

**Bobrowski's Proposed Edits**  
**December 31, 2016**

**VII. CONDITIONS OF APPROVAL**

For the foregoing reasons, after remand from the HAC, the ZBA grants the Application of Lifetime Green Homes, LLC for a comprehensive permit consisting of no more than twenty (20) for-sale, single-family detached condominium units on the Property under M.G.L. c.40B, §§20-23, subject to the following conditions.

**The Project:**

1. The Project shall be constructed in substantial accordance with the following plans, subject to all revisions specifically provided for in these Conditions of Approval:

~~Residential Site Plan Set Affordable Housing Development "The Birches" Carlisle, Massachusetts, prepared for Lifetime Green Homes, LLC, 142 Littleton Road, Westford, Massachusetts 01886 by Meisner Brem Corporation, 142 Littleton Road, Ste. 16, Westford MA 01886, dated November 14, 2014 with sheet revisions as noted below:~~

~~Sheet 1 of 11— Cover Sheet, last revised March 27, 2015  
Sheet 2 of 11— Note Sheet, last revised March 24, 2015  
Sheet 3 of 11— Existing Conditions Plan dated November 15, 2014  
Sheet 4 of 11— Layout/Dimension Plan, last revised June 24, 2015  
Sheet 5 of 11— Detailed Grading & Utility Plan, last revised June 24, 2015  
Sheet 6 of 12 [sic]— Plan & Profile and Utility Plan, last revised June 24, 2015  
Sheet 7 of 11— Plan & Profile and Utility Plan, last revised March 27, 2015  
Sheet 8 of 11— Erosion Control Plan, last revised February 6, 2015  
Sheet 9 of 11— Detail Sheet, last revised March 24, 2015  
Sheet 10 of 11— Detail Sheet Low Impact Development, last revised March 24, 2015  
Sheet 11 of 11— Detail Sheet dated November 4, 2014~~

~~Residential Site Plan Landscape Plan Brem Property 100 Long Ridge Road Carlisle, Massachusetts, prepared for Lifetime Green Homes, LLC 142 Littleton Road Westford, MA 01886 by Gardner + Gerrish, LLC, 34 Harding Ave., Providence, RI 02905, dated October 30, 2014 with sheet revisions as noted below:~~

~~Sheet 1 of 2, last revised May 27, 2015  
Sheet 2 of 2, last revised December 10, 2014~~

~~Landscape Sign Feature Exhibit "H" "The Birches" 100 Long Ridge Road Carlisle, Massachusetts prepared for: Lifetime Green Homes, LLC 142 Littleton Road Westford, MA 01886 dated April 21, 2015~~

~~Landscape Sign Feature Exhibit "I" "The Birches" 100 Long Ridge Road Carlisle, Massachusetts prepared for Lifetime Green Homes, LLC 142 Littleton Road Westford, MA 01886 dated April 21, 2015~~

~~Exhibit G – Rock for Sign From Property~~

~~(the “Approved Plans”).~~

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

3. The unit models to be constructed within the Project are (1) “Calinda,” (2) “Brandywine Classic,” (3) “Brandywine Gold,” and (4) “Goldenrod,” all as designed by Art Form Architecture, and shown on the documents presented in Exhibit B. Only these particular housing units may be constructed within the Project, and these housing units shall be distributed as follows:

~~Calinda – Units 1, 3, 4, 5, 7, 9, 10, 13, 14, 15, 16~~  
~~Brandywine Classic – Unit 8~~  
~~Brandywine Gold – Units 11, 12, 17~~  
~~Goldenrod – Units 2, 6, 18, 19~~

Unit 20 is the preexisting four-bedroom house that exists on the Property. Unit 20 shall remain in place in its existing form and shall become a part of the Project subject to all of the conditions of approval contained in this decision.

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

~~Calinda – 3 bedrooms per unit (x 11 units)~~  
~~Brandywine Classic – 3 bedrooms per unit (x 1 unit)~~  
~~Brandywine Gold – 2 bedrooms per unit (x 3 units)~~  
~~Goldenrod – 3 bedrooms (x 4 units)~~  
~~Preexisting four bedroom house (Unit 20) – 4 bedrooms (x 1 unit)~~

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 B may be converted to a bedroom, or used as a sleeping area. No space within the preexisting four-bedroom house may be converted to provide an additional bedroom or sleeping area.

5. Units 1-19 shall be constructed within the footprints shown on the Approved Plans and Unit 20 shall be limited to its existing footprint. Units 1-20 shall be set back from (1) all other structures within the Project and (2) the Property’s lot lines at least by those distances shown on the Approved Plans.

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

7. No additional accessory structures, sheds, outdoor enclosures, impervious surfaces or infrastructure not shown on the Approved Plans shall be allowed in connection with the use of any residential units.

8. Units 1-20 shall each have exactly two (2) dedicated off-street driveway parking spaces as shown on the Approved Plans.

9. The Applicant shall submit a final landscaping plan for approval by the Board showing screening shown on the latest revision to the Landscape Plan, dated October 30, 2014 and revised on December 10, 2014 and May 27, 2015, for Units 7, 8 and 9 shall be proposed location for a six-foot high wood construction solid fence, beginning at the southern most point of Unit 7 and continuing parallel with property line to a point aligned with the northern most corner of Unit 9. In addition, there shall be and the location of one-10 - 12 foot tall black spruce trees planted in line with the wooden fence at each end of the wooden fence.

~~10. The screening shown on the latest revision to the Landscape Plan, dated October 30, 2014 and revised on December 10, 2014 and May 27, 2015, for Units 10, 11, 12 and 13 shall be a six-foot high wood construction solid fence, beginning at the western most point of Unit 10 and continuing parallel with property line to a point aligned with the eastern most corner of Unit 13. In addition, there shall be one 10-12 foot tall black spruce tree planted in line with the wooden fence at each end of the wooden fence.~~

10. Any screening measures required within the 100-foot wetland buffer are subject to the approval of the Conservation Commission.

