

TOWN OF BOLTON
ZONING BOARD OF APPEALS
DETERMINATION ON REQUEST TO TRANSFER AND
FOR INSUBSTANTIAL CHANGES TO COMPREHENSIVE PERMIT

RE: Request of Craftsman Village Bolton, LLC to the Bolton Zoning Board of Appeals ("Board") for Transfer and Insubstantial Changes to a Comprehensive Permit issued to Sugar Road Realty Trust, Sugar Road, Bolton, Massachusetts, and recorded in the Worcester District Registry of Deeds in Book 35905, Page 142 ("Comprehensive Permit"), property being shown on Assessors Map 4C, Parcel 26 and described in Deed recorded with the Worcester District Registry of Deeds in Book 8507, Page 161, on land consisting of approximately 14.87 acres, numbered 32 Sugar Road ("Site") in the Town of Bolton ("Town").

DATE: February 23, 2015

I. PROCEDURAL HISTORY

- A. By decision filed with the Town Clerk on December 9, 2004, the Board granted the Comprehensive permit approving the Project with conditions including the reduction of the number of units to thirty-six (36).
- B. On January 16, 2014, at a duly posted meeting, the Board voted and approved an extension of the Comprehensive Permit for an additional two years from the date of January 19, 2014.
- C. In September of 2014, Craftsman Village Bolton, LLC (CV Bolton) requested the Board to transfer the Comprehensive Permit to it and determine that its proposed revisions to the Project (collectively "Project Revisions") were insubstantial changes pursuant to 760 CMR 56.05(11)(a), 760 CMR 56.07(4) and Condition A.2 of the Comprehensive Permit. CV Bolton agreed to purchase the property and proposed a more modest Project with only 30 homes versus the previously approved 36. They provided evidence of site control as part of their request to the Board. The Project as revised is shown on a set of plans entitled "Craftsman Village, 40B Comprehensive Permit Amended Application, at Sugar Road, Bolton, Massachusetts" prepared by Places Associates, Inc. dated September 3, 2014 and revised December 18, 2014 ("Project Plans").
- D. In September of 2014, CV Bolton also requested an insubstantial change to the subsidy program to be used for the development. The Project was previously approved through the New England Fund program. There have been extensive program and regulatory changes which have occurred since the original permit was issued. CV Bolton requested to utilize the Local Initiative Program (LIP) through Department of Housing and Community Development (DHCD) or the updated New England Fund (NEF) with MassHousing as Project Administrator. The Board agrees with this request subject to the following conditions. The Bolton Board of Selectmen may need to sign off on the program applications and DHCD or MassHousing must approve of the Project and

related revisions. The Board has agreed to support both efforts. Throughout the document reference is made to DHCD as the administering agent, if the NEF Program is to be utilized this would be modified to be MassHousing.

- E. On October 1, 2014, at a duly posted meeting, the Board approved the request to transfer the Comprehensive Permit to CV Bolton ("Applicant"). The Board also determined the Project Revisions and modification of the subsidy program to be insubstantial changes in accordance with the provisions of Mass. Gen. Laws c.40B, §21 and the provisions of 760 CMR 56.05(11)(a) , 760 CMR 56.07(4) and Condition A.2 of the Comprehensive Permit.
- F. On February 23, 2015, at a duly posted meeting, the Board voted and approved the insubstantial changes to the Comprehensive Permit ("Determination") after deliberations during their October 1, 2014, December 17, 2014 and February 4, 2015 meetings.

II. FINDINGS

- A. The Town of Bolton ("Town") has not met the statutory minimum set forth in Mass. Gen. Laws c. 40B, §20 or 760 CMR 56.03(3) nor is affordable housing located on sites comprising one and one-half percent or more of the total land area zoned for residential, commercial or industrial use. The development of affordable homes consistent with this request will not result in the commencement of construction of such housing on sites comprising more than three-tenths of one percent of such land area.
- B. The Applicant is qualified pursuant to 760 CMR 56.04 in that:
 - (a) It is or will become a "limited dividend organization" as that term is used in Mass. Gen. Laws c. 40B, § 21 and 760 CMR 56.04 in that it will execute a Regulatory Agreement that shall require the limiting of its profit to no more than twenty percent (20%) of total development costs.
 - (b) The Project is fundable by a subsidizing agency under the LIP program.
 - (c) It has "control of the site" as that term is used in 760 CMR 56.04 as it owns the Site pursuant to deed dated October 16, 2014 attached hereto as Exhibit B.
- C. The Project Revisions and the proposed development are consistent with local needs and constitute insubstantial changes pursuant to 760 CMR 56.05(11)(a) and 760 CMR 56.07(4) and Condition A.2 of the Comprehensive Permit.

