

DRAFT Conditions—Version 1

100 Long Ridge Road

Comments by applicant: Jeffrey Brem of Lifetime Green Homes, LLC

June 12, 2015

Comments indicated in RED and underlined

CONDITIONS OF APPROVAL:

The Project:

x. The Project shall be constructed in substantial accordance with the following plans, subject to all revisions provided for in these conditions:

[insert full list of all up-to-date plans]

(the “Approved Plans”).

x. This Decision permits the construction, use and occupancy of twenty (20) housing units on the Site. No additional housing units may be added to the Site.

x. The unit models to be constructed within the Project are (1) “Brandywine Classic,” (2) “Brandywine Gold,” and (3) “Calinda”, all as designed by Art Form Architecture, and shown on the documents presented in Exhibit A. Only these particular housing units may be constructed within the Project, and these housing units shall be distributed as follows:

Calinda—Units 1-7, 9, 10, 13-16, 18, 19

Brandywine Classic—Unit 8

Brandywine Gold—Units 11, 12, 17

This changes. See below.

<u>Unit Style</u>	<u>No. of</u>	<u>Unit Identification</u>	<u>Total</u>
	<u>Bedrooms</u>		<u>Number of</u>
			<u>Unit Style</u>
<u>Existing Deck House</u>	<u>4</u>	<u>20</u>	<u>1</u>
<u>CALINDA</u>	<u>3</u>	<u>1,3,4,5,7,9,10,13,14,15,16</u>	<u>11</u>
<u>GOLDENROD</u>	<u>3</u>	<u>2,6,18,19</u>	<u>4</u>
<u>BRANDYWINE CLASSIC</u>	<u>3</u>	<u>8</u>	<u>1</u>
<u>BRANDYWINE GOLD</u>	<u>2</u>	<u>11,12,17</u>	<u>3</u>
<u>TOTAL</u>	<u>-</u>	<u>-</u>	<u>20</u>

Unit 20 is the preexisting residential structure that exists on the Site which shall remain in place in its existing form.

x. The twenty (20) units allowed at the site shall contain a maximum of 58 bedrooms, distributed as follows:

Calinda—3 bedrooms per unit (x ~~11~~ units)

~~Goldenrod - 3 bedrooms per unit (x 4 units)~~

~~Brandywine Classic—3 bedrooms per unit (x 1 unit)~~

Brandywine Gold—2 bedrooms per unit (x 3 units)

Preexisting residential structures (Unit 20)—4 bedrooms (x 1 unit)

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No additional bedrooms are allowed within the Project. No space within any individual unit that is not shown as a bedroom on the plans attached as Exhibit A may be converted to a bedroom, or used as a sleeping area.

x. Units 1-20 shall be constructed within the footprints shown on the Approved Plans, and shall be set back from (1) all other structures within the Project and (2) the site's lot lines at least by those distances shown on the Approved Plans, except as follows:

[insert any increased setbacks that will not be shown on the Approved Plans].

x. Units 1-20 may not be changed or revised so as to create additional interior space, including dormers.

x. No additional accessory structures, sheds, outdoor enclosures, impervious surfaces or infrastructure not shown on the Approved Plans shall be added at the Site.

Objection: accessory structures allowed per zoning, no waivers requested. Allowed in non-subsidized housing. Treat similarly.

x. Each unit shall have two (2) dedicated off-street driveway parking spaces as shown on the Approved Plans.

Pre-Construction Submissions:

x. Prior to commencement of any site clearing or construction (whether pursuant to a building permit or otherwise), the Applicant shall submit to the ZBA and the Building Commissioner the following construction-level plans and calculations (the "Proposed Final Plans") for the Project. Said Proposed Final Plans shall be substantially in accordance with the Approved Plans except that they shall be updated in accordance with the requirements of this Decision. Along with this set of Proposed Final Plans, the Applicant shall submit a list, prepared and stamped by the Applicant's Design engineer, of the specific changes made to the Approved Plans to conform to the requirements of this Decision. Such Proposed Final Plans shall include, at a minimum, the following:

x. Architectural Plans, including final architectural drawings for the units to be constructed that are materially consistent with Exhibit A and the conditions of this Decision, providing a scaled depiction of the front, rear and side elevations with

accompanying specification sheets for all exterior lighting fixtures, stamped and signed by a Registered Architect or Professional Engineer, as appropriate, licensed in the Commonwealth of Massachusetts.

- x. Lighting Plan. All exterior light fixtures specified for the Project shall cast light downward (“dark sky”). Specifically, no light should be emitted above a horizontal plane running through the lowest part of the fixture to minimize sky glow.
- x. [insert complete list of plans that to be submitted].

The Applicant shall obtain the ZBA’s approval of the Proposed Final Plans prior to making application for a building permit. Upon a finding that the Applicant’s Proposed Final Plans are consistent with this Decision, the ZBA shall endorse the Proposed Final Approved Plans which shall thereupon constitute the Final Plans for the Project.

