EVERSOURCE ENERGY

157 Cordaville Road
Southborough, Ma 01772

November 30, 2020

Board of Selectmen
Medfield Town Hall
459 Main Street
Medfield, MA 02052

RE: Pleasant Street
Medfield, MA
W.O. #2401981

Hearing Required

Dear Members of the Board:

The enclosed petition and plan are being presented by the NSTAR ELECTRIC COMPANY d/b/a as EVERSOURCE ENERGY and VERIZON for the purpose of obtaining a Grant of Location to install one (1) new pole 18/1A.

This work is necessary to provide electric service for electric vehicle charging station located at 478 Main Street.

If you have any further questions, contact Chris Cosby @ (508) 305-6989. Your prompt attention to this matter would be greatly appreciated.

Very truly yours,

Richard M. Schifone

Richard M. Schifone
Rights and Permits, Supervisor

RMS/sky
Attachments

#2401981

PETITION OF NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY AND OTHER COMPANIES FOR JOINT OR IDENTICAL LOCATIONS FOR POLES

To the Board of Selectmen of the Town of Medfield, Massachusetts:

Respectfully represent **NSTAR ELECTRIC COMPANY dba Eversource Energy** and **VERIZON NEW ENGLAND, INC.** companies subject to Chapter 166 of the General Laws (Ter.Ed.), that they desire to construct a line upon, along and across the public way or ways hereinafter specified.

WHEREFORE, your petitioners pray that after due notice and hearing as provided by law the **Board of Selectmen** may by Order grant your petitioners joint or identical locations for the erection or construction of poles, to be owned and used in common by them, and for such other fixtures including anchors and guys as may be necessary to sustain or protect the wires of the line, said poles to be located, substantially as shown on the plans made by **A. Debenedictis dated October 3, 2020** and filled herewith, upon along and across the following public way or ways of said town:

Pleasant Street – Southwesterly side, approximately 150± feet southeast of Main Street

Install one (1) new pole 18/1A

Hearing Required

Also, for permission to lay and maintain underground laterals, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes. Your petitioners agree to reserve space for one Crossarm at a suitable point upon each of said poles for the telephone, fire and police signal wires owned by the town and used for municipal purposes.

NSTAR ELECTRIC COMPANY
dba EVERSOURCE ENERGY

By: Richard M. Schifone
Richard M. Schifone
Rights and Permits, Supervisor

VERIZON NEW ENGLAND INC.

By: Albert E. Bessette
Albert E. Bessette, Manager
Verizon Right of Way

Dated this _____day of _____2020

Town of MEDFIELD, Massachusetts

Received and filed _____2020

#2401981

ORDER FOR JOINT OR IDENTICAL LOCATIONS FOR POLES
Town of MEDFIELD, Massachusetts

WHEREAS, NSTAR **ELECTRIC COMPANY dba EVERSOURCE ENERGY** and **VERIZON NEW ENGLAND, INC.** have petitioned for joint or identical locations for the erection or construction of poles to be owned and used in common by them upon, along and across the public way or ways of the town hereinafter specified, and notice has been given and a hearing held on said petition as provided by law.

It is ORDERED that **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** and **VERIZON NEW ENGLAND, INC.** be and hereby are granted joint or identical locations for the erection or construction of poles, to be owned and used in common by them, and for such other fixtures including anchors and guys as may be necessary to sustain or protect the wires of the line upon, along and across the following public way or ways of said town:

Pleasant Street – Southwesterly side, approximately 150± feet southeast of Main Street

Install one (1) new pole 18/1A

Hearing Required

All construction work under this Order shall be in accordance with the following conditions: Poles shall be of sound timber and located as shown on plans made by **A. Debenedictis dated October 3, 2020** on file with said petition. There may be attached to said poles by said **NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY** and by said **VERIZON NEW ENGLAND, INC.** wires and cables necessary for the conduct of their business. All such wires and cables shall be placed at a height of not less than eighteen feet from the ground at crossings of other ways and at not less than fourteen feet from the ground elsewhere

_____ Selectmen of
_____ the town of
_____ **MEDFIELD**

CERTIFICATE

We hereby certify that the foregoing Order was adopted after due notice and a public hearing as prescribed by Section 22 of Chapter 166 of the General Laws (Ter.Ed.), and any additions thereto or amendments thereof, to wit: after written notice of the time and place of the hearing mailed at least seven days prior to the date of the hearing by the Selectmen to all owners of real estate abutting upon that part of the way or ways upon, along or across which the line is to be constructed under said Order, as determined by the last preceding assessment for taxation, and a public hearing held at _____in said town on _____day of _____, 2020 at _____P.M.

_____ Selectmen of
_____ the town of
_____ **MEDFIELD**

CERTIFICATE

I hereby certify that the foregoing are true copies of the Order of the Board of Selectmen of the town of MEDFIELD Massachusetts, duly adopted on the _____day of _____2020, and recorded with records of location Orders said town, Book_____, Page _____and of the certificate of notice of hearing thereon required by Section 22 of Chapter 166 of the General Laws (Ter.Ed.), and any additions thereto or amendments thereof, as the same appear of record.