**Pre-Construction Submissions:**

11. 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 include plans for the roadway and related infrastructure, stormwater management facilities, the approved septic systems, the approved water supply wells, and architectural plans, including the final architectural drawings for the units to be constructed that are materially consistent with Exhibit B 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.

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.

The Building Commissioner shall review the Proposed Final Plans and the list of changes to ensure that they are consistent with and in conformity with this Decision. Upon the Building Commissioner's positive finding, the ZBA shall endorse the Proposed Final Approved Plans, which shall thereupon constitute the Final Plans for the Project.

In the event that the Building Commissioner determines that the Applicant's Proposed Final Approved Plans, or its construction drawings submitted with its building permit application(s) materially deviate from the Approved Plans and/or do not conform to the requirements of this Decision, the Building Commissioner shall notify the Applicant of the specific deviation(s) or the manner in which they do not conform, and the Applicant shall thereafter bring the plans into compliance or seek a modification of this Decision in accordance with 760 CMR 56.05(11). In the event of a disagreement between the Building Commissioner and the Applicant with respect thereto, they shall notify the ZBA, which shall thereupon determine whether the Proposed Final Plans and/or building permit construction drawings, do conform with this Decision. Should the ZBA determine that the plans conform, the ZBA shall endorse them; otherwise, the Applicant shall follow the procedures set forth in 760 CMR 56.05(11). If the ZBA determines that Applicant's Proposed Final Approved Plans should be peer reviewed, the cost of said review shall be borne by the Applicant.

11. 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.

12. The Applicant shall maintain a copy of the Final Plans and this Decision at the Property during construction.

13. The Building Department shall not issue a building permit until it has been determined that the Final Plans are in compliance with this Decision as provided in Condition 11, above.

14. No construction activity shall occur on the Project, and no building permit shall be issued, until the Applicant shall have:

- a. 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.
- b. Executed and recorded the standard form 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.~~
- c. Obtained DEP final authorization to operate its-it's a public water supply 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 a system "should not be regulated as a public water system, taking into account the risk to public health")(emphasis added).

- d. 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.
- ed. 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 Property subject to the *Wetlands Protection Act*.
- fe. 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.
- gf. Obtained National Pollutant Discharge Elimination System ("NPDES") storm water permit for the Project, if applicable.
- hg. 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:
  - 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.
  - ii. 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.

- iii. Construction administration (hours of construction, hours of deliveries, trash and debris removal).
- iv. Communication (designated contacts on site).
- v. Noise and Dust Control (tree removal, public street cleaning and repair, dust, noise, rock crushing).
- vi. Blasting.
- vii. Erosion Control (silt sacks, hay bales, silt fences, etc., tree protection plan, drainage infrastructure).
- viii. Identification of existing underground utilities.
- ix. Construction staging (staging areas, trailer locations, open storage areas, truck holding locations, re-fueling areas).
- x. Traffic and parking during construction (on-site locations, snow removal, warning signs, police details).
- xi. 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.

- h. Properly marked the limits of the area that is to remain undeveloped, as shown on the Approved Plans. No construction or site development activity, including clearing, shall occur within such area. Before initiating site development activities, the Applicant shall obtain the Building Commissioner's confirmation that the flags are properly located.

15. The Applicant shall submit a Stormwater Pollution Prevention Plan to the ZBA and the Conservation Commission at least 30 days prior to construction.

**Site Development Construction Conditions:**

16. Construction activities on-site shall only occur between 7:00 AM and 5:00 PM Monday through Friday and between 9:00 AM and 3:00 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.

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

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

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

20. 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.

21. The Applicant shall regularly remove construction trash and debris from the Property in accordance with good construction practice, and dumpsters shall be emptied when full. Dumpsters shall be located outside of the 100 foot buffer zone and closed at the end of the day and during rain events. 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.

The Construction Trailer and portable toilets shall be located outside of the 100 foot buffer zone and at least 40 feet from Carlisle Conservation land.

22. 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.

23. 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. Stockpiling areas shall be located in a safe place as far from Long Ridge Road and neighboring properties as practicable, and visually screened to the extent practicable. Stockpiling of materials within 400' of Long Ride Road shall be minimized and stockpiling of materials greater than 100 cubic yards within 400' of Long Ridge Road for more than 60 days shall be prohibited.

24. A licensed blasting professional shall perform 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 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.

25. 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 Commissioner. The Applicant shall implement necessary controls to ensure that vibration does not create a nuisance or hazard beyond the subject Property. The Applicant shall cease any noise that does not comply with applicable regulations when directed by the Building Commissioner to comply therewith.

26. 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.

27. 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.

28. 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.

29. 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.

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

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

32. 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.

33. All construction vehicles and all vehicles associated with those working on the Property shall be parked entirely within the Property and outside of the 100 foot

buffer zone. No construction vehicles and no vehicles associated with those working on the Property shall park on Long Ridge Road, and the Applicant shall not cause congestion on the abutting public ways due to construction activities.

34. Upon issuance of this Decision, the Applicant may install and maintain signage at the Project during site preparation and construction. Such signage may include one (1) single-sided, non illuminated construction sign, the dimensions of which shall be not more than four (4) feet by eight (8) feet each, providing customary notice of Project lenders, sponsors and team. The signs shall be located on the Project, not in the Town's right of way for Long Ridge Road.

35. 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.

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

37. The Building Department, its appointed agents and the Town's permitting boards 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.

38. The Conservation Commission and Building Commissioner shall have the authority to review and approve all erosion control measures. Additional erosion control material shall be stockpiled on site.

39. During construction the Applicant shall not alter the Davis Corridor Conservation Land, including, but not limited to the following: damage to the stone wall, vegetation, and signs, accumulation of trash including papers, cans, construction materials, unauthorized entrance to the area by vehicles, stockpiling of any kind, and excessive noise in the area of said Conservation Land.

**Traffic, Fire, and Public Safety:**

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

41. 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.