Objection: Should be Building Inspector within 30 days.

- x. This Decision shall be noted on the Final Plans and both this Decision and the Final Plans shall be recorded at the Middlesex Registry of Deeds. The Applicant shall provide the ZBA with proof of recording prior to issuance of a building permit.
Modify: Ok for recording plans as “Exhibits”. Site, Landscaping and Architectural Drawings were not designed and drafted to be ultimately recorded with respect to registry of deeds standards for “Plans”.

- x. The Applicant shall maintain a copy of the Final Plans and this Decision at the Site during construction.

- x. The Building Department shall not issue a building permit until the ZBA has determined that the Final Plans are in compliance with this Decision.

Objection: Building Inspector should make this finding pursuant to 760 CMR 56.05(10)(b).

- x. No construction activity shall occur on the Project until the Applicant shall have:

- x. Obtained Final Approval from its Subsidizing Agency and provided a copy of such approval to the ZBA and to the Building Commissioner. The Applicant shall submit the Final Approval Application to the ZBA for review at the time of submission to the Subsidizing Agency.

Objection: Outside jurisdiction of ZBA.

- x. Executed and recorded the standard Regulatory Agreement for [insert title of applicable regulatory agreement], and provided evidence of same to the ZBA and the Building Commissioner. The Regulatory Agreement shall be subject to review and approval, as to form and consistency with this Decision, by Town Counsel prior to execution, such approval not to be unreasonably withheld.

- x. Obtained DEP final authorization to operate its drinking water system as eleven (11) private drinking water wells, notwithstanding the presumptive regulatory status of this Project's drinking water supply as a "Public Water System." 310 CMR 22.02 (defining "public water system" as "a system for the provision to the public of water for human consumption, through pipes or other conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year" unless and until DEP determines that such as system "should not be regulated as a public water system, taking into account the risk to public health")(emphasis added).

Objection: Outside jurisdiction of ZBA. Well quantity should not be set as that is the purview of Mass DEP.

- x. Assuming the Applicant has obtained final authorization from DEP to operate its drinking water system as eleven (11) private drinking water wells as noted above, the Applicant shall further have obtained final authorization from the Board of Health to construct the proposed wells in accordance with the conditions stated in this Decision and the Board of Health's Water Supply Regulations.

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Objection: Outside jurisdiction of ZBA. Well quantity should not be set as that is the purview of Mass DEP.

- x. Obtained final approvals from the Carlisle Conservation Commission or DEP that may be required under any statute, code or regulation not otherwise preempted by 40B, including a final Order of Conditions under the *Wetlands Protection Act* as to any portion of the Site subject to the Wetlands Protection Act.

- x. Obtained any approvals from the Carlisle Board of Health and DEP that may be required under any statute, code or regulation affecting public health that is not specifically addressed or waived by this Decision.

- x. Submitted to the ZBA and the Building Commissioner a Construction Management Plan (CMP), as well as a Construction Management Schedule (CMS), that generally conforms to industry standard practice and addresses all construction-related conditions specifically set forth in this Decision. Additional copies of the proposed CMP shall be provided to the Planning Board, Board of Health, Conservation Commission, DPW, Fire Chief and Police Chief. The CMP shall include:

Objection to this entire condition including subparts. This is not a regulation applicable to the project. Not in Zoning. It is beyond the jurisdiction of ZBA to regulate. However it is noted that a permit from US EPA NPDES will be required by that agency for construction controls by

the preparation of a SWPPP. We will accept a condition requiring a copy of the SWPPP to be submitted to ZBA for their records.

- i. Construction phasing plan, which shall include a construction schedule in order to provide guidance and facilitate inspections. Such construction schedule shall, at a minimum, be revised quarterly to reflect work completed and changes in construction timing.
- i. Trucking Plan, which shall specify (i) planned truck routes (ii) estimated volumes of any imported and exported materials (iii) estimated truck trips and (iv) construction period mitigation measures consistent with the conditions stated herein, including without limitation details and locations of crushed stone entrance pads, street sweeping protocols and dust control measures to be implemented on the Property.
- i. Construction administration (hours of construction, hours of deliveries, trash and debris removal.
- i. Communication (designated contacts on site).
- i. Noise and Dust Control (tree removal, public street cleaning and repair, dust, noise, rock crushing).
- i. Blasting.
- i. Erosion Control (silt sacks, hay bales, silt fences, etc., tree protection plan, drainage infrastructure).
- i. Identification of existing underground utilities.
- i. Construction staging (staging areas, trailer locations, open storage areas, truck holding locations, re-fueling areas).
- i. Traffic and parking during construction (on-site locations, snow removal, warning signs, police details).
- i. Fire and Emergency (timing and testing of cistern installation).