III. DETERMINATION

- A. Based upon the findings of the Board and upon a review of all the information before it, the Board, hereby grants the request of Craftsman Village Bolton, LLC to transfer the Comprehensive Permit and determines that the Project Revisions, so as to construct not

more than thirty (30) single family for sale condominium units, not to exceed 2,100 square feet (for all homes with a full basement) with no more than two bedrooms in each single family condominium unit in accordance with the Project Plans are insubstantial. This Comprehensive Permit remains subject to compliance by the Applicant with the terms and conditions of this Determination and is expressly conditioned on the construction of not less than eight (8) affordable units. The terms and conditions of this Comprehensive Permit as provided herein, together with the Deed Rider and Regulatory Agreement to be entered into, governing the affordable units, shall control the development of the Project. To the extent the Comprehensive Permit, together with the insubstantial changes herein provided for are inconsistent with any other instrument, document, agreement or plan submitted in connection with the Project, the Comprehensive Permit and this Determination, shall control to the full extent permitted by law; provided, however, that it is the intention of the Board that this Determination shall permit the Project as shown on the Project Plans. The Conditions set for the in Section IV below shall supersede and replace in their entirety the Conditions set forth in Section IV of the Comprehensive Permit as originally issued.

IV. CONDITIONS

A. General

1. Except that no more than thirty (30) units shall be constructed as set forth in this Determination, the Project shall be constructed in substantial conformance with the Project Plans identified as the "PERMIT SET – Issued 12-8-2014" including as follows:

CP-0	COVER SHEET
CP-1	NOTES AND LEGEND
CP-2	EXISTING CONDITIONS PLAN
ANR	SURVEY PLAN
CP-3	OVERLAY PLAN
CP-4	COMPOSITE SITE PLAN
CP-5	LAYOUT & MATERIALS PLAN
CP-6	UTILITY PLAN
CP-7	GRADING & DRAINAGE PLAN
CP-8	EROSION & SEDIMENTATION CONTROL PLAN
CP-9to12	SITE DETAILS

The above Project Plans are on file with the Board.

1. The Board shall have the power, at a public meeting and without further public hearing to modify or amend the terms and conditions of this Comprehensive Permit on the application of the Applicant, or upon its own motion, for non-substantial changes requested by the Applicant or to correct technical errors in this Comprehensive Permit.
2. In the event the Applicant seeks any change in the Comprehensive Permit after this Determination is final, whether deemed by the Board to be an "insubstantial change" or a

"substantial change" in the Project as herein defined, any such change must be presented to the Board for approval and for modification of this Determination. Any substantial changes or modifications to this Comprehensive Permit shall only be made upon written request and upon the holding of a public hearing after which the Board may approve or disapprove the requested modifications or amendments to this Determination, in accordance with the provisions of Mass. Gen. Laws c. 40B, §21 and the provisions of 760 CMR 56. The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such a substantial change, and will then determine whether the change or requested relief is to be approved and the Determination amended accordingly. "Substantial change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 56.07(4). If it deems necessary the Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed charges. Provided, however, that any expenses charged by the consultants to the Applicant, as aforesaid, shall be reasonable.

3. No additional paving shall be allowed for any purpose whatsoever other than that delineated on the Project Plans. Maintenance of existing driveways and walks is permitted. Any damage to Town or State ways occurring from construction activity will be repaired to the Town's satisfaction at the Applicant's expense.
4. The Applicant has requested to utilize the LIP Program from DHCD and the Board has agreed to this and will sign off or advise other Board of its acceptance of the plan as needed. Prior to the issuance of a building permit, the Applicant must receive an approval as evidenced by the Issuance of a Regulatory Agreement from DHCD. DHCD shall then by the Subsidizing Agency for the Project.
5. This Determination shall be recorded with the Worcester Registry of Deeds.