42. There shall be one (1) permanent sign identifying the Project, which shall be substantially as shown on the ~~Landscape Sign Feature dated April 21, 2015~~ final

plans and attached hereto as Exhibit C. All other signs located at the Project shall conform to applicable Town regulations.

43. 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. The Final Plans shall indicate that roadway construction materials and thicknesses conform to the standards set forth in the Subdivision Rules and Regulations.

44. There shall be no overnight parking within the twenty-four (24) foot private roadway at any time. Such prohibition shall be clearly marked with signs approved by the Police Department. Pursuant to M.G.L. c.90, §18, this Comprehensive Permit authorizes the Town of Carlisle, through its Police Chief, to enforce this condition. This condition shall be incorporated into the condominium documents.

45. 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. This condition shall be incorporated into the condominium documents.

46. ~~No guest parking shall be required or provided. 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.~~

47. A fire cistern sized to provide ~~30,000~~<sup>45,000</sup> gallons available for draft and an appropriate paved "bump out" shall be provided at the location shown on the Approved Plans; provided that the paved "bump out" shall be subject to any necessary authorization from the Town, which the Applicant shall pursue in good faith. 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. No above-grade construction of residential structures may be initiated or framing lumber brought to the Property until the cistern is installed and operational, as certified by the Carlisle Fire Department. In accordance with the foregoing, the Applicant may obtain foundations permits prior to completion of the fire cistern.

48. The Applicant shall convey to the Town of Carlisle an easement providing for access to the fire cistern and dedicated cistern well. Such easement shall be satisfactory in content and in form to Town Counsel and the Fire Chief, and shall be conveyed to the Town before above-grade construction is initiated or framing lumber is brought to the Property.

49. The numbering system and the identification of the dwelling units shall be subject to the approval of the Building Commissioner. This system shall include a

logical and easily identifiable numbering system that is uniform throughout the Project.

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

51. No exterior lighting shall be designed or installed so as to spill over onto or into any adjacent property. In addition, all exterior light fixtures specified for the Project shall cast light downward, and no light should be emitted above a horizontal plane running through the lowest part of the fixture to minimize sky glow.

52. The use of garbage grinders at the Project is prohibited. The restriction shall be included in the condominium documents, and may be enforced by the Condominium Association.

53. There shall be no open burning permitted on the Property. These restrictions shall be incorporated into the condominium documents.

54. The Applicant (and subsequently the Condominium Association) shall maintain all landscaped areas of the Property as shown on the Landscape Plan. A bond or surety shall be maintained 1 year after landscaping has been installed for each phase to insure that dead and unhealthy plant materials are replaced. One year after the landscaping has been installed, the Building Commission or its designee shall do a site walk and advise the Condominium Association of plants that need to be replaced. Dead or diseased planting shall be replaced as soon as possible in accordance with growing and weather conditions.

We will drop appeal of this condition if we reach agreement.

55. 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. In addition to the foregoing:

- a. The volume that may be withdrawn from the irrigation well shall be subject to approval by the Board of Health.
- b. The Condominium Association shall collect and maintain pumping data from the irrigation well through a flow meter and from an hour 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 by month, and the pumping rate (*e.g.*, average 15 gallons per minute); and
- c. 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.

We will drop appeal of this condition if we reach agreement.

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

57. 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.~~

58. 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 of 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. The Building Commissioner shall inspect the Property periodically to insure that the Applicant and its successors and assigns comply with this condition.

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

60. The Applicant shall cause the inspection, maintenance and repair the stormwater management infrastructure to be performed in strict accordance with the Operation and Maintenance plan set forth in Section 9.0 of the Final Stormwater Management Report for "The Birches" ~~A-40B Residential Project Off Long Ridge Road, Carlisle, Massachusetts dated July 1, 2014 and last revised February 25, 2015 (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. Without limiting the foregoing, the recordkeeping requirements set forth in subsection 9.3.2 (Record Keeping) and the best management practices discussed in subsection 9.3.7 (Permanent Best Management Practices) shall be deemed mandatory.

61. The Applicant shall further revise the O&M Manual to highlight the as-built locations of the roof recharge systems in the diagram of the surface and subsurface BMPs. (The O&M Manual shall not be otherwise revised without the approval of the

ZBA and its peer review consultant). The revised O&M Manual shall be submitted by the Applicant along with the Proposed Final Approved Plans.

**Condominium Association—General:**

62. The Applicant and all of its successors and assigns 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 Property shall include a condition that the grantee and its successors and assigns shall be bound by the terms and conditions of this Decision.

63. The Applicant shall establish a condominium owners' association (the "Condominium Association") for the Project.

64. The Condominium Association shall either self-manage the Project or shall contract with a qualified management entity that shall be subject to the provisions of this Decision.

65. The following common facilities and services of the Project shall be maintained in perpetuity by the Applicant and/or 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:

- a. Stormwater management system, including the maintenance of catch basins and the like;
- b. Public water supply ~~Drinking water~~ system;
- c. Wastewater System;
- d. All roadways, walkways, driveways and parking areas;
- e. Snow plowing and removal;
- f. Landscaping and landscape maintenance.

The road within the Project shall never be dedicated to or accepted by the Town as a public way.

66. In accordance with the foregoing, regardless of whether the Condominium Association self manages or contracts with a management entity, it shall at all times have a qualified contractor under agreement to conduct regular inspections and all necessary maintenance and repair of the Project's stormwater management system, wastewater system and drinking water system, to maintain all common area landscaping, and to perform all street maintenance and snow removal. The Condominium Association shall, on or before January 15 of each year, submit a current list of all such contractors, with contact information for each, to the Building Commissioner to demonstrate ongoing compliance with this condition.

67. The Condominium Association shall, on or before January 15 of each year, submit a current list of its Trustees, and shall designate a lead contact responsible for communicating with the Town, its officials and representatives, and a backup contact. Contact information for those designated as lead and backup shall be provided.