The CMP shall be subject to review and approval by the ZBA for consistency with this Decision and generally-accepted construction practices.

- x. Properly marked the limits of the area that is to remain undeveloped, as shown on the Approved Plans. No construction or site development activity shall occur within such area.

Site Development Construction Conditions:

x. Construction activities on-site shall only occur between 7:00 AM and 6:00 PM Monday through Friday and between 9:00 AM and 5:00 PM on Saturday. For the purposes of this condition, “construction activities” shall be defined to include start-up or operation of equipment or machinery, delivery of building materials and supplies, removal of trees, grubbing, clearing, grading, filing, excavating, import or export of such materials, installation of utilities both on and off the Property, demolition of existing structures, removal of stumps and debris, the erection of new structures, and the installation of new infrastructure including roads.

x. The Applicant shall ensure safe and convenient vehicular access to the Site during construction at the Project.

x. The Applicant shall ensure that nuisance conditions do not exist at the Site during construction. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area of the Site.

x. The Applicant shall be responsible for mitigating all construction-related impacts, including erosion, siltation and dust control.

x. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP’s Dust regulations at 310 CMR 7.09, as amended, and all applicable air pollution standards as set forth by Federal and State regulatory agencies. The Applicant shall further implement such dust control measures as directed by the Building Commissioner.

x. The Applicant shall regularly, but not less than bi-weekly, remove construction trash and debris from the Property in accordance with good construction practice. No tree stumps, demolition material, trash or debris shall be burned or buried on the Property. Localized burial of stones and/or boulders is prohibited to prevent the creation of voids from soil settlement over time.

x. All potential safety hazards that may exist on the Property during the period of construction shall be adequately secured prior to the end of each workday.

x. Only earth products that are intended for use on the Property shall be delivered to the Property. No earth shall be stripped or excavated and removed from the Property except in connection with road, infrastructure or permitted construction activities. No earth processing operations shall occur on the Property, unless the earth products are to be combined and/or mixed for use on the Property. All piles of stockpiled earth shall be stabilized with adequate dust and erosion controls. All piles of stockpiled earth shall be removed from the Property upon completion of construction of roads and infrastructure.

x. A licensed blasting professional shall do any necessary blasting on the Property after proper pre-blast inspections have been conducted and all required permits have been obtained from the Carlisle Fire Department. Pursuant to M.G.L. c.148, §19, before issuance of a permit to use an explosive in the blasting of rock or any other substance as prescribed by the State Fire Marshall at the Property, the

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applicant for the permit shall file with the Carlisle Town Clerk a bond running to the Town, with sureties approved by the treasurer of the Town, in the penal sum as the officer granting the permit shall determine in accordance with M.G.L. c.148, §19 to be necessary in order to cover the risk of damage that might ensue from the blasting or its keeping therefor.

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x. The Applicant shall implement measures to ensure that noise from project construction activities does not exceed acceptable levels, as set forth by Federal and State regulatory agencies, including without limitation DEP's noise regulations at 310 CMR 7.10, as amended, and DEP's DAQC Noise Policy No. 90-001 (2/1/90), as amended, and shall further implement noise and vibration control measures as directed by the Building Inspector. The Applicant shall implement necessary controls to ensure that vibration does not create a nuisance or hazard beyond the subject Site. The Applicant shall cease any noise which does not comply with applicable regulations when directed by the Building Commissioner to comply therewith.

x. The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways permitting access to residents, emergency vehicles, and others during construction and until the Condominium Association has been legally established and has assumed responsibility for same.

x. The Applicant shall maintain all portions of any public road used for construction access free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.

x. The Applicant shall repair in a timely manner any damage to public roads adjacent to the Project that results from the construction and/or maintenance of the Project.

x. Soil material to be used as backfill for pipes, roads, and/or structures (*i.e.* detention basins) shall be certified by the Design Engineer to the Building Commissioner as meeting design specifications.

x. The Applicant shall notify the relevant Town department of installation of utilities and infrastructure for inspections prior to backfilling.

x. The Applicant shall comply with any Order of Conditions issued with respect to the Project.

x. No disturbed areas shall be left in an open, unstabilized condition longer than 30 days. Temporary stabilization shall be accomplished by loaming and seeding exposed areas in accordance with the landscaping plans.

x. All construction vehicles and all vehicles associated with those working on the Site shall be parked entirely within the Site. There shall be no parking of vehicles on Long Ridge Road, and the Applicant shall not cause congestion on the abutting public ways due to construction activities.

x. Construction, once commenced, shall progress through to completion as continuously and expeditiously as possible and substantially in accordance with the construction sequence and timetable approved by the ZBA during review of the CMP.