Attest: _____
Clerk of the Town of **MEDFIELD**, Massachusetts

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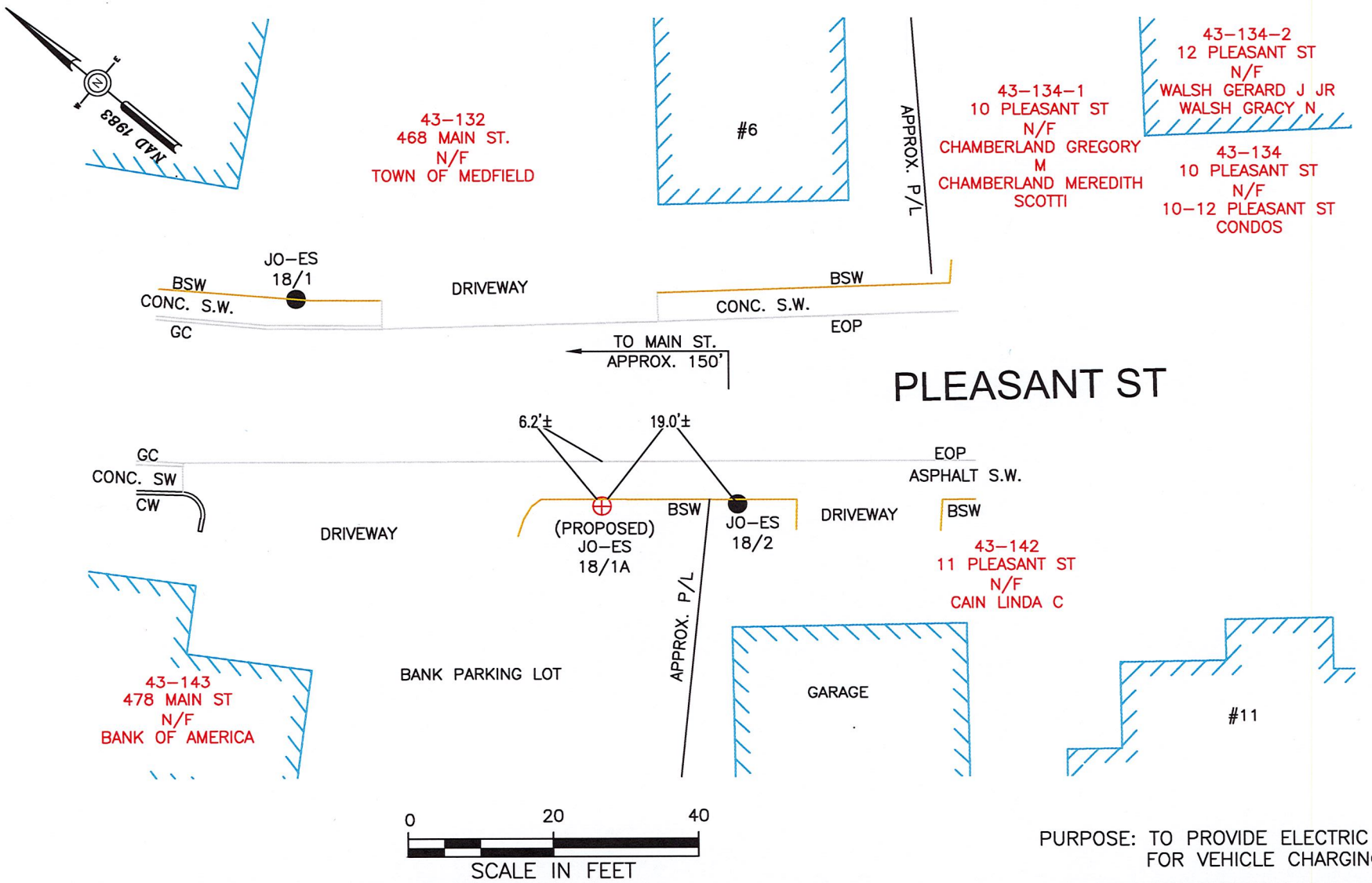


PURPOSE: TO PROVIDE ELECTRIC SERVICE FOR VEHICLE CHARGING STATION

Proposed pole locations shown thus	⊕
Pole locations to be abandoned, shown thus	○
Proposed Anchor Guy shown thus	⊤
Proposed Hip Guy shown thus	⊤⊔
Proposed Underground location shown thus	———
Proposed Push Brace shown thus	⊕
Existing Pole location shown thus	●

C#	
Ward #	
Work Order # 2401981	
Surveyed by: GR/JF	
Research by: JC	
Plotted by: JF	
Proposed Structures: TL	
Approved: A DEBENEDICTIS	
P#	

NSTAR ELECTRIC d/b/a EVERSOURCE
1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125

Plan of PLEASANT ST.(#478 MAIN ST.), MEDFIELD

Showing PROPOSED POLE LOCATION

Scale 1"=20' Date OCTOBER 03, 2020

SHEET 1 of 1

Legal N

SEL/478 MAIN ST.
LEGAL NOTICE

In conformity with the requirements of Section 22 of Chapter 166 of the General Laws, the Medfield Board of Selectmen will hold a public hearing virtually via zoom on Tuesday January 5, 2021 at 7:00 PM upon petition of NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY and VERIZON. The purpose of the hearing is to obtain a Grant of Location to install one (1) new pole 18/1A. This work is necessary to provide electric service for electric vehicle charging station located at 478 Main Street. All Town Boards and interested parties will be given an opportunity to speak at this hearing.

Osler L. Peterson,
Chairman
Board of Selectmen

AD#13929434
The Press 12/11, 12/18/20

Resolution of Medfield Energy Committee (MEC) regarding Medfield State Hospital Optimal Energy Redevelopment

(incorporating changes as passed by MEC-MSH Subcommittee 12/5/2019)

Our small Massachusetts town is facing a very large challenge: the re-development of the 90 acres known as the old Medfield State Hospital property (MSH):

> **"The ... plan calls for redevelopment and new construction spanning 661,000 square feet of building space amongst forty-four existing and new buildings... Twenty-eight buildings are slated for historic rehabilitation and reuse using historic tax credits. Sixteen new buildings would be erected, including cottage-style homes ..., a new nursing and memory care facility, and two new market rate residential condominium buildings..." "The preferred reuse plan is balanced and features a mix of housing types, commercial spaces, restaurants, small business offices and services..." (from Medfield State Hospital Strategic Reuse Master Plan, 2018)**

Back in the 1890s, Medfield State Hospital was developed as a novel, model complex. Today, the property can again be developed using the best thinking of its time, and become a model of environmental responsibility.

MEC requests that the Development Committee ask the Board of Selectmen to include language in the RFP's Town Goals to insure the complex is redeveloped to be as carbon-responsible / energy-efficient as possible. Methods, feasibility, and costs of constructing and reconstructing to zero-carbon or carbon-negative standards have come a long way in the last couple of years, and will continue to do so. As this new development will stand for many decades, it is incumbent that we in this generation minimize carbon impact for the next. We therefore resolve that the most aggressive possible standards be applied as the project proceeds.

We appreciate the offers from Eversource and their team and resources to work with Town of Medfield to help with this process (see below) . Appropriate RFQ/RFP language will be needed to achieve the goals.

MEC would like to see the following set as goals:

Passive House (PH) standard, or better, for all applicable categories of new construction.

Passive House equivalent, or minimal EUI, or aggressive Home Energy Rating Standards (HERS), or better, for categories not applicable to PH, to maximize energy efficiency.

No fossil-fuels.

In addition, as feasible:

Ground-source heat pump -- evaluate the site for individual wells or district system.

Photovoltaic arrays -- develop plan for rooftop, carport options; perhaps community solar installation. Evaluate combination of solar and battery storage. Leverage MA SMART program.

Microgrid -- evaluate the site for microgrid potential.