68. The condominium documents shall include a realistic condominium fee budget based upon comparable developments that have been occupied for at least two (2) years, and shall include adequate provision for all inspection, maintenance, repair and replacement of the Project's significant infrastructure components, as discussed more specifically below.

69. The Affordable Units shall be distributed proportionally among any Condominium sub-associations (discussed below) established for purposes of managing, maintaining, and/or financing the drinking water wells and/or septic systems.

70. The condominium documents shall provide for the maintenance and repair of the roadway in a safe and passable condition, including sufficient access for fire, police, and emergency vehicles during all seasons and weather conditions, including the removal of snow and ice and the clearing of brush and foliage.

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

- a. For each individual unit, all structures and impervious surfaces shall be contained within the footprint shown on the Approved Plans. Sheds and other accessory structures associated with the individual units are prohibited.
- b. There shall be no conversion of interior space into additional bedrooms (as compared to the floor plans attached hereto as Exhibit B).
- c. All yard and landscaping waste shall be disposed of off-site. Under no circumstances shall yard or landscaping waste be disposed of within the wooded portion of the Project.
- d. Resident parking in the guest spaces within the Project for extended and continuous periods shall be prohibited.
- e. Spillage of light onto neighboring properties is prohibited.
- f. The use of garbage grinders is prohibited.
- g. Storage of flammable, combustible or explosive materials, other than lighting and cleaning fluids customary for residential use, within any unit is prohibited.
- h. Irrigation using the potable water supply is prohibited.

We will drop appeal of this condition if we reach agreement.

72. The condominium documents for the Project shall provide that:

- a. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this Decision without ZBA approval.
- b. The affordable units shall remain affordable in perpetuity.
- c. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
- d. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
- e. To the extent permitted by law, at least 25% of the trustees of the Condominium Association shall be owners of the Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
- f. The Master Deed shall provide that in the event of condemnation or casualty of any Affordable Unit(s), any insurance proceeds above the resale price of said Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing.

We will drop appeal of this condition if we reach agreement.

73. The condominium documents shall provide that each unit is to be used for residential purposes.

74. The condominium documents shall establish procedures for design review by the Condominium Trust or its designee of all alterations, and improvements of individual units. This procedure shall ensure that the architectural integrity of each unit shall not be modified without the approval of the Board of Trustees and that no unit may be altered in any manner that is not consistent with the terms and restrictions set forth in this Decision.

75. The condominium documents shall provide that no space within any unit shall be modified or improved so as to serve as an additional bedroom (relative to the floor plans attached as Exhibit B), and the Condominium Association shall require certification of the same as part of its design review process for any proposed modifications and improvements.

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

77. The Project will be constructed in two phases, Phase I is Units 1-6 and 20, and Phase II is Units 7-19, with the scope of each phase being substantially as shown on the Approved Plans. The Applicant shall ensure that construction of Phase 2 does not unreasonably affect the use and enjoyment of the residents of Phase 1.

**Condominium Association—Stormwater Infrastructure**

78. The Condominium Association shall cause the inspection, maintenance and repair of the stormwater management infrastructure to be performed in strict accordance with the Operation and Maintenance plan set forth in Section 9.0 of the Final Stormwater Management Report for “The Birches” A 40B Residential Project Off Long Ridge Road, Carlisle, ~~Massachusetts dated July 1, 2014 and last revised February 25, 2015 (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. Without limiting the foregoing, the recordkeeping requirements set forth in subsection 9.3.2 (Record Keeping) and the best management practices discussed in subsection 9.3.7 (Permanent Best Management Practices) shall be deemed mandatory.

79. The Master Deed shall specifically reference the O&M Manual, and shall bind the Condominium Association to arrange for regular inspection, maintenance and repair of the stormwater management system by a qualified contractor to ensure its effectiveness for as long as the Project is in existence.

80. The Condominium Association shall include in its annual budget adequate funds to conduct all routine repair and maintenance of the stormwater management system 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 failed system components.

81. 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. Such report shall be filed no later than January 15 of each year.

#### **Condominium Association—Septic Systems**

82. The Condominium Association shall cause the inspection, maintenance and repair of the septic systems to be performed in strict accordance with the manufacturer’s operation and maintenance manual. The Condominium Association 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 such manual. Such report shall be filed no later than January 15 of each year.

83. Pursuant to Section 15.290.3 of the Town of Carlisle’s Supplementary Regulations for Sewage Disposal Systems, the Applicant shall contemporaneous with the permitting of its septic systems be required to provide an insurance policy, bond, or other financial instrument to guarantee long term operation and maintenance of the system, which shall have a face value not less than the current replacement cost of the system as determined by a professional engineer, registered sanitarian or licensed installer, and which shall be submitted annually to the Board of Health along with the sewage disposal system report.

In accordance with the foregoing, unless an alternative form of security satisfactory to the Board of Health is provided, the Condominium Association shall establish and maintain (1) an Operations and Maintenance Fund, to be held by the system owner(s) for normal and regularly occurring maintenance, (2) a Working Capital Fund to be held by the system owner(s) for the current and future replacement and repair expenses of the system, and (3) a Reserve Fund, to be held by the Town, to provide for the replacement of Septic Systems at the end of their useful lives. Such funds held by the Association shall be separate and apart from other funds in its custody.

The schedule of deposits to the Working Capital Fund and Reserve Fund shall be such that each contains 25% and 75%, respectively, of the replacement value of the septic systems at the end of the anticipated life span.

The number and types of such funds, and the schedule of sums to be deposited therein, shall be subject to the review and approval of the Board of Health as part of its review of the applications under Title 5 and the Town's Supplementary Regulations for Sewage Disposal Systems.

Prior to the commencement of operation of the septic systems, and annually thereafter, the Condominium Association shall determine the amount necessary to provide the sums needed to be paid over the next twelve month period to support the maintenance of the septic systems to be deposited in the Operations and Maintenance Fund and these assessments shall be made proportionately to the owner of each unit.