Objection: see previous

x. The Applicant shall submit to the ZBA an updated construction and permitting schedule semi-annually to assist in project status update and review.

x. The Building Department or its appointed agents may conduct periodic inspections during the construction of the Project to ensure compliance with this Decision, the Final Plans, and the State Building Code, and for consistency with generally-accepted construction and engineering practices for the installation of roadways, stormwater management facilities, utilities, and other common development infrastructure.

Traffic, Fire, and Public Safety:

x. All utilities, including but not limited to electric, cable and telephone shall be located underground.

x. Traffic signage shall be consistent with the requirements of the current edition of the Manual for Uniform Traffic Control Devices (MUTCD). In addition, the Applicant shall install traffic signs wherever they are deemed necessary and appropriate by the Department of Public Works and MassHighway, and shall bear the cost of all such signage and installation.

Objection: no traffic signage proposed. Not Applicable

x. There shall be one (1) sign identifying the Project, which shall be substantially as shown on the Landscape Sign Feature dated April 21, 2015 and attached hereto as Exhibit __. All other signs located at the Project shall conform to applicable Town regulations.

x. All roadway design standards and requirements of the Planning Board's Subdivision Rules and Regulations shall be fully complied with, except for those specific waivers granted in this Decision.

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Objection: Not subdivision therefore bonding is not applicable. Not lots so lot releases not applicable. Bonding will increase cost and delay. This condition, in combination with other conditions which serve to increase costs, will result in making the project uneconomic.

x. No vehicles may be parked within the twenty-four (24) foot private roadway at any time. Pursuant to M.G.L. c.90, §18, this Comprehensive Permit authorizes the Town of Carlisle, through its Police Chief, to enforce this condition.

Objection: This is a private driveway. Even on public roadways, some much narrower than proposed (which is 24' wide), parking on the side of the street is not prohibited. Therefore, as this practice is allowed in non-subsidized housing it should be regulated the same for subsidized housing. Treat similarly.

x. No vehicles may be parked in any unit driveway so as to encroach on the road. Pursuant to M.G.L. c.90, §18, this Comprehensive Permit authorizes the Town of Carlisle, through its Police Chief, to enforce this condition. Objection: This is a private driveway. Even on public roadways, some much narrower than proposed (which is 24' wide), there is no restriction as specified. Therefore, as this practice is allowed in non-subsidized housing it should be regulated the same for subsidized housing. Treat similarly.

x. Guest parking shall be limited to the four (4) parking spaces, in two separate locations (containing one guest space and three guest spaces, respectively), designated on the Approved Plans. Parking by residents in the guest spaces for extended and continuous periods is prohibited. Modify: as noted.

x. A fire cistern sized to provide 45,000 gallons available for draft and an appropriate paved "bump out" shall be provided at the location shown on the Approved Plans. The Fire Chief shall review and approve the final design and size of the cistern prior to installation. A dedicated well to be used exclusively for the purpose of refilling the cistern shall be provided by the Applicant adjacent to the fire cistern, subject to approval by the Board of Health. A pre-construction meeting with the Fire Department, the Applicant, and the general contractor shall be held before the work begins on installing the cistern. The cistern must be installed and approved prior to the issuance of any building permit for the Project. Objection: Applicant voluntarily proposes a 30,000 water filled cistern. This objection includes increasing the size to 45,000 gallons and installing a dedicated water supply well just to fill up the cistern. The paved "bump out" as shown is within the Right of Way for Long Ridge Road which will require permission for modification of the roadway from the Board of Selectmen or Dept. of Public Works so the condition should include a proviso that permission is so granted. . This condition, in combination with other conditions which serve to increase costs, will result in making the project uneconomic.

x. The applicant shall convey to the Town of Carlisle an easement providing for access to the fire cistern. Such easement shall be satisfactory in content and in form to Town Counsel and the Fire Chief, and shall be conveyed to the Town prior to issuance of any building permit for the Project.

x. The numbering system and the identification of the dwelling units shall be subject to the approval of the Fire Chief. This system shall include a logical and easily identifiable numbering system that is uniform throughout the Project.

x. The Applicant shall obtain approval from the United States Post Office as to the placement of mailboxes for the units.

x. No exterior lighting shall be designed or installed so as to spill over onto or into any adjacent property.

x. The use of garbage grinders at the Project is prohibited.

x. Outside grills shall not be permitted above the ground level of any structures. There shall be no open burning permitted on the property. These restrictions shall be incorporated into the condominium documents.

Objection: Project will comply with Building Code and Plumbing Code. Open burning is a permitted use in all other zoning districts in the Town subject to fire regulations. This project should not be any different from any unsubsidized project or property. No waivers are requested. Not in jurisdiction of ZBA.

Additionally, this condition, by not allowing standard back-yard grills, will negatively affect the sale price of all units with decks (at least 9) and as such, this condition, in combination with other conditions which serve to increase costs, will result in making the project uneconomic.

x. Wooden shingles shall not be used for roofing on the structures.