B. Housing

1. The Project shall be limited to thirty (30) single family for sale condominium, with no more than two bedrooms in each single family condominium units. The home styles with floor plans and elevations are included as Exhibit F. These base floor plans may have minor modifications made to suit the home to the particular location on the Site in relation to grading and adjacent units. It is understood that 6 homes are to be designed which may have no full basements to due site constraints and the floor area on these homes may be modified and/or expanded to provide additional area for residents. Those plans shall be submitted to Board for approval prior to securing building permits for those specific units. Eight (8) units shall contain in perpetuity affordable housing restrictions in conformance with Mass. Gen. Laws c. 184, §§ 31-33 and shall be reserved for sale and occupancy by households earning at or below eighty percent (80%) of (Boston PMSA) Median Income ("Affordable Units"). The Affordable and market-rate units shall be distributed evenly throughout the Project and the building types shall be evenly dispersed throughout the Project. Attached as Exhibit E is a site plan identifying the affordable home locations approved by the Board. The Affordable Units shall be indistinguishable as to size and exterior facades from the market-rate units. Interior finishes and appliances in the Affordable Units shall be in

accordance with the "Affordable Specifications" attached as Exhibit D.

2. To the maximum extent allowed by law and subject to the approval of the Subsidizing Agency, preference for the Affordable Units shall be given to either (a) Bolton residents; (b) the children or parents of Bolton residents; (c) employees of the Town or (d) employees of the Nashoba Regional School District. MCO Housing Services, LLC shall serve as the Lottery Agent ("Lottery Agent") for the selection of purchasers of the Affordable Units. Prior to conducting the lottery, the Applicant shall submit a final Lottery plan to the Board for its review and approval. The Applicant shall pay all Lottery Agent costs. 3. Prior to the grant of a building permit, the Applicant shall submit Final Regulatory and Monitoring Agreements and Deed Rider to the Board and its counsel for review and approval. Such documents shall contain, at a minimum the following terms:

- (a) No less than eight (8) of the units shall be affordable to households earning not more than eighty percent (80%) of Median Income (Boston PMSA) in perpetuity or for the maximum term allowed by law.
- (b) The Subsidizing Agency for the Project shall be The Department of Housing and Community Development (DHCD) who shall perform administration, monitoring and enforcement services regarding compliance with this Determination as it relates to the terms of the Regulatory Agreement, and Monitoring services in perpetuity in accordance with the requirements of Mass. Gen. Laws c. 184, ss. 31-33.
- (c) The Affordable Units and building types for each affordable unit shall be identified in the Regulatory Agreement and be consistent with Exhibit F.
- (d) The maximum sales price of the Affordable Units (including principal and interest payments based upon a 30 year fixed interest rate, condominium fees, insurance, real estate taxes and private mortgage insurance) shall be set at no more than "that which can be afforded" under DHCD guidelines) by households earning no more than seventy percent (70%) of Median Family Income as defined by HUD. Methodology must assume a fixed interest rate, 30-year term loan and a maximum down payment of five percent (5%). Attached as Exhibit G is a DHCD Pricing Worksheet which identifies what the pricing of the affordable homes would be at the time of the issuance of the permit.
- (e) The Applicant's profits shall be limited to no more than twenty percent (20%) of total development costs as spelled out in the Regulatory Agreement. DHCD, as the Subsidizing Agency shall be responsible to secure Applicants Cost Certification documentation. The Subsidizing Agency shall make the determination of the land value as it relates to the Cost Certification and profit limitations. All other cost certification and requirements shall be prepared in conformance with Mass. Gen. Laws c. 40B limited dividend guidelines and reporting requirements and applicable law.

