeowner's Association. Oil separators and precast containment

structures (catch basins) shall be incorporated into the drainage system. Low salt options shall be utilized for snow and ice removal.

33. Lighting along sidewalks of the Subject Property will be provided from a combination of street lights, building sconces, and supplemental light bollards.

### **Plan Conditions**

34. The Development shall be constructed in substantial conformance with the Site Plans, Project Plans and this decision. Minor or *de minimis* changes or modifications may be made, without review and approval by the ZBA. For purposes of this decision minor or *de minimis* changes or modifications are those which:

- a.) vary from a dimensional requirement, limitation or condition stated in terms of feet by six inches or less;
- b.) vary from a dimensional requirement, limitation or condition stated terms of square feet by one-half of one percent or less; or
- c. vary from a dimensional requirement, limitation or condition stated in terms of a percentage of a whole by one-half of one percent or less.

Any changes or modifications, which are not minor or *de minimis* may only be made after review and approval by the ZBA pursuant to a written application by the Applicant. Within thirty (30) days after receipt of any such application, the ZBA, without a hearing, shall determine whether such proposed change or modification is substantial or insubstantial. If the change or modification is determined to be insubstantial, the ZBA may act on it, without a hearing. If the ZBA determines that the proposed change or modification is substantial, the ZBA shall hold a hearing and act on it in accordance with 760 CMR 31.03(3)(c).

35. The Units shall be constructed in substantial conformance with the "Revised Architectural Plans" for two bedroom condominiums contained in two, three or four unit buildings. Said architectural drawings shall be modified so that the exterior design details of the buildings reflect the architectural shingle-style vernacular of the Town and the mass of the roof plane is broken up with decorative chimneys. Prior to submitting final architectural plans to the ZBA for its review and approval, the Applicant shall submit them to the Town's Historic District Commission for its review and input.

36. Prior to the issuance of a building permit for any dwelling unit, the Applicant shall submit the following final detail plans for review and approval by the ZBA. Such approval shall not be unreasonably withheld. The ZBA may distribute such plan(s) to its consultants, consulting engineers, and/or Town boards and officials for a written recommendation or report. The cost for any outside reviews of these materials will be borne by the Applicant.



- a. Lighting plan;
- b. Landscaping, screening, and planting plan;
- c. Grading plan;
- d. Erosion control plan;
- e. Architectural plans, including all principal and accessory structures;
- f. Utilities plan including water, sewer, gas, electric, cable, and telephone;
- g. Signage plan, including signs during the marketing phase;
- h. Stormwater management plan consistent with the DEP's Stormwater Management Policy;
- i. Snow storage and refuse disposal plan;
- j. Vegetation cutting plan, showing the limits of clearing;
- k. Development Phasing Plan, showing the two or more phases; and
- l. Fire sprinkler plan.

37. The Applicant shall design such final plans with the following specifications:

- a. The Applicant shall conform with all pertinent requirements of the ADA and Massachusetts Architectural Access Board, if applicable. In the event that the buyer of an Affordable Unit in the first round of sales is a disabled person the Applicant shall adapt such dwelling unit to accommodate the buyer's disability.
- b. All signage, including signs to promote sales, shall comply with all provisions of the Town's By-Laws relative to signs, except as waived by this decision, and shall be maintained in a sightly condition by the Unit Owners Association in conformance therewith.

38. The Applicant shall provide an "as-built" plan to the ZBA and Building Department prior to the issuance of the final certificate of occupancy in the Development in accordance with applicable regulations, which shall be reviewed and approved by the ZBA or its agent. The Applicant shall provide a separate as-built plan depicting the water and sewer mains, appurtenant equipment and services to the Water Department (water) and the Wayland Wastewater Management District Commission (sewer) demonstrating

compliance with the Town's rules and regulations and installation specifications, except as waived by this decision.

**Condominium Development Roadways and Systems**

39. The Applicant has proposed, and the ZBA hereby requires, that the following aspects of the Development shall be and shall remain forever private, and that the Town of Wayland shall not have, now or ever, any legal responsibility for operation, maintenance, repair or replacement of same:

- All roadways, access ways, sidewalks and parking areas
- Storm water management facilities, including detention basins
- Snow plowing
- Landscaping
- Trash removal
- Street lighting
- Building repair and maintenance
- On-site water mains and water services
- On-site sewer pump stations, mains and service lines
- Drainage structures and facilities

40. The roadway within the Development shall not be dedicated to or accepted by the Town.

41. The Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the common or private facilities set forth above until the conveyance of the 30<sup>th</sup> dwelling unit. Thereafter, such facilities shall be conveyed to a Unit Owners Association and such operation and maintenance shall be the responsibility of said Association. Prior to the turnover of responsibility to the Association, the Applicant shall provide written evidence to the ZBA that a reserve of two months of condominium fees has been established to fund maintenance and operation. In the event that a management company is engaged, the Applicant or the Unit Owners Association shall provide the ZBA with a copy of the contract with such management company.