Objection: The buildings will comply with the Building Code. Outside jurisdiction of ZBA. This is not a local regulation requiring a waiver.

Management of the Project and Related Infrastructure:

x. The Applicant and all subsequent owner(s) shall be bound by all conditions and requirements set forth in this Decision. Any sale or transfer of rights or interest in all or any part of the Site shall include a condition that the grantee and its successors and assigns shall be bound by the terms and conditions of this Decision.

x. The Applicant (or its successors and assigns) shall either self-manage or shall contract with a qualified management entity that shall be subject to, governed by, the provisions of this Decision. Notwithstanding the foregoing, upon assumption of control of the Project, the Condominium Association will at all times have a qualified contractor under agreement to regularly inspect, and conduct all necessary maintenance and repair of, the Project's wastewater, drinking water, and stormwater management systems.

x. The following common facilities and services of the Project shall be maintained in perpetuity by the Applicant and the Condominium Association, as applicable, and further shall remain forever private, and the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- x. All roadways, walkways, driveways and parking areas;
- x. Drinking water system;
- x. Wastewater System;

- x. Stormwater management system, including the maintenance of catch basins, detention basins and the like;
- x. Snow plowing and removal;
- x. Landscaping and landscape maintenance;
- x. Trash removal;
- x. Street lighting.

The road within the Project shall not be dedicated to or accepted by the Town as a public way.

Objection: Town Meeting is the legislative body to accept public roadways pursuant to statutory laws and case law. This is outside the jurisdiction of the ZBA.

x. The Applicant shall maintain all landscaped areas of the Property as shown on the Landscape Plan. Dead or diseased planting shall be replaced as soon as possible in accordance with growing and weather conditions.

x. All snow shall be removed from the road to ensure access by fire trucks and other public safety vehicles.

x. Snow shall be stored within the areas of the site shown on the Approved Plans. In the event that snow storage areas designated on the Approved Plans are inadequate for a particular storm or events, the Applicant shall remove the excess snow off-site. Snow shall not be stored in guest parking spaces or in the center of the cul-de-sac.

x. In addition to the foregoing, no plowed snow shall be allowed to encroach on any stormwater management facility located within the Project. In the event that such encroachment occurs, the Applicant shall report the incident in writing to the ZBA and to the Building Commissioner within seven (7) days. The Applicant shall initiate such remedial measures as are necessary to ensure proper functionality the system as soon as seasonal weather conditions allow, and shall certify to the ZBA and the Building Commissioner that such measures have been completed.

x. The Project's stormwater management infrastructure shall be constructed in accordance with the Approved Plans.

x. The Applicant shall maintain and repair the stormwater management infrastructure in strict accordance with the Operation and Maintenance plan dated _____ and last revised _____ (the "O&M Manual"), a copy of which is on file with the Board, and the terms and conditions of which are incorporated herein by reference.

x. The O&M Manual shall be referenced in the Master Deed in a manner so as to bind the Condominium Association to regularly inspect, maintain, and repair the system to ensure its effectiveness for as long as the Project is in existence.

x. The Condominium Association shall include in its annual budget adequate funds to conduct all routine repair and maintenance in accordance with the O&M

Manual, and shall provide for adequate annual funding to create a savings reserve so as to provide for the timely replacement of any failed system components.
Modify: As noted.

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\$ _____

x. The Applicant and the Condominium Association, as may be applicable, shall submit an annual report to the Building Commissioner in which a qualified contractor certifies that it has timely performed all inspection, maintenance and repair called for by the O&M manual.

Objection: Not required of other non-subsidized projects including subdivisions.

x. Irrigation of common area landscaping elements shall be provided exclusively by the irrigation well shown on the Approved Plans. The irrigation well shall be subject to approval by the Board of Health and shall be operated in accordance with the applicable Board of Health regulations and policies; provided, however, that:

x. The Condominium Association shall collect and maintain pumping data from the irrigation well through a flow meter and submit such data, and a statement as to the effectiveness of the irrigation well, to the Board of Health on a quarterly basis. Such records shall disclose the amount of water pumped from the irrigation well each day, and the pumping rate (e.g., 15 gallons per minute); and

Objection: Not required of other non-subsidized projects. No waiver requested. This will add additional cost, which, in combination with other conditions which serve to increase costs, will result in making the project uneconomic

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x. The Board of Health shall have the authority to declare a local water emergency and may order the irrigation well shut off for such time as it determines to be necessary to protect the potable water supply of the Project and its abutters. The irrigation well shall also be shut off upon a declaration of a drought level of "Watch" or higher by the Mass. Drought Management Task Force and shall remain shut off until the drought level is returned to "Advisory" or "Normal." After commencement of operation of the irrigation well, the Board of Health may order the irrigation well shut off if a Project well or a private well of an abutter to the Project fails to provide water at generally acceptable rates or flow and pressure, and the Board determines that such failure probably would not have occurred but for the operation of the irrigation well. The Board of Health may further order that the irrigation well not be turned back on until the failure has been cured to its satisfaction.