C. Construction

1. During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence on any weekday before 7:00 AM and shall not continue beyond 5:00 p.m.; constructions shall not commence on Saturdays before 8:00 AM and shall not continue beyond 4:00 PM. There shall be no construction on any Sunday or federal legal holidays. For this condition, construction activities shall include, but not be limited to:, start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export-of earth materials; installation of utilities both on and off the Site; demolition of existing structures; removal of stumps and debris; and erection of new structures.
 - (a) A copy of this Determination and the Project Plans shall remain on-site at all times during construction and shall be incorporated into a weather-tight receptacle located so as to be available to the Board at all times.
 - (b) The Applicant shall submit copies of the Stormwater Pollution Prevention Plan (SWPPP) inspection reports regularly to the Board in an electronic format at townplanner@townofbolton.com.
 - (c) All erosion and sedimentation control measures shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediment be deposited in a wetland or waterbody. During construction, the Applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediment as needed. The Applicant shall immediately control any erosion problems that occur at the Site and shall also immediately notify the Town.
 - (d) Street sweeping shall be conducted on Sugar Road when accumulated sediment is transported on to the public way by construction vehicles leaving the Site.
 - (e) Any fill used in connection with this Project shall be clean fill, debris-free, and devoid of invasive plants or their parts or seeds. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
 - (f) The Applicant shall maintain records of where fill is coming from and provide those records to the Town.
 - (g) All staging areas, including without limitation parking areas for construction personnel, portable toilets, temp work facilities, etc. shall be on the Site. No

parking shall be permitted on town ways by Project personnel or others in connection with the construction of the Project.

- (h) No tree stumps or other demolition and construction debris shall be buried on the Site. All tree stumps shall either be ground or removed from the Site. No burning is allowed on Site.

D. Infrastructure

1. The infrastructure shall be constructed pursuant to the plans designated and referenced in the Project Plans outlined in Sections IV. A.1 above.
2. The Applicant has proposed and the Board requires, that the following aspects of the Project shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal responsibility for their operation and maintenance:
 - (a) Stormwater management system
 - (b) Sewage disposal system
 - (c) On-site external lighting fixtures/poles
 - (d) All driveways, roadways and parking areas
 - (e) Snow plowing
 - (f) Landscaping
 - (g) Trash removal
 - (h) Water supply wells
 - (i) Water cisterns for fire suppression
3. The Applicant shall be responsible, until the later of, either the date of the completion of construction of the last condominium unit, or the date when the condominium association takes over control, and thereafter the Condominium Association ("Association"), shall be responsible for installation, operation, replacement and maintenance of all aspects of the stormwater management system, the sewage disposal systems, on-site external lighting, driveways; roadways, parking areas, snowplowing, landscaping, trash removal, fire suppression cisterns and water supply wells.
4. The Applicant shall comply with the Stormwater Operation & Maintenance Plan ("O&M Plan") dated February 11, 2015 and recorded at the Worcester County Registry of Deeds as part of the Amended Order of Conditions issued by the Bolton Conservation Commission. The O&M Plan shall be incorporated into the Associations Condominium

Documents. The Applicant shall further ensure the responsible party for the Site after turnover of the Association(s) to resident control have copies of the O&M Plan.

5. In the event that the Town determines that the Applicant or the Association has materially failed in its obligation to maintain the drainage system in accordance with its O&M Plan to be submitted by the Applicant, the Town shall have the right, upon written notice to the Applicant or the Association, (and the Applicant's or the Association's subsequent failure to remedy the maintenance issue within fifteen (15) days of notice thereof) to enter upon the Site to perform the required maintenance. All costs incurred by the Town in connection with its performance of such required maintenance on the Site shall be reimbursed by the Applicant or the Association to the Town within thirty (30) days of Applicant's or the Association's receipt of the Town's invoice for such costs.
6. The Applicant shall provide a performance guarantee, in the form of a tripartite agreement, with the Town to ensure completion of on-site infrastructure improvements (not including the cost of the construction of the residential dwellings) for any lot in which a home has been requested for a Certificate of Occupancy. Items which must be completed for an individual lot (which shall service up to 6 homes) includes potable water, operating septic system, paved access to Sugar Road, a fire cistern and electric power for health and safety apparatus. The performance guarantee shall be in a form reasonably acceptable to the Board or its designee; said bond shall be equal to 1.5 times the cost of construction. The Applicant shall provide the performance guarantee to the Town prior to the issuance of the requested Certificate of Occupancy. The amount of the performance guarantee shall be based on the remaining costs, as reasonably determined by the Board or its designee to complete the site work which shall include but not be limited to the work in and near the wetlands roadway that crosses the wetlands. If the construction period lasts more than two (2) years, the Board may require that the performance guarantee be increased to account for inflation.
7. Upon the Applicant fully and satisfactorily performing in accordance with the conditions of this Determination, the obligation to provide the performance guarantee shall cease and the bond shall be released. Otherwise it shall remain in full force and effect.
8. The development is being serviced by septic systems on individual lots. If applicable to the proposed septic systems, , the Applicant shall grant a "Title 5 Covenant and Easement" (310 CMR 15.00 et seq.) to the Board of Health, which includes requirements concerning inspection and pumping, insurance, maintenance, access easements, and lien authority for the Board of Health.