Medfield State Hospital Redevelopment RFP

Energy Efficiency/Sustainability Language Additions

Section #: Development Guidelines

The Development Guidelines presented in this section reflect the development objectives to ensure the redevelopment plan will meet the needs of the Town.

#.# Preferred Objectives

- To create a development that recognizes the importance of energy efficient, resilient, and sustainable design to the Town and future residents of the project.
- To create a development that significantly contributes to the Commonwealth's goal to reduce greenhouse gas emissions and achieve carbon neutrality, and specifically acknowledges the importance of eliminating dependence on fossil fuels to do so.

Section #: Developer Submission Requirements

#.# Sustainability Requirements and Desired Outcomes

This section includes sustainability requirements and desired outcomes for the development. The Selected Developer shall commit to delivering all the requirements and as many of the desired outcomes as can be included within the scope of work, then shall report on compliance with these requirements throughout design, construction, and operation. The Development Team is encouraged to achieve or exceed requirements through proven, low-complexity, low-maintenance, and low-risk design solutions that reflect consideration of the climate impact of both operational and embodied carbon. The package submitted by the Development Team should highlight how the project will comply with all of the sustainability requirements and what additional sustainability features will be integrated to achieve the Town's desired outcomes.

REQUIREMENTS:

1) Energy Performance Thresholds

The package submitted should highlight the energy efficiency strategies that will be employed at every building to achieve the ***Energy Performance Thresholds*** outlined below for each building typology (or major space use type for mixed-use buildings).

Renewable energy production and/or purchased Massachusetts renewable energy credits (REC's) cannot be used to achieve the ***Energy Performance Thresholds*** outlined below. Historic buildings are an exception to this requirement and are

allowed to meet their target with on-site renewable energy production assuming that all historically allowable energy conservation and load reduction measures are fully vetted and implemented first, as these will play the largest role in ensuring utility expense affordability for building residents/tenants.

See Appendix # for energy performance verification requirements.

Energy Performance Thresholds:[1]

- New Construction: Residential Townhome – 25 kBtu/gsf per year
- New Construction: Residential Midrise Multifamily – 35 kBtu/gsf per year
- New Construction: Retail (non-refrigerated, non-restaurant) – 35 kBtu/gsf per year
- New Construction: Other (entertainment, public assembly, education, office) - 35 kBtu/gsf
- Historic Rehabilitation[2]: Residential – TBD
- Historic Rehabilitation: Retail – TBD
- Historic Rehabilitation: Other - TBD

2) Green Building Certification

The Development Team is required to pursue Passive House certification through either Passive House Institute US (PHIUS) or the Passivhaus Institut (PHI) for one (1) new construction multifamily midrise building, and encouraged to pursue certifications for other buildings of representative types on site.

3) Fossil Fuel Use Reduction

The Development team must highlight how the building design and construction approach will result in a development that has eliminated fossil fuel use. Justify exceptions, to the extent the Development Team considers certain high-performance building enclosures non-attainable.

4) Electric Vehicle Charging Infrastructure

The Development team shall equip 25% of the total parking spaces to be EVSE-installed with Level 2 chargers and the remaining 75% of the total spaces to be EV-Ready for future installation of Level 2 chargers.

[1] The units of energy metrics outlined in the Energy Performance Targets above are thousand British thermal units per gross square foot (kBtu/gsf) per year of total building area as measured at the site.

[2] The Energy Performance Thresholds for the historic buildings are being developed utilizing an energy modeling process that considers anticipated historic tax credit restrictions/limitations. It is expected that we will be able to provide the Energy Performance Thresholds metrics for historic buildings in January 2021.

DESIRED OUTCOMES:

1) Energy Performance Targets

In addition to meeting the required *Energy Performance Thresholds* outlined above, we encourage Development Teams to strive to improve building performance to meet the below *Energy Performance Targets*.

Energy Performance Targets

- New Construction: Residential Townhome – 18 kBtu/gsf per year
- New Construction: Residential Midrise Multifamily – 25 kBtu/sf per year
- New Construction: Retail (non-refrigerated, non-restaurant) – 25 kBtu/gsf per year
- Historic Rehabilitation: Residential[3] – TBD
- Historic Rehabilitation: Commercial - TBD
- Energy Performance Targets

2) Site-Based Energy Production

The RFP response should highlight the Development Team's approach to development-level integration of high-performance and low carbon energy generation. Systems such as ground source heat pump, district-level energy production and distribution systems/microgrids, renewable energy, and energy storage systems should be considered and evaluated in the proposal.

3) Net Zero Carbon Site

We encourage the Development Team to pursue a goal of net zero carbon emissions annually for the site. We recommend that the Team achieve this goal through integration of aggressive energy conservation measures and renewable energy production. If it is determined that it is not feasible to achieve this goal based on the energy production capacity on site, team's may integrated the use of Massachusetts Class 1 Renewable Energy Credits (RECs) as a final measure to achieve this outcome.

4) Green Building Certification

[3] The Energy Performance Targets for historic buildings are being developed utilizing an energy modeling process that considers anticipated historic tax credit restrictions/limitations. It is expected that we will be able to provide the Energy Performance Targets metrics for historic buildings in January 2021.

The Development Team is encouraged to pursue Passive House certification for all of the residential new construction buildings on site.

Additionally, the Development Team is encouraged to utilize as a design guideline and pursue a certification under a comprehensive green building program for all buildings on site under one of the following rating systems. The level of certification targeted should be highlighted in the submission package.

- USGBC's LEED Rating Systems (as appropriate per building type)
- Enterprise Green Communities (for buildings with a minimum of 50% affordable housing only)
- ILFI's Living Building Challenge

5) Electric Vehicle Charging Infrastructure

We encourage the Development team to equip greater than 25% of the total parking spaces to be EVSE-installed with Level 2 chargers.

Section #: Minimum Evaluation Criteria

Bullets below can be modified to represent "Very Advantageous", "Advantageous", "Non-Advantageous", and "Unacceptable" thresholds. For the purpose of this text, all narrative is phrased as appropriate for the "Very Advantageous" threshold.

- **Developer Qualifications**
  - Members of the Development Team have significant and measurable experience with designing, financing, and constructing high performance/ energy efficient buildings, renewable energy systems, and district energy systems, including within the context of historic rehabilitation.

- **Greenhouse Gas Emissions Reduction**
  - The Development Team has comprehensively addressed mitigation of the negative impact of the greenhouse gas production of buildings on site through the design/construction approach proposed, which includes application of both high performance and comprehensive energy efficiency measures and renewable energy production.
  - The Development Team has comprehensively addressed mitigation of non-building related greenhouse gas emissions through integration of electric vehicle charging stations, bicycle storage and sharing infrastructure, and alternative modes of access to public transit and required amenities in town.