42. Prior to the issuance of any certificate of occupancy, the Applicant shall establish a Unit Owners Association. There shall be a single Unit Owners Association to serve the entire Development. Membership in said Unit Owners Association shall be required by a deed restriction prepared by the Applicant and approved as to form by Town Counsel prior to execution thereof. Town Counsel shall approve such document as to form after determining that the document is consistent with this decision. Such Unit Owners Association shall maintain the facilities set forth above in Condition 39. The ZBA shall notify the Building Commissioner, in writing, of such approval and provide a copy of the approved documents.

43. The Applicant's registered professional engineer shall prepare guidelines for the operation and maintenance of the sanitary sewage disposal system and stormwater management system subject to the approval of the ZBA or its agent. Such guidelines shall be incorporated by reference in the organizational documents of the Unit Owners Association. In the event a management company is engaged, the guidelines shall be incorporated by reference in the management contract with such management company.

44. In the event that the Applicant, its successors, or agent fails to maintain the on-site water and sewer mains and appurtenances, or the on-site sanitary sewage disposal system and stormwater management system, the Town may conduct such emergency maintenance or repairs, and the Applicant shall permit entry onto the Subject Property with reasonable notice to implement all necessary measures. In the event the Town conducts such maintenance or repairs, the Applicant shall promptly reimburse the Town for all reasonable costs and expenses associated therewith within thirty (30) days after receipt of a demand therefore from the Town. If the Applicant fails to so reimburse the Town, the Town may place a municipal charges lien on the Development or any unit therein to secure such payment.

45. The landscaping shown on the final approved landscaping plan shall be maintained in perpetuity by the Unit Owners Association. To the greatest extent practical, a.) lawn areas shall be limited and untended natural vegetation shall be preserved; b.) mulched and stoned planting beds, such as planted rain garden areas, shall be incorporated into the landscaping plan; and c.) organic methods shall be utilized should to ensure that all soil supplements are well composted to eliminate the bacterial contamination. Any dead vegetation shall be removed immediately and replaced in accordance with the specifications on said plan during the life of the Development by the Unit Owners Association.

#### **Off-Site Improvements**

46. The Applicant shall make good faith efforts and use due diligence to negotiate with the owner of the Wayland Bus. Ctr. Property the provision of access to both the Northerly Parcel and Southerly Parcel from the common drive existing between Old Sudbury Road (Route 27) and the Wayland Bus. Ctr. Property ("Common Drive"). In the event that such negotiations are successful, the Applicant shall terminate the individual primary access from and to the Northerly Parcel and Southerly Parcel directly from Old Sudbury Road (except as may be required for emergency access). This condition shall continue until the Applicant has finished construction of fifty (50%) per cent of all the units within the Development.

47. It shall be the obligation of the Applicant to obtain a modification or release of the Activity and Use Limitation recorded with the Easement and Restriction Agreement relative to a portion of the Subject Property (the "Restriction") as dated October 21, 1997, and recorded with the Middlesex South Registry of Deeds in Book 27793, Page 167 so that the provisions of the Restriction which impede the Development and use of

the Subject Property as authorized by this comprehensive permit do not apply to any portion of the Subject Property. The area of the Subject Property affected by the Restriction shall be clearly shown on the appropriate sheet of the Plans within 21 days after the date of filing of this decision. Construction of any improvements hereby authorized to be made on such portion of the Subject Property is hereby conditioned upon the successful modification or release of the Restriction.

48. A walkway for pedestrians along the Common Drive should be obtained if it is deemed necessary, subject to the underlying landowner's approval.

49. The Applicant has offered to participate in the construction of a public sidewalk along Old Sudbury Road (Route 27) to connect the entrance of the Development with the Wayland Depot by donating \$65,000.00 to the Town for this public improvement Pursuant to said offer, the Applicant shall donate \$65,000.00 to the Town, as a gift, to be used for the design and/or construction of said sidewalk, before the issuance of the twelfth Certificate of Occupancy for a dwelling Unit.

50. To the extent reasonably practicable and not unsafe, the Applicant shall retain the existing stone walls and stone pillars located along or near the boundary of the Subject Property and the sideline of Old Sudbury Road (Route 27). At least fourteen (14) days prior to the movement or removal of any part or all of said wall and/or pillars, the Applicant shall give the Town's Historic District Commission and Building Commissioner written notice of its intent to do so and the reasons that such movement or removal is necessary.