E. Pre-Construction Review

Prior to the issuance of a building-permit, the Applicant shall demonstrate to the satisfaction of the Board or its designee:

1. That it has submitted final plans, including site, engineering, grading, utility, landscaping, lighting, signage, construction mitigation, buffering, and architectural plans that the Board and/or its agent has reviewed and approved to assure compliance with this Determination.

2. That there is sufficient water and sewage capacity to service the Project.
3. Compliance with the Department of Environmental Protection ("DEP") Stormwater Management Policy and the State Wetlands Protection Act.
4. That it has provided a Landscape & Buffer Plan which has been approved by the Board.
5. That it has obtained written approval of all septic system, stormwater management and potable water supply plans, details and calculations from the local Board/Department or its designee and any applicable Federal or State agency. Documentation of this approval shall be present on all plans submitted for a building permit.
6. That the Board and Town Counsel have reviewed and approved a Regulatory Agreement, Universal Deed Rider and Monitoring Agreement. The Universal Deed Rider provides for any and all mortgages or equity loans to be subordinate to the perpetual affordable housing restriction, so that in the event of foreclosure, the affordable housing restriction shall remain in full force and effect.
7. A Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Board for review and approval thirty (30) days prior to the commencement of construction.
8. Prior to the issuance of a Building Permit, the Applicant shall provide the following materials to the Board for review and approval:
 - (a) Water quality calculations for hydro-dynamic separators
 - (b) TSS removal calculation worksheets for hydro-dynamic separators
 - (c) Rain Garden planting details
 - (d) Stormwater Pollution Prevention Plan (SWPPP)
 - (e) Modelling for culvert under Sugar Road
 - (f) Stormwater O&M Plan dated February 11, 2015
 - (g) Stamped Illicit Discharge Statement
9. "Fireways" shall be highlighted and details for their design depicted on the final construction documents.
10. The Applicant shall reasonably pay for a consultant chosen by the Board to monitor and inspect the Project as necessary for conformance with this Determination and the Project Plans at intervals deemed appropriate by the Board.

11. Prior to commencement of construction, the Applicant shall provide, and update as necessary, the Board with the name, address, and 24 hour contact information for an on-site construction manager who shall have primary responsibility for the oversight of day to day construction activities on the Site.
12. Prior to commencement of construction, a pre-construction meeting with the construction manager, town officials, Board, and/or Board's consultant shall be required on-site. The Board's consultant shall provide in advanced a meeting agenda for review.
13. Prior to the Issuance of the First Certificate of Occupancy, the Applicant shall demonstrate to the satisfaction of the Board or its designee:
 - (a) That the Board and Town Counsel have reviewed and approved Condominium Documents. That all homes will be constructed in complete compliance with this Determination and the plans attached hereto.
 - (b) The development remains in compliance with 40B program requirements.

F. Post-Construction Review

1. Prior to the issuance of the final certificate of occupancy, an on-site construction meeting with the construction manager, town officials, Board, and/or Board's consultant shall be required to review any outstanding items and to establish a time line for project completion.

G. Condominium

That the Board and Town Counsel have reviewed and approved a Regulatory Agreement, Universal Deed Rider and Monitoring Agreement. The Universal Deed Rider provides for any and all mortgages or equity loans to be subordinate to the perpetual affordable housing restriction, so that in the event of foreclosure, the affordable housing restriction shall remain in full force and effect.

1. The Affordable Units shall constitute a percentage (beneficial) interest in the condominium that shall be in proportion to the initial price of the Affordable Units to the sum of the initial prices of the affordable and market rate units.
2. The Association and purchasers of all units, shall be forever bound by all conditions and restrictions contained herein.
3. In addition to its other responsibilities, the Association shall be responsible for:
 - (a) Maintaining, operating, upgrading, replacing and monitoring as necessary the water and subsurface sewage disposal systems and well distribution systems.
 - (b) Repairing and maintaining the on-site stormwater management system.