- **Sustainable Design and Operations**
  - The Development Team has comprehensively and holistically incorporated sustainability approaches into the proposed development plan, and is

targeting high levels of green building program certification for all buildings on site.
    - The Development Team has identified how the buildings/site will be operated and maintained to ensure continued high performance beyond the required 5-year reporting period. Consideration has been given to anticipated ownership structures and how to influence long term performance given those assumptions.

- **Resilient Design and Operations**
    - The Development Team has comprehensively investigated and identified resiliency risks and vulnerabilities (i.e. flooding, heat, power outages, etc.) at the site and has proposed a design and operations approach that protects people and property through design and operations-based interventions.

Appendix #: Energy Performance Verification Requirements

To ensure achievement of the **Energy Performance Targets** during design and construction, the Development Team will be required to deliver whole-building energy models that accurately reflect the designed and as-built condition of each building when the project is requesting building permits and Certificates of Occupancy, respectively. The design and as-built energy models shall assume that leasable tenant spaces are designed and operated according to the assumptions agreed upon during the planning phase of the project, unless the tenant is identified during design in which case the tenant space is required to meet the same targets. The Development Team shall deliver a report indicating that the performance targets have been achieved.

To ensure achievement of the above referenced energy intensity requirements during operation, the Town of Medfield will require the Development Team to execute a measurement and verification (M&V) plan that will include, at minimum:

a. Installation and commissioning of whole-building energy metering for all utilities. This should include master meters on main feed to buildings that contain residential units and other tenant spaces to enable easy acquisition of energy and water use data at the building level.
b. Provide an automated electronic system that aggregates energy meter data to a central data repository for the site. The data repository shall track, at minimum, site-based energy performance by building (measured in kBtu/gsf) on an ongoing basis ('live') for a minimum period of 5 years. The annual data collection period will begin after initial commissioning and once the building is at least 70% occupied, but shall not start more than 4 months after project completion. The building operator will be responsible for tracking occupancy and other changes to building use that may affect energy use.
c. Provide a report detailing the building performance and compliance with the **Energy Performance Thresholds** to the Town of Medfield on an annual basis, which will be made available through the Town and on the Developer's site-specific, publicly available website.

FALL 2020
SURVEY #1 RESULTS

The survey was conducted through Survey Monkey. We publicized the survey in the Hometown Weekly, The Press, on Patch, via Facebook, and in the Medfield Insider.

DEMOGRAPHICS

- 504 Surveys Completed
  - Really great response!
  - Diverse respondents
  - 75% of the respondents have lived in Medfield more than 10 years.
  - 70% of the respondents are women
  - 63% of the respondents are 45 or older

SURVEY RESULTS

We asked "Should the Town of Medfield build buildings that have high energy efficiency performance and prefer builders/developers who would do the same? This would lead the town to build a highly efficient "net zero" elementary school and encourage builders/developers to build using "passive house" standards for new construction and high energy efficiency for renovations, in projects such as State Hospital Development." (Q5). See graphic at end.

95% responded favorably.

- 41% of respondents chose "Yes, in all circumstances because not adding greenhouse gases to our environment is critical at this time."
- 54% of respondents chose "Yes, if the costs are not prohibitive and a reasonable payback of any additional investment can be achieved over the life of the building."

We asked "The State of Massachusetts has committed to a goal of Net Zero Emissions by 2050, which will help Massachusetts address the climate crisis by reducing carbon emissions. This will require changes in our local community. Which of the following best describes your position towards Medfield adopting its own goals and committing to develop a plan by November 2021 to proactively meet the state's 2050 goal? (Q4)

- 72% - “I support Medfield adopting climate goals and developing a plan (just as Acton, Arlington, Ashland, Cambridge, Lexington and many other MA towns have already done.)
- 17% - “I am supportive of working to address the climate crisis, but I need more information about why it is important for Medfield to adopt a goal and a plan now.

We asked for agreement with the following statements. (Q3)

a) The climate crisis poses a serious threat for people around the world.
- 79% completely agree
- 14% somewhat agree

b) The climate crisis is something that will affect my family in Medfield.
- 52% completely agree
- 32% somewhat agree

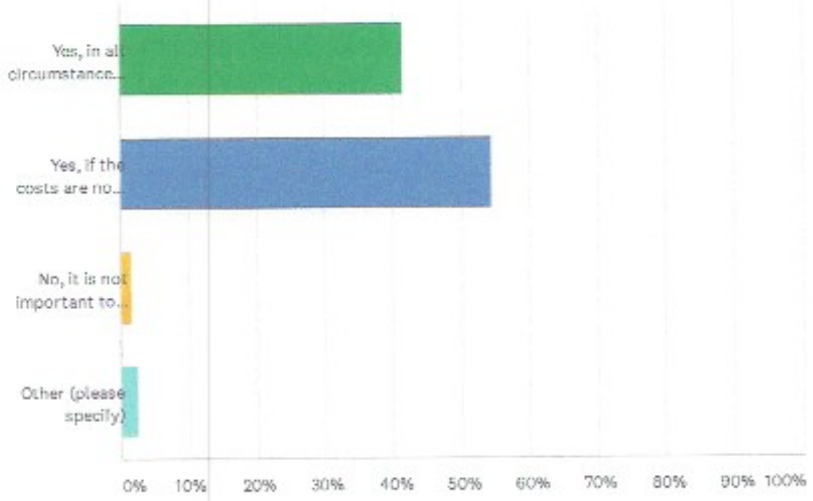
c) I am ready to take steps at home to tackle the climate crisis.
- 60% completely agree
- 28% somewhat agree

d) I will support and encourage my local government in making policies that address the climate crisis.
- 71% completely agree
- 19% somewhat agree

We asked “Climate crisis is a term describing global warming and climate change, and their consequences. Globally, 19 of the 20 warmest years on record have occurred since 2001 (Sources: NASA.gov and IPCC). Increased flooding, wildfires, and severe storms are just some of the direct results of a warming Earth. Do you believe we are facing a Climate Crisis? (Q2)
- 43% - Yes, due to human activities
- 51% - Yes, due to both human activities AND natural cycles and causes

Q5 Should the Town of Medfield build buildings that have high energy efficiency performance and prefer builders/developers who would do the same? This would lead the town to build a highly efficient "net zero" elementary school and encourage builders/developers to build using "passive house" standards for new construction and high energy efficiency for renovations, in projects such as the State Hospital Development.