We will drop appeal of this condition if we reach agreement.

#### **Condominium Association—Water Supply**

84. ~~In the event that the DEP allows this Project to proceed without provision of a public water system (see Findings of Fact 27—41, above), the condominium documents shall provide that each set of unit owners served by a particular drinking water well (hereinafter, a "sub-association") shall have (1) exclusive ownership and control of said well and all associated infrastructure, (2) the legal right to operate, maintain and/or upgrade the well, and (3) permanent easements for all well equipment located outside a given unit's exclusive use area.~~

85. ~~In the event that the DEP allows this Project to proceed without provision of a public water system (see Findings of Fact 27—41, above), the condominium documents shall provide that each sub-association served by a particular well shall, upon the failure of such well, possess the legal right to site a new drinking water well, associated infrastructure and appurtenances in such alternative locations within the Property as may be necessary or required by the Board of Health to provide adequate drinking water to such individual units, and that upon the creation of a new well the relevant units owners will thereafter have (1) exclusive ownership and control of said well and all associated infrastructure, (2) the legal right to operate, maintain and/or upgrade the well, and (3) permanent easements for all well equipment that is located outside a given unit's exclusive use area. Notwithstanding~~

the foregoing, any new well shall be subject to all applicable State and local regulations and permit requirements.

86. The condominium documents shall provide that for each sub-association served by a particular drinking water well, there shall be established a (1) an Operations and Maintenance Fund, to be held by the system owner(s) for normal and regularly occurring maintenance, (2) a Working Capital Fund to be held by the sub-association system owner(s) for the current and future treatment, repair and/or replacement expenses of the well, and (3) a Reserve Fund, to be held by the Town, to provide for the replacement of the well at the end of its useful life. Such funds that are held by the Association or sub-association shall be separate and apart from other funds in its custody.

Prior to the commencement of operation of the well, and annually thereafter, the Condominium Association shall determine the amount necessary to provide the sums needed to be paid over the next twelve month period to support the maintenance of the well to be deposited in the Operations and Maintenance Fund and these assessments shall be made proportionately to the owner of each unit. The schedule of deposits to the Working Capital Fund and Reserve Fund shall be such that each contains 25% and 75%, respectively, of the replacement value of the well at the end of the anticipated life span. The number and types of such funds, and the schedule of sums to be deposited therein shall be subject to the review and approval of the Board of Health as part of its review of the applications under the Town's Well Regulations.

87. The condominium documents shall provide for the maintenance and repair of the irrigation well by the Condominium Association.

**Water Quality and Water Quantity Conditions:**

88. The Applicant shall comply with the Board of Health's Supplementary Regulations for Sewage Disposal Systems except as specifically waived, in Section VI, above. In accordance with the foregoing, the Applicant shall revise the Project to provide the minimum setback of 150' from the septic systems to all proposed and existing wells and to provide septic systems with a design flow of 165 GPD per bedroom. The Applicant shall also demonstrate to the Board of Health, through analyses prepared by qualified engineering professionals, at such time as it seeks permit authorizing the proposed septic systems, that there shall be no greater than 5 mg/L concentration of total nitrogen at the perimeter boundary, and that the proposed SAS configuration will limit effluent flow across the property lines to no more than 2% of the design wastewater flow entering the disposal field.

89. The Applicant shall comply with the Board of Health's Water Supply Regulations, except as may be more specifically waived, provided for in the testing protocol discussed below.

90. Each Phase of the Project shall be subject to a 48-hour pump test in which each proposed drinking water well within the phase and the irrigation well (if applicable) are tested collectively, as described in the conditions below.

91. The Applicant shall fully comply with the Board of Health's Water Supply Regulations and policies with respect to the drinking water, irrigation and fire cistern wells, except as specifically waived. Site clearing for the well pump tests shall only be to the extent necessary to conduct the pump tests.

92. Contemporaneous with its private water supply pump tests for Phase 1 and Phase 2, the Applicant shall monitor the impact of the pump tests on all existing private wells within 500 feet of any proposed well within that phase in accordance with the Well Monitoring Plan and Protocol ("WMPP") set forth under Condition 93, below:

The purpose of the WMPP is to determine whether the Project, under simulated conditions, will have a detrimental effect on the quantity and/or quality of private drinking water wells on abutting properties. The WMPP shall be implemented before the issuance of building permits for the Project or any Post Well Test Site Activities. The costs of implementing the WMPP shall be borne by the Applicant. The Applicant shall retain a civil engineer to perform the services under the WMPP and oversight of the pump testing shall be provided by an independent qualified engineer retained by the ZBA at the Applicant's expense. The Applicant shall indemnify any abutter for damage to private property caused by its own negligence, recklessness, or intentional conduct, or that of its contractors and subcontractors, in carrying out the WMPP.

If the results of the water well testing protocol indicate that the Water Well Performance Standard ("WWPS") forth in Condition 93 below will be exceeded, the Applicant may not apply for a building permit or commence additional site clearing work until such time as the WWPS can be met.

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93. Well monitoring plan and protocol. The testing of the above private wells shall be governed by the following Well Testing Protocol:

i. Water Quality.

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For those residences participating in the WWMP, a baseline water quality sample shall be collected from each residence and shall be submitted for laboratory analysis by a qualified independent laboratory for the constituents listed in the table entitled "Long Ridge Road Water Quality Testing for Abutter Existing Wells" shown below.