- (c) Ensuring that any building and surface exterior lighting shall be shielded in such a way that there will be no glare into the neighbors' houses, abutting properties along Sugar Road, and no interference with vehicular traffic.
 - (d) Operating and maintaining all common areas and improvements, snow storage or removal, and trash collection and ensuring that private driveway, sidewalks and parking areas are kept clear at all times.
 - (e) Units shall submit to the Condominium Association copies of all applications for building permits.
 - (f) Ensuring the Water Cisterns are full with annual inspection report to be provided to the fire department.
4. The condominium documents shall provide that:
- (a) There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this Determination without Board of Appeals approval.
 - (b) Conditions set forth in this Determination concerning condominium governance must be set forth in the documents (it does not suffice to simply reference the Determination); in the event of any conflict between the condominium document and the Determination, the terms of the Determination shall control.
 - (c) The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
 - (d) The addition of bedrooms to the units or the retrofitting of existing space for use as additional bedrooms is prohibited. The condominium documents shall prohibit any and all expansions and additions to structures including, but not limited to, decks and porches. Any internal modifications or completion of additional area within the homes shall be done in accordance with the requirements of the Building Department.
 - (e) All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
 - (f) To the extent permitted by law, upon turnover of the Association by the Applicant to the unit owners, at least 25% of the trustees of the Association shall be owners of Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
 - (g) The 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 that the unit is not rebuilt or is rebuilt and there are excess monies available.

H. General

1. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of Sugar Road Realty Trust, currently Craftsman Village Bolton, LLC, and the obligations shall run with the land. In the event that the Applicant sells, transfers or assigns any of its interest in the Project, this Comprehensive Permit shall be binding upon the purchaser, transferee or assignee. The provisions and limitation of the Limited Dividend Organization shall apply to the Project regardless of sale, transfer or assignment. The final Project audit shall include all costs, profits and fees incurred as part of all sales, transfers or assigns.
2. The Applicant has requested, and the Board hereby authorizes those exceptions from the requirements of the Bolton Zoning By-Law and other local laws rules and regulations, including the exceptions from local subdivision rules and regulations, zoning by-laws and other local by-laws as listed in Exhibit C hereto and with the limitations and conditions set forth in Section III above, so long as the Project is constructed in accordance with the Project Plans and this Determination. Minor deviations from otherwise applicable local rules may be authorized by the Board. No fees are waived for either market-rate or affordable units.
3. At earlier of ninety (90) days after construction and conveyance of the last unit:
 - (a) Applicant shall submit final on the ground "As Built" plans to the Building Inspector to show the actual location and elevations of all roadways, buildings, wells and septic systems and propane tanks and transformers.
 - (b) Applicant must have repaired to the Board's satisfaction any damage to Town roadways that it caused during construction.
4. If a winner or winners of a lottery for the Affordable Units has a physical disability that requires reasonable modification to an Affordable Unit that he or she is eligible to purchase, the Applicant shall make such reasonable modifications at the Applicant's expense.
5. All wells and septic systems will be installed-and operated in compliance with State and local regulations, subject to any waivers which may be granted by this Board and listed in Exhibit C.
6. Affordable Units shall be constructed at the general rate that for every four (4) units for which occupancy permits are issued, one (1) of the four shall be an Affordable Unit. It is understood the homes are being grouped in clusters of six (6) and several clusters only include one (1) affordable home. It is agreed these clusters of homes (which share a well

and septic system) shall be completed and occupancy permits for all homes shall be granted.