Answered: 403 Skipped: 101



ANSWER CHOICES	RESPONSES	
Yes, in all circumstances because not adding greenhouse gases to our environment is critical at this time.	41.44%	167
Yes, if the costs are not prohibitive and a reasonable payback of any additional investment can be achieved over the life of the building.	54.34%	219
No, it is not important to reduce the use of fossil fuels and generation of greenhouse gases by building with energy efficiency in mind.	1.74%	7
Other (please specify)	2.48%	10
TOTAL		403

This question has only 403 respondents because it was added mid-survey.

REGULATORY AND USE AGREEMENT
[Comprehensive Permit Rental]

LOCAL INITIATIVE PROGRAM

This Regulatory and Use Agreement (this "Agreement") is made this ___ day of December, 20___, by and among the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development ("DHCD") pursuant to G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007, the Town of Medfield (the "Municipality"), and Laneco LLC, a Massachusetts limited liability company, having a mailing address at 40 Van Brunt Avenue, Dedham, MA 02026, and its successors and assigns ("Developer").

RECITALS

WHEREAS, the Developer is constructing a housing development known as "Aura at Medfield" at an approximately 4.5-acre site located at 50 Peter Kristof Way in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Development"); and

WHEREAS, DHCD has promulgated Regulations at 760 CMR 56.00 (as may be amended from time to time, the "Regulations") relating to the issuance of comprehensive permits under Chapter 40B, Sections 20-23, of the Massachusetts General Laws (as may be amended from time to time, the "Act") and pursuant thereto has issued its Comprehensive Permit Guidelines (the "Guidelines" and, collectively with the Regulations and the Act, the "Comprehensive Permit Rules"); and

WHEREAS, pursuant to the Act and the final report of the Special Legislative Commission Relative to Low and Moderate Income Housing Provisions issued in April 1989, regulations have been promulgated at the Regulations which establish the Local Initiative Program ("LIP"); and

WHEREAS, DHCD acts as Subsidizing Agency for the Development pursuant to the Comprehensive Permit Rules; and

WHEREAS, said Board of Appeals issued a comprehensive permit for the Development by decision filed with the Municipality's Town Clerk on May 8, 2020 which was recorded in the Norfolk_ County Registry of Deeds (the "Registry") in Book 37935, Page 584 ("the Comprehensive Permit"); and

WHEREAS, pursuant to the Comprehensive Permit and the requirements of the Comprehensive Permit Rules, the Development is to consist of a total of 56 rental units, of which twenty five percent (25%) (i.e. 14 units) (the "Affordable Units") will be rented to Low or Moderate Income Persons and Families (as defined herein) at rentals specified in this Agreement and will be subject to this Agreement; and

WHEREAS, DHCD has adopted the *Preparation of Cost Certification for 40B Rental Developments: Inter-Agency 40B Rental Cost Certification Guidance for Owners, Certified Public Accountants and Municipalities* (the "Cost Certification Guidance"), which shall govern the cost certification and limited dividend requirements for the Development pursuant to the Comprehensive Permit Rules; and

WHEREAS, the parties intend that this Agreement shall serve as a "Use Restriction" as defined in and required by Section 56.05(13) of the Regulations; and

WHEREAS, the parties recognize that Affirmative Fair Marketing (as defined herein) is an important precondition for rental of Affordable Units and that local preference cannot be granted in a manner which results in a violation of applicable fair housing laws, regulations and subsidy programs; and.

WHEREAS, the parties recognize that the Municipality has an interest in preserving affordability of the Affordable Units and may offer valuable services in administration, monitoring and enforcement.

NOW, THEREFORE, in consideration of the agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DHCD, the Municipality and the Developer hereby agree as follows:

DEFINITIONS

1. In addition to terms defined elsewhere in this Agreement, the following terms as used in this Agreement shall have the meanings set forth below:

Accountant's Annual Determination shall have the meaning given such term in Section 7(f) hereof.

Accumulated Distribution Amounts shall have the meaning given such term in Section 7(c) hereof.

Accumulated and Unpaid Distribution Amounts shall have the meaning given such term in Section 7(c) hereof.

Act shall have the meaning given such term in the Recitals hereof.

Affirmative Fair Housing Marketing Plan shall mean the Affirmative Fair Housing Marketing Plan prepared by the Developer in accordance with the Guidelines and approved by DHCD, as further set forth in Section 3.

Affordable Units shall have the meaning set forth in the Recitals above.

Allowable Development Costs shall have the meaning given such term in Section 21 hereof.

Annual Excess Revenues shall have the meaning given such term in Section 7(e) hereof.

Annual Income shall be determined in the manner set forth in 24 C.F.R. 5609 (or any successor regulations).

Area shall mean the Boston-Cambridge-Quincy Metropolitan Statistical Area (MSA)/County/HMFA as designated by the Department of Housing and Urban Development ("HUD").

Area Median Income ("AMI") shall mean the median gross income for the Area, as determined from time to time by HUD. For purposes of determining whether Adjusted Family Income qualifies a tenant for treatment as a Low or Moderate Income Tenant, the Area Median Income shall be adjusted for family size.

Comprehensive Permit shall have the meaning given such term in the Recitals hereof.

Comprehensive Permit Rules shall have the meaning given such term in the Recitals hereof.

Construction Lender shall mean the lender(s) making the Construction Loan, and its successors and assigns.

Construction Loan shall mean the loan to the Developer for the construction of the Development, if any.

Construction Mortgage shall mean the mortgage from the Developer securing the Construction Loan, if any.

Cost Certification shall have the meaning given such term in Section 21 hereof.

Current Distribution Amounts shall have the meaning given such term in Section 7(c) hereof.

Developer's Equity shall be calculated according to the formulas outlined in Attachment C of the Cost Certification Guidance, using the Cost Method until the Cost Certification process is complete, and either the Cost Method or the Value Method, whichever results in the greater amount, thereafter. Developer's Equity shall be retroactively applied to the period from the start date (commencement of construction of the Development as evidenced by issuance of the first building permit) until Substantial Completion (the "Construction Period"). For the Construction Period, Developer's Equity shall mean the average of costs expended by the Developer on the Development during the period in question, based on a review of Developer's financial reports by an independent accounting firm. By way of example only, if on the first day of construction the Developer's costs are $10,000,000 (all attributable to land acquisition costs), and one year later the Developer's costs are $20,000,000 (half attributable to land acquisition costs, half attributable to construction costs), then the Developer's Equity for that year of construction would be the average of those two amounts of $15,000,000. The Developer's Equity for the construction period shall be appropriately prorated for any partial year during such period.