**Long Ridge Road  
Water Quality Testing for Abutters' Existing Wells**

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<u>Parameter</u>	<u>Parameter</u>
Alkalinity	Sulfate
Chloride	Turbidity
Color	Total Dissolved Solids
Nitrate Nitrogen	Hardness
Nitrite Nitrogen	Arsenic
Odor	Calcium
pH	Copper
Sediment	Iron

Magnesium \_\_\_\_\_  
Manganese \_\_\_\_\_  
Radon \_\_\_\_\_

Sodium \_\_\_\_\_  
Lead \_\_\_\_\_  
Total Coliforms \_\_\_\_\_

This same water quality analysis shall be completed at the end of the 48-hour pump test for Phase 1 and Phase 2 and again approximately 2-4 days after the transducers have been removed from the wells and the wells have been chlorinated. Another water quality analysis shall be completed once the project's blasting activities (if any) are complete. Additional water quality analyses shall be completed eighteen (18) months after full occupancy of Phase 1 and eighteen (18) months after full occupancy of Phase 2, provided that the Phase 1 analysis may be waived if it appears, at the time of the required test, that Phase 2 is being built out in a timely fashion in accordance with the CMP. The costs for the water quality testing shall be borne by the Applicant. If the post-blasting test results and/or the post-construction test results for any abutter's well exceeds the previous test results by a statistically significant (95% confidence interval) margin for any of the constituents, the Applicant shall restore the abutter's previous water quality at its own expense. The data collected from the water quality testing shall be reported to the Board of Health with the pump test results within 15 days of completion of the chemical analysis.

No perchlorate shall be used by the Applicant in blasting activities. The Applicant shall test each consenting abutter's well for perchlorate at least once before any blasting is performed on the Property, and once no later than two weeks after blasting has been concluded, and report the results to the Board of Health within 15 days of completion of the chemical analysis.

ii. Water Quantity.

The Applicant shall conduct a simultaneous 48-hour pumping test of all proposed private water supply wells within a given phase, plus the proposed irrigation well. The proposed flow rates to be implemented during the pumping test will be consistent with Carlisle Board of Health pump test requirements for wells. In accordance with Board of Health regulations, the pumping test shall include all existing wells within 500 feet of any new well on the Property. In addition, the pumping test for the Phase 2 wells shall include all wells within Phase 1.

Transducers shall be installed and will be set to record on an automatic monitoring device, baseline water levels every 2 minutes for a minimum of 10 days before commencement of the pumping test, continuing during the required pumping tests, and for 7 days following the pumping test or until 90 percent recovery of all wells, whichever is longer. After this time they will be removed from the wells. The pumping tests shall be run continuously for a minimum of 48 hours at the maximum design flow rate specified by the Board of Health.

Utilizing the data from the transducers, the maximum self-induced drawdown ("Baseline Self-induced Drawdown Range") in each private well shall be calculated. This is the range between the depth to the non-pumping average static water level and the depth to the lowest pumping water level in each well. Next, the 180-day

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projected test-induced drawdown ("Test-Induced Drawdown") on each private well (if observed) shall be calculated by creating a drawdown versus log of time graph of the decline in the normal static water levels (if observed) due to pumping the Project's wells. Lastly, after determining the pump depth in each well (either by pump installers records, Board of Health records, or by probing the well), the total available water column above the well pump as the difference between the depth to the non-pumping average static water level and the depth to the well pump ("Total Available Water Column") shall be calculated.

All data from the pumping tests shall be conveyed to the Board of Health for permanent preservation within 30 days of test completion. Additionally, data from each abutter's well tests shall be conveyed to each abutter within 30 days of test completion.

Based on the above data, if the sum of the Baseline Self-Induced Drawdown Range and the Test-Induced Drawdown (1) exceeds 50% of the Total Available Water Column, and at least 10% of this total is the Test-induced Drawdown, or (2) exceeds 75% of the Total Available Water Column, and at least 2% of this total is the Test-induced Drawdown, then the well shall be deemed to be impacted.

~~94. The well pump tests shall be conducted during August or September.~~

95. Before the issuance of the first occupancy permit granted for the Project, the Applicant shall deposit into escrow ~~\$30,000~~\$12,000 which shall be held by the Board of Health in escrow for 18 months after issuance of the final certificate of occupancy for the Project to cover expenses incurred by the Applicant or by the abutting well owners listed above to ~~connect their dwelling unit to the public water supply, treat or correct deficiencies or to address impacts on the private wells caused by the Project's wells. Escrowed monies shall be released by the Board of Health to aggrieved well owners only upon request of the aggrieved well owner and only if the WWPS has been breached and the requested disbursement constitutes a reasonable reimbursement, in the Board of Health's discretion, of the well owner's expenses to restore the well to its pre-pump test Total Available Water Column. The Applicant may deposit the requisite funds as cash or as a letter of credit. Town Counsel shall approve any letter of credit used to satisfy this condition. The Applicant must maintain \$25,000 in the account. If an approved disbursement reduces the amount of funds within the account below \$25,000, the Applicant must replenish the account within three business days.~~

~~This provision shall not be interpreted as precluding any private cause of action any aggrieved well owners may have against the Applicant or its successors or assigns. Any escrowed funds remaining 18 months after full occupancy shall be released to the Applicant, with any accrued interest.~~

96. Annual yield data from the Project's wells, including the irrigation well, shall be submitted to the Board of Health prior to October 15 for the preceding 12 months (October 1 to September 30). The wells shall be instrumented as needed to gather this yield data.

97. Before the issuance of any building permits for the Project, the Applicant shall submit to the ZBA and the Board of Health for their technical review for consistency with standard industry practices a water supply plan (the "Water Supply Plan"), which shall include a comprehensive set of design drawings for the water supply infrastructure (including pumping facilities), and pumping test results obtained in accordance with Board of Health requirements and Condition 93 above.

98. Should any well need to be relocated, the Applicant or its successors and assigns shall submit as-built plans and the Water Supply Plan shall be amended to show the location of any relocated and abandoned well.

99. The Applicant shall provide the Carlisle Board of Health with at least one week's notice of all drilling, sealing, pump testing of the wells and the testing of the permanent pumping facilities, and shall allow the Board of Health full access to witness said activities.