Condominium Association:

x. The Applicant shall establish a condominium owners' association (the "Condo Association") for the Project in a form subject to review by Town Counsel for consistency with this Decision, which shall include provisions for the generation of reserves to be established and maintained for repairs to or replacement of, and

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maintenance of the septic systems and drinking water supply, landscaping required by the Landscaping Plan and all Project-related infrastructure including stormwater management facilities.

Modify: as noted.

x. The condominium documents shall include a realistic condominium fee budget based upon comparable developments that have been occupied for at least two (2) years.

Objection: as noted.

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x. The condominium documents shall provide that:

Modify: As noted below.

x. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this Decision without ZBA approval.

x. Conditions set forth in this Decision must be referenced in the condominium documents.

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x. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.

x. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.

x. To the extent permitted by law, upon turnover of the Condo Association by the Applicant to the Unit Owners, at least 25% of the trustees of the Condo Association shall be owners of the Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.

x. The Master Deed shall provide that in the event of condemnation or casualty, proceeds above the resale price of the Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing in the event the unit is not rebuilt or is rebuilt and there are excess monies available. - Attorney Deschenes and I do not understand this condition.

x. The following covenants shall be included in the Master Deed and in the individual unit deeds:

x. For each individual unit, all structures and impervious surfaces shall be contained within the footprint shown on the Approved Plans. Shed and other accessory structures are prohibited.

Objection: See previous comment for accessory structures including sheds.

x. There shall be no conversion of interior space into additional bedrooms (as compared to the floor plans attached hereto as Exhibit A).

x. No disposal of yard of landscaping waste shall be permitted in the wooded portion of the Project.

x. Resident parking in the guest spaces within the Project shall be prohibited. Modify: See previous comment for accessory structures including sheds.

x. Excessive Spillage of light onto neighboring properties is prohibited.

x. Prior to the issuance of any building permit for the Project, the Applicant shall submit to the ZBA the condominium documents (Master Deed, Bylaws, Rules and Regulations) for review by Town Counsel and for verification that such documents are in compliance with this Decision. The Applicant shall further certify to Town Counsel that such documents are in compliance with M.G.L. c.183A.

Affordability Requirements:

x. [Add conditions on the affordability of units].

Objection: Outside jurisdiction of ZBA. Responsibility of subsidizing agency only.

x. As this Decision grants permission to build the Project on the Property under the Act, and as the Applicant has gained the benefits of a comprehensive permit, the Affordable Units shall remain affordable so long as the Project is not in compliance with the Town of Carlisle's bylaws and regulations which otherwise would be applicable to the Project but for the comprehensive permit's override of local regulations to promote affordable housing. Accordingly, the affordability requirements of this Decision shall restrict the Project so long as the Project is not in compliance with the Town of Carlisle's bylaws and regulations, so that the Affordable Units continue to serve the public interest for which the Project was authorized in perpetuity.

x. To ensure the survival of the affordability restriction applicable to this Property, this Comprehensive Permit Decision shall be recorded ahead of any mortgage or other instrument capable of being foreclosed upon, such that its provisions shall survive any foreclosure on all or any portion of the Property. In the alternative, the Applicant may provide for recording of a duly executed Subordination, Nondisturbance and Attornment Agreement which provides equivalent protection and which is satisfactory in content and in form to Town Counsel.

Objection and Modify: The ZBA does not have jurisdiction. Delete and replace with "the Comprehensive Permit will be recorded as required by 760 CMR 56 and evidence of recording will be forwarded to the Board". A mortgage exists on the property as is.

x. The Affordable Units within the Project shall be Units 1, 8, 12, 15, and 18 subject to review and amendment by the subsidizing agency
Modify: as noted.

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x. The exterior of all of the Affordable Units shall be indistinguishable in terms of construction and finishes from the Market Rate Units in the Project.
Modify: as noted - typo

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x. Affordable Units shall be constructed on a schedule that provides substantially for the construction and completion of one (1) affordable unit for every

three (3) market rate units constructed; and in no event shall any five (5) market rate units be constructed without completion of one Affordable Unit.

x. Any assumptions used to determine the initial sales price of the Affordable Units must include reasonable condominium fee budget projections of all costs, including operation and maintenance of the drinking water supply, wastewater system, and stormwater management system.

Objection: Outside jurisdiction of ZBA. Responsibility of subsidizing agency only.

x. Compliance with the limited dividend requirements under M.G.L. c.40B shall be determined by the Subsidizing Agency in accordance with the rules of the applicable housing subsidy program. The ZBA shall have the right to review such determination for accuracy using the same standards as the Subsidizing Agency.