Developer Parties shall have the meaning given such term in Section 7(b) hereof.

Development shall have the meaning given such term in the Recitals hereof.

Development Revenues shall have the meaning given such term in Section 7(b) hereof..

Distribution Payments shall have the meaning given such term in Section 7(b) hereof.

Event of Default shall mean a default in the observance of any covenant under this Agreement existing after the expiration of any applicable notice and cure periods.

Excess Revenues Account shall mean the account established under Section 7(e) hereof.

Family shall have the same meaning as set forth in 24 C.F.R. §5.403 (or any successor regulations).

Guidelines shall have the meaning given such term in the Recitals hereof.

Housing Subsidy Program shall mean any other state or federal housing subsidy program providing rental or other subsidy to the Development or to Low or Moderate Income Tenants.

HUD shall mean the United States Department of Housing and Urban Development.

Lender shall mean the Construction Lender and/or the Permanent Lender.

Low or Moderate Income Persons or Families shall mean persons or Families whose Annual Incomes do not exceed eighty percent (80%) of the Median Income for the Area, and shall also mean persons or Families meeting such lower income requirements as may be required under the Comprehensive Permit.

Low or Moderate Income Tenants shall mean Low or Moderate Income Persons or Families who occupy the Affordable Units.

Maximum Annual Distributable Amounts shall have the meaning given such term in Section 7(c) hereof.

Mortgage shall mean the Construction Mortgage and/or the Permanent Mortgage, if any.

Permanent Lender shall mean the lender(s) making the Permanent Loan to the Developer, and its successors and assigns, if any.

Permanent Loan shall mean the Permanent Loan which may be made or committed to be made by the Permanent Lender to the Developer after completion of construction of the Development, which will replace the Construction Loan, or any subsequent refinancing thereof, if any.

Permanent Mortgage shall mean the mortgage from the Developer to the Permanent Lender securing the Permanent Loan, if any.

Regulations shall have the meaning given such term in the Recitals hereof.

Related Person: shall mean a person whose relationship to such other person is such that (i) the relationship between such persons would result in a disallowance of losses under Section 267 or 707(b) of the Code, or (ii) such persons are members of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears therein).

Substantial Completion shall have the meaning given such term in Section 21 hereof.

Surety shall have the meaning given such term in Section 22 hereof.

Tenant Selection Plan shall mean the Tenant Selection Plan, prepared by the Developer in accordance with the Guidelines and approved by DHCD, with such changes thereto provided that any substantive changes have been approved by the DHCD.

Term shall have the meaning set forth in Section 24 hereof.

CONSTRUCTION OBLIGATIONS

2. (a) The Developer agrees to construct the Development in accordance with plans and specifications approved by the Municipality (the "Plans and Specifications") and in accordance with all on-site and off-site construction, design and land use conditions of the Comprehensive Permit. All Affordable Units to be constructed as part of the Development must be similar in exterior appearance to other units in the Development and shall be evenly dispersed throughout the Development. In addition, all Affordable Units must contain complete living facilities including but not limited to a stove, kitchen cabinets, plumbing fixtures, and sanitary facilities, all as more fully shown in the Plans and Specifications. Materials used for the interiors of the Affordable Units must be of good quality. The Development must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for persons with disabilities. Except to the extent that the Development is exempted from such compliance by the Comprehensive Permit, the Development must also comply with all applicable local codes, ordinances and by-laws.

(b) The Developer shall provide to the Municipality evidence that the final plans and specifications for the Development comply with the requirements of the Comprehensive Permit and that the Development was built substantially in accordance with such plans and specifications.

(c) Unless the same shall be modified by a change to the Comprehensive Permit approved by the Board of Appeals for the Municipality, the bedroom mix for the Development shall be as follows:

6 of the Affordable Units shall be one bedroom units;
5 of the Affordable Units shall be two bedroom units; and
3 of the Affordable Units shall be three bedroom units.

All Affordable Units to be occupied by families must contain two or more bedrooms. Affordable Units must have the following minimum areas:

one bedroom units - 700 square feet
two bedroom units - 900 square feet
three bedroom units - 1200 square feet

USE RESTRICTION/RENTALS AND RENTS

3. (a) The Developer shall rent the Affordable Units during the Term hereof to Low or Moderate Income Persons or Families upon the terms and conditions set forth in the Comprehensive Permit and this Agreement. In fulfilling the foregoing requirement, Developer will accept referrals of tenants from the Public Housing Authority in the Municipality, and will not unreasonably refuse occupancy to any prospective tenants so referred who otherwise meet the requirements of the Tenant Selection Plan. The foregoing provisions shall not relieve Developer of any obligations it may have under the provisions of other documents and instruments it has entered with respect to any applicable Housing Subsidy Program; provided, however, DHCD shall have no obligation hereunder, expressed or implied, to monitor or enforce the applicable requirements of any such Housing Subsidy Programs.

(b) The annual rental expense for each Affordable Unit (equal to the gross rent plus allowances for all tenant-paid utilities, including tenant-paid heat, hot water and electricity) shall not exceed thirty percent (30%) of eighty percent (80%) of AMI, adjusted for household size, assuming that household size shall be equal to the number of bedrooms in the Affordable Unit plus one. If rentals of the Affordable Units are subsidized under any Housing Subsidy Program, then the rent applicable to the Affordable Units may be limited to that permitted by such Housing Subsidy Program, provided that the tenant's share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

(c) If, after initial occupancy, the income of a tenant of an Affordable Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as an Affordable Unit in conformance with Section 3(a) of this Agreement, or otherwise demonstrates compliance with Section 3(a) of this Agreement.

(d) If, after initial occupancy, the income of a tenant in an Affordable Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Rentals for the Affordable Units shall be initially established as shown on the Rental Schedule attached as Appendix A hereto. Thereafter, the Developer shall annually submit to the Municipality and DHCD a proposed schedule of monthly rents and utility allowances for all Affordable Units in the Development. It is understood that such review rights shall be with respect to the maximum rents for all the Affordable Units, and not with respect to the rents that may be paid by individual tenants in any given unit. Rents for the Affordable Units shall not be increased above such maximum monthly rents without DHCD's prior approval of either (i) a specific request by the Developer for a rent increase; or (ii) the next annual schedule of rents and allowances as set forth in the preceding sentence. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days' prior written notice by the Developer to all affected tenants. If an annual request for a new schedule of rents for the Affordable Units as set forth above is based on a change in the AMI figures published by HUD, and the Municipality and DHCD fail to respond to such a submission within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Municipality and DHCD shall be deemed to have approved the submission. If an annual request for a new schedule of rents for the Affordable Units is made for any other reason, and the Municipality and DHCD fail to respond within thirty (30) days of the Municipality's and DHCD's receipt thereof, the Developer may send DHCD and the Municipality a notice of reminder, and if the Municipality and DHCD fail to respond within thirty (30) days from receipt of such notice of reminder, the Municipality and DHCD shall be deemed to have approved the submission.