7. Unless construction of the Project shall have commenced, this Comprehensive Permit shall expire two (2) years after the Applicant receives any and all permits, licenses, orders or approvals necessary to construct the Project as approved herein. Any request for an extension of the time as set forth herein must be made in writing to the Board at least thirty days prior to the expiration date of the Comprehensive Permit. Such extension shall not be denied unless the Applicant shall fail to establish a good cause, or fail to show continued compliance with the terms and conditions of this Determination, including funding for the Mass. Gen. Laws c. 40B Project.
8. In order to minimize disturbance in the wetland, installation of all of the wells will be done at one time, whether or not they are all brought on-line at the same time.
9. The rear land area beyond the wetlands shall remain as open space. It is agreed the allowable usage is for community gardens for the residents. The developer agrees to accept and execute easement for access to town trails or walkways as may be requested. This area shall identified with orange construction material fence to ensure that during construction contractors do not park equipment or dump materials beyond fencing. On the final construction drawings the specific area to be designated as open space and subject to this restriction shall be delineated. This condition shall be incorporated into the Condominium Documents.
10. All outstanding fees, if any, which the Applicant owes to the Town in connection with this Comprehensive Permit shall be paid in full prior to the issuance of the first building permit for any of the single family condominium units.
11. A post and rail fence, shrubbery or like barrier with signage as required by the Conservation Commission, shall be installed by the Applicant to create a barrier to the wetlands area as shown on the Project Plans. There shall be no mowing, planting, or dumping behind the barrier. This condition shall be incorporated into the Condominium Documents.
12. The proposed location of utilities shall be noted on the final construction plans.
13. The Applicant shall pay the reasonable cost of all professional consultants retained to review the Project and matters related thereto, (including fees for legal counsel) in the event the Board determines that it is necessary to retain such consultants to assist it with the ongoing review and approval of the Project including, but not limited to, review of and inspection of utility installations and road construction.
14. During construction, inspections shall be provided at such time and in such form as may be reasonably required by the Board and/or Building Inspector.
15. No obstruction shall be allowed on sidewalks. This shall be particularly important along sidewalks designated as Fireways. Said "Fireways" shall be highlighted and details for their

design depicted on the final construction documents. The Fireways shall provide emergency access to units 1, 6, 7, 8, 17, 18, 28, 29, 30. Lastly, it is agreed that these Fireways shall be kept clean at all times and shall be snow plowed in the winter months. This condition shall be incorporated into the Condominium Documents.

16. The elevation/height of structures is limited to those presented to the Board and attached as Exhibit H.
17. For fire protection purposes, there is a requirement of two (2) 30,000 gallon water cisterns to be located on the property as shown on the Project Plans. Further conditions related to the cisterns are as follows:
 - (a) Said designs shall include a means to visually determine the cisterns are full.
 - (b) No construction above the foundation on units 1 to 13 shall occur until the firefighting water cistern located by unit 5 is in place, filled with water by the contractor and passes leak tests and draft tests performed by the Bolton Fire Department.
 - (c) No construction above the foundation on units 14 to 30 shall occur until the firefighting water cistern located by unit 25 is in place, filled with water by the contractor and passes leak tests and draft tests performed by the Bolton Fire Department.
 - (d) The Bolton Fire Department shall have the right to inspect and test the cisterns at any time to ensure they are full and operational. This condition shall be incorporated into the Condominium Documents.
 - (e) The Bolton Fire Department shall be able to utilize the cisterns for fire emergencies off of the development Site providing the Fire Department replenishes the water when done. Use of the cisterns for fire emergencies within the development would remain the responsibility of the development. This condition shall be incorporated into the Condominium Documents.
18. No parking shall be allowed on the roadways.
19. A Landscape and Buffer Plan for along Sugar and abutting residence has been submitted and approved by the Board.
20. The Board suggests that the Applicant consider the Bolton Historical Commission's recommendation that the development be named "Brigham Farm".
21. No soil shall be removed from the Site except for excess topsoil.
22. All air conditioning units and compressors shall be located so that they do not face the

houses of any off-site abutting homeowners.

23. The Applicant has requested waivers, and the Board has granted, with the limitations set forth in this Determination, the waivers from local rules set forth in Exhibit C attached hereto. The Board has reviewed the plan in light of all applicable Zoning Bylaws, Board of Health Regulations and all other Town of Bolton rules, regulations and bylaws and hereby grants the waivers set forth in Exhibit C. In the event the Applicant, the Board's consulting engineer or Agent determines that additional waivers not shown on Exhibit C are necessary, these waivers shall be requested in writing for Board approval and shall be considered non substantial changes.
24. Applicant may seek to locate a sign off-site to be visible from Route 495 subject to approval from the Bolton Board of Selectmen. Said sign shall not exceed 8 feet by 16 feet and shall be allowed only during construction of the homes at the Site.