### **Traffic**

51. Final construction documents shall show the proposed locations of traffic signs including stop signs, speed limit signs, alignment warning signs, and others as appropriate.

52. The Applicant shall preserve as much of the existing vegetation as a buffer to Old Sudbury Road (Route 27) as is practicable, and shall provide screening between the project roadway and Old Sudbury Road to prevent headlights shining on old Sudbury Road (Route 27). The screening shall be done in a manner that does not compromise intersection sight distance and substantially in conformance with the "Landscaping Plans".

53. The Applicant shall provide a continuous sidewalk connection between the Northerly Parcel and the Southerly Parcel.

54. The Applicant shall provide, at no cost to the Town, a public easement for use of the proposed on-site sidewalk that parallels Old Sudbury Road (Route 27) between the Wayland Bus.Ctr. Property driveway and the southerly driveway.

55. Final construction plans shall show wheelchair ramp details, conforming to ADA and Massachusetts Architectural Access Board regulations, for all required crosswalk locations.

#### Sewage

56. Prior to occupancy of any Unit of the Development, the Applicant shall provide documentation to the Building Commissioner that it has obtained satisfactory access to a sanitary sewer system with sufficient capacity or has provided another lawful and adequate means wastewater disposal pursuant to the provisions of the State Sanitary Act, Title V.

#### Miscellaneous Conditions

57. The Applicant shall promptly pay the reasonable fees of the ZBA's consulting engineers and/or the ZBA's consulting legal counsel for review of the plans or documents described herein and for inspections during the construction phase. The results of any inspections shall be provided to the ZBA in written format. The ZBA hereby requires the establishment of an escrow account to assure such payment, with an initial deposit of \$20,000.00, subject to replenishment at the time of filing of this decision.

58. The Conservation Commission's Order of Conditions DEP File # 322-624 issued on December 5, 2005 pursuant to the Massachusetts Wetlands Protection Act, M.G.L c. 131, § 40, regarding the Subject Property, is hereby made a part of this comprehensive permit. If there is any inconsistency between the Project Plans and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to the ZBA and a notice of change in accordance with 760 CMR 31.03. Such submittal shall be made by certified mail or in hand at a regular meeting. Said amended plan submitted to the ZBA and its agents shall be accompanied by a letter setting forth any and all changes from the submitted plan of record and shall include revised drainage calculations, if applicable.

59. The Development shall be constructed in phases in accordance with the Development phasing plan approved by the ZBA. No certificate of occupancy for any building or phase shall be issued until the infrastructure or common facilities or common improvements specified in this decision and set forth on the plans of record are constructed and installed so as to adequately serve said building or phase, or adequate security has been provided as provided for in Condition 5(d) of this Comprehensive Permit. The ZBA shall notify the Building Commissioner, in writing, of such completion or performance guarantee.

60. The Applicant shall provide and maintain vegetative screening along the boundary of the Southerly Parcel and the property known and numbered as 10 Old Sudbury Road. The types of plantings and their locations shall be reviewed with the owner(s) of 10 Old Sudbury Road prior to planting and may be located on the Southerly Parcel or, with the

written consent of the owner(s), on 10 Old Sudbury Road. Said screening shall be shown on the landscaping plan required by Paragraph b. of Condition No. 36 above.

**Transfer of Comprehensive Permit**

61. This comprehensive permit shall not be transferred to any person or entity without the express written approval of the ZBA, which approval shall not be unreasonably withheld. Prior to making a decision relative to any such transfer, the ZBA may hold a public hearing.

**Lapse of Comprehensive Permit**

62. This comprehensive permit shall become final in accordance with the provisions of 760 CMR 31.08(4). If construction authorized by this comprehensive permit has not begun within three (3) years of the date that it becomes final, it shall lapse. Upon written application by the Applicant, the ZBA shall, for good cause shown, extend said expiration date.

**Compliance with State and Federal Requirements.**

63. The Development, and all construction, dwelling units, utilities, roads, drainage, earth removal or relocation of structures and all related appurtenances with respect to the Project, shall comply with all applicable state and federal regulations. The Applicant will provide the ZBA with copies of all permitting requests and other correspondence directed to any applicable state or federal agency and of all correspondence, approvals or disapprovals received from any such agency.