#### Wastewater Management

100. Consistent with United States Environmental Protection Agency's Final Ground Water Rule promulgated November 8, 2006, the Applicant shall demonstrate to the satisfaction of the Board of Health that any septic system that is upgradient or cross gradient of any property boundary that abuts lots containing existing domestic water supply well will achieve at least 99.99% inactivation or removal of viruses from the groundwater at the Site's downgradient and cross gradient property boundaries. If the Applicant believes the groundwater already contains viruses, it may achieve this performance standard by demonstrating that the septic system will generate no additional viruses, or higher concentrations of viruses, at those locations.

Nothing to do with this project.

101. Consistent with the Board of Health's regulations, the Applicant shall demonstrate to the satisfaction of the Board of Health that the standards of 5 mg/L total nitrogen and zero (0) colonies of coliform bacteria will be met at the downgradient and cross gradient property boundaries.

Jim Vernon has admitted impossible.

102. The Applicant shall install three shallow overburden monitoring wells (a/k/a "soldier wells") downgradient and cross-gradient from each soil absorption area in locations specified by the Board of Health before issuance of the final certificate of occupancy for the Project, and shall perform readings quarterly upon initial occupancy on any unit served by the respective septic system, then quarterly for two years following full occupancy of all units served by the respective septic system, and then annually thereafter unless the Board of Health requires more frequent monitoring, submitting data to the Board of Health at the Applicant's and successor Condominium Association's own expense. The wells shall be sampled for E. coli coliform bacteria, total phosphorus, nitrate nitrogen, and ammonia nitrogen.

OK if we reach agreement.

~~103. The septic systems shall be designed so as to limit effluent flows across property lines to no more than 2% of the design wastewater flow entering the disposal field. To monitor groundwater, permanent monitoring wells shall be installed at locations acceptable to the Board of Health along property boundaries downgradient from any soil absorption area. Samples shall be collected from these wells monthly from January through June during the first year of occupancy. Copies of the monitoring reports shall be provided to the Board of Health with 15 days of data collection.~~

Same as 101.

**Affordability Requirements:**

~~104. No less than five (5) of the single family residences within the Project shall be made available for purchase by Households earning 80% or less of the area median income, adjusted for Household size, as published by the United States Department of Housing and Urban Development for the Boston Cambridge-Quincy, MA-NH Metro FMR Area, (the "Affordable Units").~~

~~105. Sale Prices: The Affordable Units shall be sold to qualified Households at prices deemed affordable to Households earning 70% of the area median income, adjusted for Household size, in accordance with the applicable regulations and guidelines of the Subsidizing Agency.~~

The maximum sale prices for the Affordable Units shall be subject to review and approval by a monitoring agent (the "Affordability Monitoring Agent"), which shall be selected by MassHousing. The sale prices shall be reviewed for consistency with the Act's guidelines and the Regulations, and determined at the time of the lottery for the selection of buyers of the Affordable Units (the "Lottery"). In the event that the designated Affordability Monitoring Agent fails or refuses to administer the Affordable Units, or in the event that such agent ceases to exist, the Applicant shall notify MassHousing and the ZBA, and MassHousing shall designate another entity to administer those units. In the event that MassHousing fails to designate an Affordability Monitoring Agent, the ZBA or its designee may elect to serve that role, subject to approval by MassHousing within sixty (60) days after being notified by the ZBA of such designation, and MassHousing's failure to respond within said timeframe shall result in the designation being deemed approved.

~~106. The Affordable Units shall be 2, 5, 8, 12, and 18. One of every four certificates of occupancy issued on this Project shall be for at least one of the Affordable Units identified above until such time as all Affordable Units have been issued occupancy permits.~~

~~107. Phasing in of affordable units: Affordable Units shall be sold contemporaneous with the market rate units in the Project. Throughout the development and construction of the Project, the Building Commissioner shall not issue more than three Certificates of Occupancy for market rate units until at least one Certificate of Occupancy has been issued for an affordable unit. For purposes of~~

~~this condition, the existing single-family house (Unit 20) shall be counted as a market rate unit. With respect to the final four units in the Project, the Certificate of Occupancy for the final affordable unit shall be issued prior to that of the last three remaining market rate units.~~

~~108.— 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.~~

~~109.— The Applicant shall prepare an Affirmative Fair Housing Marketing Plan to be approved by the Subsidizing Agency or its designee.~~

~~110.— Selection of Buyers for Affordable Units: The Applicant shall obtain the approval of the Subsidizing Agency or its designee of a Lottery Plan for the sale of the Affordable Units prior to putting the Affordable Units on the market. The Lottery to select such buyers shall be conducted as a fair lottery process. To the maximum extent permitted by applicable law and by the requirements of the Subsidizing Agency, a provision that preference for the purchase of 70% of the Affordable Units shall be given to households that meet one or more of the following preference criteria:~~

- ~~(i) — At least one member of the household is currently a legal resident of the Town of Carlisle. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as a Carlisle resident with the Carlisle Town Clerk pursuant to M.G.L. c.51, §4 and would be considered a resident under the United States Census Bureau's residency guidelines;~~
- ~~(ii) — At least one member of the household is an employee of the Town of Carlisle, or the Carlisle public schools;~~
- ~~(iii) — At least one member of the household is currently privately or publicly employed within the Town of Carlisle; or~~
- ~~(iv) — At least one member of the household is a METCO student enrolled in the Carlisle Public Schools system or Concord-Carlisle Regional High School.~~

~~The selection of purchasers for the Affordable Units, including the administration of the Lottery, shall be administered by a consultant retained by the Applicant, subject to the approval of the Subsidizing Agency. The Lottery shall be implemented pursuant to a Lottery Plan developed by the Lottery consultant and approved by the Monitoring Agent. The Monitoring Agent shall oversee the Lottery.~~

~~The Monitoring Agent shall develop such rules and guidelines as may be necessary and appropriate to carry out the provisions of this section. Income and other applicable eligibility requirements shall be governed by the Subsidizing Agency.~~

~~The provisions of this section are intended to complement and not to override or supersede any applicable Massachusetts, local, or Federal law, including without~~

limitation, fair marketing regulations of the DHCD, the Massachusetts Commission Against Discrimination, MassHousing, or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

111.— 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.