I. Monitoring

1. The Applicant shall submit Cost Certification documentation to the Subsidizing Agency within 90 days of the completion and conveyance of all homes at the development and copies shall be submitted to the Board. If the Applicant has exceeded the Limited Dividend requirements, the Applicant shall donate the excess profit above the Limited Dividend to the Town to be used in the discretion of the Board of Selectmen for the express purpose of promoting, encouraging, creating, improving or subsidizing the construction or rehabilitation affordable housing in the Town.
2. All costs of enforcement of this Limited Dividend condition, including legal fees incurred by the Board and/or the Town, shall be borne by the Applicant.

J. Regulatory Agreement

1. Prior to securing for a building permit for the Project, the Applicant shall submit to the Board a copy of a fully executed Regulatory Agreement between the Applicant and the Subsidizing Agency (DHCD) in a form mutually satisfactory to counsel for the Applicant and the Board with advice from Town Counsel, to be recorded with the Master Deed, governing the protection and administration of the affordable units covered by this Determination which shall include, without limitation, provisions to:
 - (a) DHCD shall monitor the selection of the purchasers and tenants of the affordable units in the Project, and to ensure that the affordable units continue as such in accordance with the requirements of this Determination.
 - (b) In the event of serious or repeated violations of the substantive or reporting requirements of this Agreement or a failure by the Applicant to take appropriate actions to come a default under this Agreement, the Town or the Monitoring Agent (with the prior consent of the Town) shall have the right to take appropriate enforcement action against the Applicant, including, without

limitation, legal action to compel the Applicant to comply with the requirements of this Agreement.

- (c) The Applicant shall pay all fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the Developer hereunder.
- (d) The Board of Selectmen shall be signatories of the Regulatory Agreement and have the authority to approve the provisions and restrictions to further the mutual purposes and goals of the Town and to create and preserve access to land and to provide decent and affordable homeownership opportunities for eligible families.

K. Dispute Resolution

- 1. In the event that any disputes arise pursuant to this Comprehensive Permit, prior to the Board rendering a final, formal determination and the Applicant commencing any proceedings to resolve same before either the Housing Appeals Committee or a Court of competent jurisdiction, the Board and the Applicant will participate in non-binding mediation before a mutually agreeable mediator, the cost of such mediation to be born equally by the Board and the Applicant.

L. Listing of Exhibits to Town of Bolton Zoning Board of Appeals Determination on Comprehensive Permit

Exhibit A - Deed dated October 16, 2014 property to Craftsman Village Bolton, LLC

Exhibit B - Requested Waivers to Local Regulations dated September 4, 2014

Exhibit C - Market & Affordable Specifications dated September 4, 2014

Exhibit D – Affordable Home Locations

Exhibit E – Floor Plans and Elevations of Homes.

Exhibit F – DHCD Pricing Worksheet for Affordable Homes.

Exhibit G – Building Height Elevations

VOTE

The Board, by vote of 4 to 0, adopts the foregoing Determination and hereby GRANTS the request to transfer the Comprehensive Permit and determines that the Project Revisions as shown on the Project Plans and as herein conditioned, are insubstantial changes to the Comprehensive Permit pursuant to 760 CMR 56.05(11)(a), 760 CMR 56.07(4) and Condition A.2 of the Comprehensive Permit and the Project may be constructed in accordance with the Project Plans.

The Board has complied with all statutory requirements for the issuance of this Determination.

A copy of this Determination will be filed with the Town Clerk. Copies of this Determination have been or will be mailed to all parties, persons or boards as required by the Act.

Prior to any work being undertaken pursuant to this permit, a copy of the Determination shall be recorded at the Worcester District Registry of Deeds. A copy of the Determination certified by the Registry, including recording information, shall be furnished to the Board.

RECORD OF VOTE

The following members of the Board vote to grant the request to transfer the Comprehensive Permit and determine that the Project Revisions as shown on the Project Plans and as herein conditioned, are insubstantial changes to the Comprehensive Permit pursuant to 760 CMR 56.05(11)(a) and 760 CMR 56.07(4) and Condition A.2 of the Comprehensive Permit subject to the above-stated terms:



Gerard Ahearn, Chairman



Kay Stoner



Bradley Reed



Jack Sargent

FILED WITH THE TOWN CLERK

2015 FEB 24 AM 9:03

Filed with the Town Clerk on February 25, 2015.

Pamela H. Powell

Pamela Powell, Town Clerk