64. The Development shall comply with a.) all rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Endangered Species Act, M.G.L. c. 131, § 23, 321 CMR 10.00; b.) the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §§ 40-40A and 310 CMR 10.00; c.) rules, regulations, filing and permit requirements and certifications required by the Department of Environmental Protection with respect to wastewater disposal, stormwater disposal, and best management practices; d.) Massachusetts Title V regulations (310 CMR 15) relative to septic system design and installation; and e.) the regulations adopted by the Executive Office of Environmental Affairs pursuant to the Massachusetts Environmental Policy Act, M.G.L. c. 30, §§ 61-62H.

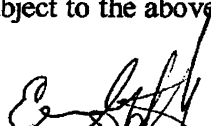
**Waivers**

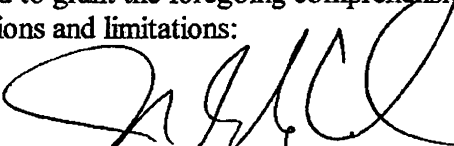
The Applicant has requested, and the ZBA hereby grants, 1.) a waiver of all building permit fees (for building permits, electrical permits, gas and plumbing permits issued by the Town's Building Department) associated with the Affordable Units within the Development; and 2.) those waivers that are listed in the attachment hereto identified as Exhibit "A" entitled "Waivers Granted".

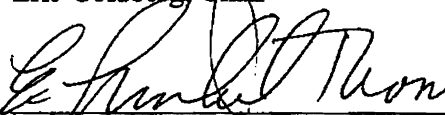
To the extent the Project Plans are silent on a particular requirement, the appropriate Town by-law, rule, regulation or code provision shall apply. In the event the Applicant or the ZBA's consulting engineer determines, in the final design of the Development, that additional waivers, not shown on the Project Plans are required, the Applicant shall be required to obtain such additional waivers through written request to the ZBA. The ZBA may grant such additional waivers in accordance with law. Certain provisions of the By-Laws, Town's Board of Health Rules and Regulations, the Town Planning Board's Rules and Regulations relative to Subdivisions and the Town's Wetlands and Water Resources Protection By-Law, which are expressly waived below, as applied to the Applicant's proposed Development, are not consistent with local housing needs for purposes of granting a comprehensive permit under M.G.L. c. 40B, §§20-23.

**RECORD OF VOTE**

The following members of the ZBA voted to grant the foregoing comprehensive permit subject to the above-stated terms, conditions and limitations:

  
Eric Goldberg, Chair

  
James E. Grumbach

  
E. Michael Thomas, Clerk

  
Linda L. Segal, Associate Member

Filed with the Town Clerk on January 31, 2006.

**EXHIBIT A**

**WAIVERS GRANTED**

**A. ZONING BY-LAWS PROVISIONS:**

<b>BY-LAW REFERENCE</b>	<b>REQUIREMENT</b>	<b>WAIVER GRANTED TO ALLOW:</b>
<u>Article 5 General Regulations</u>	No earth in excess of 500 cubic yards shall be moved on any parcel of land in any district less than 40,000 square feet in area.	No more of such excess earth movement than is necessary to achieve the grades shown on the Project Plans.
<u>Article 6 Site Plan Approval</u>		Exemption – Site Plan Approval submittal requirements, content, etc. apply only to the extent information is requested by the ZBA.
<u>Article 7 Area, Yard and Bulk Regulations</u>		
§ 198-702 Setbacks. 702.1	All buildings or structures in any residence district shall comply with the setbacks in § 198-801 Table of Dimensional Requirements. [30 ft. from Front lot line; 55 ft from ROW center line]	The building and structure setbacks shown on the Project Plans.
§ 198-703 Yards. 703.1	Behind every dwelling house there shall be provided a backyard between the rear line of the house and the rear lot line meeting the setbacks in §198-801, Table of Dimensional Requirements. [30 ft. from Rear lot line]	The building and structure setbacks shown on the Project Plans



BY-LAW REFERENCE	REQUIREMENT	WAIVER GRANTED TO ALLOW:
§ 198-705 Lot Area and Frontage 705.1.2 Lot	The lots on which dwellings are erected in the Single Residence District shall meet the minimum lot area and frontage requirements of § 198-801, Table of Dimensional Requirements. [30,000 sf – 150 ft Frontage]	The lot sizes with the street frontages shown on the Project Plans.
§ 198-705 Lot Area and Frontage 705.1.8	In a Residence Zone 20,000 -120 feet Front or Residence Zone 30,000 – 150 feet Front, no building lot shall be laid out and no dwelling shall be erected on a lot unless the center of a circle 75 feet in diameter can be passed along a continuous line from the side line of the street along which the frontage of the lot is measured to any point of the line of the street along which the frontage of the lot is measured to any point of the dwelling, or proposed dwelling, on the lot without the circumference intersecting any side lot lines.	The lots with the widths and shapes shown on the Project Plans.