Without limiting the foregoing, the Developer may request a rent increase for the Affordable Units to reflect an increase in the AMI published by HUD between the date of this Agreement and the date that the Units begin to be marketed or otherwise made available for rental pursuant to subsections 3 (h) and (i) below; if the Municipality and DHCD approve such rent increase in accordance with this subsection (e), the Rental Schedule attached as Appendix A hereto shall be deemed to be modified accordingly.

(f) Developer shall obtain income certifications satisfactory in form and manner to DHCD at least annually for all Low or Moderate-Income Tenants. Said income certifications shall be kept by the management agent for the Development and made available to DHCD and the Municipality upon request.

(g) Throughout the term of this Agreement, the Municipality shall annually certify in writing to DHCD that each of the Affordable Units continues to be an Affordable Unit as provided in Section 2(c), above; and that the Development and the Affordable Units have been maintained in a manner consistent with the Comprehensive Permit and this Agreement.

(h) Prior to marketing or otherwise making available for rental any of the units in the Development, the Developer shall submit an Affirmative Fair Housing Marketing Plan (also known as an "AFHM Plan") for DHCD's approval. At a minimum the AFHM Plan shall meet the requirements of the Guidelines, as the same may be amended from time to time to comply with the requirements of fair housing laws. The AFHM Plan, upon approval by DHCD, shall become a part of this Agreement and shall have the same force and effect as if set out in full in this Agreement. At the option of the Municipality, and provided that the AFHM Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or

ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the AFHM Plan may also include a preference for local residents for up to seventy percent (70%) of the Affordable Units, subject to all provisions of the Regulations and Guidelines and applicable to the initial rent-up only. When submitted to DHCD for approval, the AFHM Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the AFHM Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the AFHM Plan which are set forth as responsibilities of the Municipality in the AFHM Plan. If the Chief Executive Office of the Municipality fails to approve the tenant selection and local preference (if any) aspects of the AFHM Plan for the Affordable Units above within thirty (30) days of the Municipality's receipt thereof, the Municipality shall be deemed to have approved those aspects of the AFHM Plan. In addition, if the Development is located in the Boston-Cambridge-Quincy MSA/HMFA/County, Developer must list all Affordable Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center). The Developer agrees to maintain for at least five years following the initial lease-up of the Development a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts as described in the AFHM Plan as approved by DHCD which may be inspected at any time by DHCD.

(i) The AFHM Plan shall designate entities to implement the plan who are qualified to perform their duties. DHCD may require that another entity be found if DHCD finds that the entity designated by the Developer is not qualified. Moreover, DHCD may require the removal of an entity responsible for a duty under the AFHM Plan if that entity does not meet its obligations under the AFHM Plan.

(j) The restrictions contained herein are intended to be construed as an affordable housing restriction as defined in Section 31 of Chapter 184 of Massachusetts General Laws which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law but rather shall run for the Term hereof. In addition, this Agreement is intended to be superior to the lien of any mortgage on the Development and survive any foreclosure or exercise of any remedies thereunder and the Developer agrees to obtain any prior lienholder consent with respect thereto as DHCD shall require.

TENANT SELECTION AND OCCUPANCY

4. Developer shall use its good faith efforts during the Term of this Agreement to maintain all the Affordable Units within the Development at full occupancy as set forth in Section 2 hereof. In marketing and renting the Affordable Units, the Developer shall comply with the Tenant Selection Plan and Affirmative Fair Housing Marketing Plan which are incorporated herein by reference with the same force and effect as if set out in this Agreement.

5. Occupancy agreements for Affordable Units shall meet the requirements of the Comprehensive Permit Rules, this Agreement, and the Local Initiative Program. The Developer

shall enter into a lease with each tenant for a minimum term of one year. The lease shall contain clauses, among others, wherein each resident of such Affordable Unit:

(a) certifies the accuracy of the statements made in the application and income survey;

(b) agrees that the family income, family composition and other eligibility requirements, shall be deemed substantial and material obligations of his or her occupancy; that he or she will comply promptly with all requests for information with respect thereto from Developer, the Municipality, or DHCD; and that his or her failure or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her occupancy; and

(c) agrees that at such time as Developer, the Municipality, or DHCD may direct, but at least annually, he or she will furnish to Developer certification of then current family income, with such documentation as the Municipality or DHCD shall reasonably require; and agrees to such charges as the Municipality or DHCD has previously approved for any facilities and/or services which may be furnished by Developer or others to such resident upon his or her request, in addition to the facilities included in the rentals, as amended from time to time pursuant to Section 3 above.

6. Omitted

LIMITED DIVIDENDS

7. (a) The Developer covenants and agrees that Distribution Payments made in any fiscal year of the Development shall not exceed the Maximum Annual Distributable Amounts for such fiscal year. No Distribution Payments may be made if an Event of Default has occurred, which shall include but not be limited to failure to maintain the Development in good physical condition in accordance with Section 8 hereof.

(b) For the purposes hereof, the term "Distribution Payments" shall mean all amounts paid from revenues, income and other receipts of the Development, not including any amounts payable in respect of capital contributions paid by any members or partners of the Developer or any loan proceeds payable to the Developer (herein called "Development Revenues") which are paid to any partner, manager, member or any other Related Person of the Developer (collectively, the "Developer Parties") as profit, income, or fees or other expenses which are unrelated to the operation of the Development or which are in excess of fees and expenses which would be incurred from persons providing similar services who are not Developer Parties and provide such services on an arms-length basis.

(c) For the purposes hereof, the "Maximum Annual Distributable Amounts" for any particular fiscal year shall be defined and determined as follows: the sum of

(i) an amount equal to ten percent (10%) of the "Developer's Equity" for such fiscal year , subject to adjustment as provided in (d) below (the "Current Distribution Amounts"); plus

(ii) the amount of all Accumulated and Unpaid Distributions calculated as of the first day of such fiscal year.