Objection: Outside jurisdiction of ZBA. Responsibility of subsidizing agency only.

x. If, at any time after the date of this Decision, the Applicant's subsidizing agency rescinds or revokes its _____ project eligibility determination for the Project, this Decision shall be deemed null and void and have no further effect.

Objection: Outside jurisdiction of ZBA. Responsibility of subsidizing agency only.

Occupancy and Surety Requirements:

x. As security for the completion of the infrastructure related to the Project as shown on the Approved Plans, no certificate of occupancy shall be issued for any unit in the Project until:

x. All sewage treatment and disposal facilities serving the units per phase are the subject of a final approval from the Board of Health, and may begin operation.

Modify: Need to modify by phasing. Septic System 1 serving the first 6 units is in Phase 1 and the condition needs to be modified as noted and with additional wording to clearly indicate the phasing.

Deleted: Project

x. The drinking water system serving the Project has obtained final approval from DEP and is ready to begin operation, or has obtained final approval from the Board of Health and is ready to begin operation, as may be applicable.

Objection: The building code requires a potable water supply rendering this condition moot. It should be removed. Additionally, the "water system" for the project is by 11 or more individual, private wells so the condition should at least be re-worded to accommodate the site specific criterion.

x. The base and binder course for the road, driveways and guest parking areas serving such unit have been installed.

- x. All storm water management and drainage facilities serving such building or unit and within its development phase as shown on the Approved Plans have been installed.

Modify: as noted.

- x. All utilities serving such unit have been installed.

- x. All required landscaping within the applicable phase of the Project has been installed on the general areas and all landscaping around and serving such unit shall have been installed subject to seasonal conditions.

Modify: as noted and further wording may be necessary (per condition below or otherwise) to account for seasonal issues where a building may be fully ready for occupancy during the winter months.

Deleted: .

- x. In addition to the foregoing, prior to issuance of an occupancy permit for any unit in the Project, the Applicant shall have provided to the ZBA a performance guaranty to secure the complete construction of the remaining road, stormwater management infrastructure and/or utilities, as shown on the Approved Plans, for the Project. Said performance guaranty shall be secured by one, or in part by one and in part by another, of the methods set forth in clauses (1), (2) and (4) of M.G.L. c.41, §81U, which method or combination of methods may be selected and from time to time varied by the Applicant. The security provided as aforesaid shall be administered in accordance with the provisions of G.L. c.41, §81U, relative to such security; provided; however, that wherever the Planning Board is referred to in M.G.L. c.41, §81U, the ZBA is substituted.

Objection: Project is not a subdivision therefore bonding is not applicable. All references to MGL c. 41 is related to the "Subdivision Control Law". This is not applicable here. This is a project proposed under a completely different set of statutes found in MGL c. 40B. There are no lots so lot releases outline in this statute are not applicable.

Furthermore, Bonding or performance guarantees will increase cost and delay. This condition, in combination with other conditions which serve to increase costs, will result in making the project uneconomic.

Also, the condition does not recognize the phasing.

- x. Notwithstanding the foregoing, in the event that the Building Commissioner determines that seasonal weather have reasonably delayed the installation of plantings to complete the landscaping, the Building Commissioner may, in his discretion, nonetheless issue certificates of occupancy; provided that the Applicant shall complete the final landscaping improvements not later than the conclusion of the next planting season, which for the spring shall be April 15 and for the fall shall be October 15.

Deleted: and the Applicant shall, prior to issuance of any certificate of occupancy pursuant to this condition post sufficient cash surety with the Town Treasurer for completion of said improvements should the Applicant fail to timely do so.

Modify: As noted

x. The final coat of pavement shall not be installed until after the base and binder coat has endured a full winter season.

x. Before occupancy or use of the final housing unit within the Project, the Applicant shall submit to the ZBA an "As-Built Plan" in both paper and CAD format, showing all pavement, buildings, stormwater management structures and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. The plans shall be stamped and signed by a registered land surveyor or civil engineer, certifying that the Project as built conforms and complies with the conditions of this Decision or if different, a notation of the differences shall be noted.

Deleted: and

Modify: As noted

General Requirements:

x. As this Comprehensive Permit Decision grants permission to build the Project on the Property under the Act, and as the Applicant has gained the benefits of a comprehensive permit including the right to construct and use the Project in a manner that is not in compliance with the Town of Carlisle's regulatory requirements which otherwise would be applicable to the Property and the Project, but for the Comprehensive Permit's override of local regulations to promote affordable housing, no use shall be made of the Property or of any building or unit on the Property except as permitted by this Decision. Without limiting the foregoing, no business or commercial use shall be conducted on the Property or in any building or use on the Property.