112.— 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.

113.— In addition to the foregoing, prior to the issuance of any building permits, a Regulatory Agreement, in the form approved by MassHousing and acknowledged by the Board, shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) five (5) units in the Project will be sold and resold subject to a Deed Rider approved as to form by MassHousing and the Board, and (b) the Project Owner's profit shall be limited as defined by G.L. c. 40B, §§ 20—23, the Regulatory Agreement and the Regulations, as well as subsidy program and cost certification guidance, specifically, DHCD's "Comprehensive Permit Guidelines" (Sections IV.B, C, E and F), updated December 2014, and MassHousing's guidance document entitled "Preparation of Cost Certification Upon Completion of Homeownership 40B Project for Which MassHousing Serves as Project Administrator," dated July 30, 2007, as each has been or may be amended from time to time.

A Deed Rider, known as the Universal Deed Rider, shall be attached to and recorded with the Deed for each and every Affordable Unit in the Project at the time of each sale and resale, and the Deed Rider shall restrict each such affordable unit pursuant to this Decision in perpetuity (subject to the standard exceptions set forth in the standard MassHousing Housing Starts or NEF Program form of Deed Rider to be incorporated into the Deed Rider) in accordance with the requirements of G.L. c. 184, §§ 31-33. The Deed Rider shall give the Town of Carlisle a right of first refusal to purchase the Affordable Unit upon any notice of an impending mortgage foreclosure.

114. ~~Profit Cap: To conform to the intent of the Act that profits from the Project be reasonable and limited, the Applicant's profits from the Project shall be limited to 20% of total development costs as governed by the applicable Act guidelines and the Regulations, and the applicable guidelines and regulations of MassHousing. Moreover, the Applicant shall follow the cost examination and certification requirements described and as required in 760 CMR 56.04(8) and in MassHousing's and DHCD's guidance and policies, as amended. The ZBA shall have the right to review the cost examination for accuracy using the same standards as the Subsidizing Agency.~~

~~MassHousing in accordance with 760 CMR 56.05(6)(e) has the sole responsibility to establish and enforce reasonable profit limitations on the Applicant as set forth in 760 CMR 56.04(8).~~

~~115. Monitoring Services Agreement: Any Limited Dividend Monitoring Agreement and/or Affordability Monitoring Agreement that MassHousing requires to be executed by the Applicant under its program guidelines and regulations shall be executed and delivered prior to the issuance of any building permits for the Project. Such Agreement(s) shall be in a form substantially the same as that used by MassHousing under the Housing Starts program or the NEF Program, and shall be subject to the approval of Carlisle Town Counsel for consistency with this Decision only, such approval not to be unreasonably withheld or delayed. The Applicant shall pay a monitoring services fee to the Monitoring Agent(s).~~

~~116. 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.~~

~~See Amesbury.~~

~~117. If, at any time after the date of this Decision, the Applicant's subsidizing agency rescinds or revokes its June 3, 2014 project eligibility determination for the Project, this Decision shall be deemed null and void and have no further effect.~~

#### Occupancy and Surety Requirements:

118. 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:

- a. All sewage treatment and disposal facilities serving the Project are the subject of a final approval from the Board of Health, and may begin operation.
- b. The unit has a fully functioning ~~public drinking water supply system~~ that has been lawfully permitted and for which all permits have become final.

- c. The base and binder course for the road, driveways and guest parking areas serving such unit have been installed.
- d. All stormwater management and drainage facilities serving such building or unit as shown on the Approved Plans have been installed.
- e. All utilities serving such unit have been installed.
- f. All required landscaping within the applicable phase of the Project has been installed.
- g. 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.

119. 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 30 and for the fall shall be October 15, 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.

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

121. 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 Property, above and below grade, including appropriate grades and elevations. The plans shall include a description of each deviation from the Final Approved Plans. 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. A purpose of this condition is to facilitate the Consulting Engineer's review of the Project for compliance with this Decision before the final certificate of occupancy is issued.

**General Requirements:**

122. 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; provided that nothing contained herein shall be construed as prohibiting a resident of any unit carrying on their profession in a manner that does not involve visitors to, or parking at, the Project, or any other externally visible manifestation of such practice.

123. 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.

124. 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).

125. 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).

126. 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.

127. 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.

128. ~~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.~~

129. 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 be 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.

130. All outstanding invoices for peer review and consultant costs incurred by the Town 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.

131. Upon submission of the Proposed Final Plans, the Applicant shall replenish the project review fee account in the amount of ~~\$520,000~~ to fund the review of the Proposed Final Plans by the ZBA Consulting Engineer. Any amounts not expended from this account shall be returned to the Applicant.

132. Inspection of the roadway construction and stormwater infrastructure shall be performed by a qualified engineer retained by the ZBA at the Applicant's expense, and shall be in accordance with Article IV, Section 2 (Inspections and Controls) of the Planning Board's Subdivision Rules and Regulations.

133. The Applicant shall promptly pay the reasonable fees 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. Only after agreed upon scope of services with not to exceed cap.

134. ~~The Applicant shall reimburse the ZBA for its legal expenses in reviewing the Regulatory Agreement, Monitoring Services Agreement, Affordable Housing Restrictions (Deed Rider), Lottery Plan and Condominium Documents, not to exceed \$5,000.~~

135. For all matters relating to enforcement of this Decision by the Town of Carlisle responsibility for the cost and maintenance of the common facilities and infrastructure of the Project shall be joint and several between the Condominium Association and the entity(ies) developing the applicable phase of the Project; and the

entity(ies) developing the applicable phase shall be relieved of such responsibility upon issuance of the occupancy permit for all of the units within that phase.

Conclusion

For the reasons stated above, the Application for a comprehensive permit for the Project is approved subject to the foregoing conditions.

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Lisa Davis Lewis, Chair

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Emmanuel Crespo

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Martin Galligan

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Steven Hinton, Associate

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Travis Snell, Associate