<b>BY-LAW REFERENCE</b>	<b>REQUIREMENT</b>	<b>WAIVER GRANTED TO ALLOW:</b>
<u>Article 16 Aquifer Protection District</u>		
§ 198-1604.2	Under no circumstances shall the impervious surface of a residential lot exceed 30% of the upland area of the lot	Impervious surfaces not to exceed 35% of the upland area of the Southerly Parcel and 37% of the upland area of the Northerly Parcel

**B. PLANNING BOARD SUBDIVISION RULES AND REGULATIONS PROVISIONS:**

<b>REGULATION PROVISION</b>	<b>REQUIREMENT</b>	<b>WAIVER GRANTED TO ALLOW:</b>
Section IV: Design Standards		
B.1.c. Streets	A minimum 200 foot length tangent shall be provided between the point of tangency (PT, the end) of one curve and the point of curvature (PC, the beginning) of any following curve.	Distances between curves as shown on the Project Plans
B.1.d. Streets	Any dead-end street shall be provided with a circular turnaround at its dead-end terminus having a curb radius of forty-five (45) feet, and a right-of-way radius of sixty (60) feet.	– Alternative turnaround provided as shown on the Project Plans
B.2 Streets	Residential streets ROW shall be a minimum of 50 feet, with pavement width of 24 feet, with radius of curves at 380 feet.	– Effective pavement width of 22 feet, curves range from 60'R to 700'R

REGULATION PROVISION	REQUIREMENT	WAIVER GRANTED TO ALLOW:
B.4 Street Offsets	In each zoning district, streets entering from the same side as another street that is existing, proposed or approved shall be laid out with the following minimum offsets between their rights-of-way: the R30 district – 300 feet.	The street offsets shown on the Project Plans
<u>Section V: Required Improvements</u>		
3.a Curbs and Berms (Residential and Limited Residential Streets)	Type VA-4 granite curbs as specified for secondary streets above shall be required on all curb inlets for catch basins	Cape Cod Berms throughout the Development as shown on the Project Plans.
3.b Curbs and Berms (Residential and Limited Residential Streets)	Type VA-4 granite curbs as specified for secondary streets above shall be required on all street intersections on the curve and extending 6 feet beyond tangents points.	– Cape Cod Berms throughout the Development as shown on the Project Plans.
3.c Curbs and Berms (Residential and Limited Residential Streets)	Type VA-4 granite curbs as specified for secondary streets above shall be required on all inside curves wherever the interior angle is less than 110 degrees.	– Cape Cod Berms throughout the Development as shown on the Project Plans
5.c.iii Construction Specifications	Catch basins shall not be less than 3 feet in depth measuring from the invert of the outlet pipe.	– Shallow Catch Basins anticipated for stormwater management concerns as shown on the Project Plans

**C. WAYLAND WETLANDS AND WATER RESOURCE PROTECTION BY-LAW:**

<b>BY-LAW PROVISION</b>	<b>REQUIREMENT</b>	<b>WAIVER GRANTED TO ALLOW:</b>
A: Rules and Regulations: Prior to Starting Work		
3. Items to Consider, Where, Applicable:	Lawn Irrigation, Sprinklers and Underground watering systems: No irrigation systems will be permitted for new projects within the 100-foot buffer zone of a wetland	Underground watering sprinkler systems in the front yards of Housing Units 35 and 36. This waiver is inapplicable to the Town's Conservation Commission's Order of Conditions DEP File # 322-624 issued on December 5, 2005 pursuant to M.G.L c. 131, § 40 (the "OOC").
3. Items to Consider, Where, Applicable:	Vegetated Areas Adjacent to Wetlands: For new construction a vegetated buffer of not less than 30 feet with permanent demarcation is required.	Construction as shown on the Project Plan and as permitted by the OOC.

**D. WAYLAND BOARD OF HEALTH RULES AND REGULATIONS**

<b>REGULATION PROVISION</b>	<b>REQUIREMENT</b>	<b>WAIVER GRANTED TO ALLOW:</b>
<u>Section II: Design Requirements For Septic Systems</u>		
B.1. Flood Plains and Land Subject to Flooding	For new construction, no basement floor shall be constructed less than two (2) feet above the high water level in any area subject to periodic flooding.	Waiver denied as it is unnecessary.
G.3. Pump Chambers	For single-family dwellings, pump chambers shall be sized to provide 24 hour storage capacity above the "pump on" elevation.	If 24 hour storage capacity is not provided, a secondary generator shall be supplied.

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