Objection: Limiting uses that are allowed by right is beyond the jurisdiction of the ZBA and cannot be claimed within their jurisdiction solely by this Decision. Further, and most importantly, this subsidized housing project should be treated the same as non-subsidized housing with respect to uses allowed by right or by Special Permit including allowing for a Home Office or other such uses, especially considering recent technological advances furthering the ability to work from one's home and thus not participate in traffic congestion and related negative environmental impacts such as air pollution or use of carbon based fuels. Why should a resident in this project not be able to work out of his/her home just because the project was granted a Comprehensive Permit. Treat similarly and fairly.

x. If, between the date of the Decision is filed in the office of the Carlisle Town Clerk and the completion of the Project, the Applicant desires to change in a material way and/or to a significant degree the Project as reflected and approved by the Decision, such changes shall be governed by 760 CMR 56.05(11). Without limitation, in the event that any subsequent permitting or regulatory process (such as state wetlands review of the Project by the Conservation Commission or DEP, review of the proposed drinking water system by DEP, or other state or federal approvals) results in a change to the Approved Plans which trigger the need for further waivers from local bylaws, rules or regulations, any such matter shall be

treated as a project change and the procedures in 760 CMR 56.05(11) shall be followed.

x. Prior to substantial completion of the Project, this comprehensive permit may not be transferred or assigned to any party without the approval of the subsidizing agency and written notice to the ZBA, as required by 760 CMR 56.05(12)(b).

x. Pursuant to 760 CMR 56.05(12)(c), if construction authorized by this Decision has not begun within three years of the date on which the permit becomes final except for good cause, the permit shall become void. This time shall be tolled for the time required to pursue or await the determination on any appeal on any other state or federal permit or approval required for the Project. The applicant may seek an extension as allowed in 760 CMR 56.05(12)(c) which shall not be unreasonably be withheld or denied due to other projects built or approved or for other reasons.
Modify: as noted

x. The Applicant shall comply with all local bylaws, rules and regulations of the Town of Carlisle and its boards and commissions in effect as of July 3, 2014 unless expressly waived herein.

x. The Applicant shall pay all fees of the Town of Carlisle imposed generally for construction projects, including but not limited to building permit fees, and for the purposes of monitoring compliance of the construction and occupancy of the Project in accordance with this Comprehensive Permit unless otherwise expressly waived in this Decision. Building Permit Fees for construction of all affordable units are waived to a minimum fee of \$100 per affordable unit.
Modify: As noted.

x. The Applicant shall copy the ZBA on all correspondence between the Applicant and any federal, state or Town official, board or commission that concerns the design and/or conditions set forth in this Decision, including but not limited to all testing results, official filings and other permit applications that concern this Project. In addition, the Applicant shall provide the Building Commissioner, the ZBA and the Board of Health copies of all communications, reports, submissions, or other documents concerning the drinking water system sent by or on behalf of the Applicant or DEP.
Objection: This is outside the jurisdiction of the ZBA. This relates to a voluminous amount of information of which value is questionable.

x. The terms, provisions and conditions of this Decision shall run with the land and shall be binding on the Applicant and all of its successors and assigns, with the same effect as if specifically mentioned in each instance where the Applicant is named or referred to. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant including, but not limited to, any Condominium Association created relative to the Project and individual unit owners, as applicable. Any sale or transfer of rights or interest in all or any part of the Property shall include a condition that the grantee and its successors and assigns shall bound by the terms and conditions of this Decision. This Decision shall

be so referenced in the condominium Master Deed for the Project and in each condominium unit deed.

x. All outstanding invoices for peer review and consultant costs incurred prior to the issuance of this Decision shall be paid by the Applicant within thirty (30) days after this Decision is filed with the Town Clerk.

x. Upon submission of the Proposed Final Plans, the Applicant shall replenish the project review fee account in an amount of \$_____ to fund the ZBA Consulting Engineer's assistance in reviewing the Proposed Final Plans. Any amounts not expended from this account shall be returned to the Applicant.
Objection: The plans are already final Construction Documents (CD). They have been fully reviewed 4 times. There are only 3 or so extremely minor issues to add to the plans or Operation & Maintenance Report which the Building Inspector can verify. If the objection is overruled and a dollar amount is added here it should be no more than \$250. Any more than that will add additional and unnecessary cost which will, in combination with other conditions which serve to increase costs, will result in making the project uneconomic.

Deleted:

x. The Applicant shall promptly pay the reasonable fee of any consulting engineers or outside inspectors as the ZBA or relevant Town staff determine to be necessary to conduct construction and post-construction inspections of the Project's infrastructure.
Objection: This is overly broad and vague. Further, construction and post-construction inspections were not requested to be waived because they are not within the By-Laws or Regulations of the Board of Appeals. Of course, the Building Inspector will be performing inspections for the construction of this project for which building permit fees will be assessed as modified herein. Any additional cost associated with post-construction inspection, outside of the standard building permit fees is an additional cost, in combination with other conditions which serve to increase costs, and will result in making the project uneconomic.