In no event shall the total Maximum Annual Distributable Amounts actually distributed for any given year exceed total funds available for distribution after all current and owed-to-date expenses have been paid and reserves, then due and owing, have been funded.

"Accumulated and Unpaid Distribution Amounts" shall be the aggregate of the Current Distribution Amounts calculated for all prior fiscal years less the Distribution Payments ("Accumulated Distribution Amounts") calculated for each such fiscal year together with simple interest ("Accrued Interest") resulting from such calculation in all prior years computed at five percent (5%) per annum. For the purposes of this calculation, it is assumed any amounts available for distribution in any year shall be fully disbursed.

(d) When using the Value-Based Approach, the Developer's Equity may be adjusted not more than once in any five year period with the first five - year period commencing with the first fiscal year of the Development. Any adjustments shall be made only upon the written request of the Developer and, unless the Developer is otherwise directed by DHCD, shall be based upon an appraisal commissioned by (and naming as a client) DHCD and prepared by an independent and qualified appraiser prequalified by, and randomly assigned to the Development by DHCD. The appraiser shall submit a Self-Contained Appraisal Report to DHCD in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP). The costs of such appraisal shall be borne by the Developer. Such appraisal shall be based on the so-called "investment value" methodology, using assumptions subject to the reasonable approval of DHCD.

Upon completion of an appraisal as provided above, the Developer's Equity shall be adjusted to equal the appraised value of the Development as determined by the appraisal less the unpaid principal amount of the sum of secured debt on the Development plus public equity, whether structured as a grant or loan determined as of the date of the appraisal. Such new Developer's Equity shall be the Developer's Equity commencing with the first day of the month following the date of such appraisal and stay in effect until a subsequent adjustment.

(e) If at the end of any fiscal year, any Development Revenues for such fiscal year shall remain and are in excess of the Maximum Annual Distributable Amounts for such fiscal year, such amount (the "Annual Excess Revenues") , other than those which may be required by any Lender to remain at the Development as a reserve to pay the expenses of the Development, shall be deposited in an escrow account with the Lender (or if the Loan is paid off, in an escrow account to be established to the satisfaction of DHCD) designated as the "Excess Revenues Account." No distributions may be made to the Developer from the Excess Revenues Account except those permitted pursuant to this Section (e) with the prior written consent of DHCD.

Upon Developer's request, amounts may also be withdrawn from the Excess Revenues Account during the Term hereof and applied for the following purposes: (i) payment of or adequate reserve for all sums due or currently required to be paid under the terms of the Mortgage; (ii) payment of or adequate reserve for all reasonable and necessary operating expenses of the Development as reasonably determined by the Developer; (iii) deposit of all amounts as may be deposited in a reserve fund for capital replacements reasonably determined by the Developer to be sufficient to meet anticipated capital needs of the Development (the "Replacement Reserve") which may be held by a lending institution reasonably acceptable to DHCD and which reserves may be used for capital expenditures for the Development reasonably determined to be necessary by the Developer; (iv) payments of operating expense loans made by the partners, managers or members of Developer for Development expenses, provided that Developer shall have obtained prior written approval for such loans from the applicable Lender (or, if there is no mortgage, or after discharge of the Mortgage, from the DHCD) and shall have supplied the applicable Lender (or DHCD) with such evidence as the applicable Lender (or DHCD, as applicable) may reasonably request as to the application of the proceeds of such operating expense loans to Development; or (v) for any other purposes, subject to a determination by the Lender (or, if there is no Mortgage, or the Mortgage is discharged during the Term of this Agreement, the reasonable determination by DHCD) that the expenditure is necessary to address the Development's physical or financial needs and that no other Development reserve funds are available to address such needs. Notwithstanding the foregoing, payment of the items set forth in clauses (i), (ii), (iii) and (v) above by the Developer shall be subject to the prior written approval of DHCD, which approval shall not be unreasonably withheld or delayed; it being agreed by DHCD that if the Developer can demonstrate that its proposed operating expenditures, capital expenditures and reserves are substantially consistent with those made for comparable developments in the Commonwealth of Massachusetts, DHCD shall approve such request. Further, in no event shall such review or approval be required by DHCD to the extent any such capital expenditures or reserves are mandated by Lender.

Further, DHCD agrees that it shall not unreasonably withhold or delay its consent to release of any amounts held in the Excess Revenues Account, upon the written request of the Developer that:

(i) provide a direct and material benefit to Low or Moderate Tenants; or

(ii) reduce rentals to Low or Moderate Tenants.

In the event that DHCD's approval is requested pursuant to this Section 7(e) for expenditures out of the Excess Revenues Account, and DHCD fails to respond within thirty (30) days of DHCD receipt thereof, then DHCD shall be deemed to have approved the request, and DHCD shall have no further rights to object to, or place conditions upon, the same.

In any event, cash available for distribution in any year in excess of 20% of Developer's Equity, subject to payment of Accumulated and Unpaid Distributions, shall be distributed to the Municipality within fifteen (15) business days of notice and demand given by DHCD as

provided herein, or as otherwise directed by DHCD. Upon the expiration of the "Limited Dividend Term" as that term is defined in Section 24(b) hereof, any balance remaining in the Excess Revenues Account shall be contributed by the Developer to the Replacement Reserve held for the Development if deemed necessary by DHCD, and otherwise shall be paid to the Developer.

(f) The Developer shall provide DHCD for each fiscal year with a copy of its audited financial statements, and provide the DHCD with a certificate from the independent certified public accountant (the "CPA") who prepared such reports which certifies as to their determination (the "Accountant's Annual Determination") of the following for such fiscal year, based on the terms and conditions hereof:

(i) Accumulated Distribution Amounts;

(ii) Current Distribution Amounts;

(iii) Maximum Annual Distributable Amounts;

(iv) Annual Excess Revenues;

(v) Accumulated and Unpaid Distribution Amounts (including a calculation of Accumulated Distribution Amounts and Accrued Interest); and

(vi) Development Revenues.

Such Accountant's Annual Determination shall be accompanied by a form completed by the CPA and by a Certificate of Developer in forms as reasonably required by DHCD certifying under penalties of perjury as to the matters such as, without limitation, the fact that (i) the Developer has made available all necessary financial records and related data to the CPA who made such Accountant's Annual Determination, (ii) there are no material transactions related to the Development that have not been properly recorded in the accounting records underlying the Accountant's Annual Determination, (iii) the Developer has no knowledge of any fraud or suspected fraud affecting the entity involving management, subcontractors, employees who have significant roles in internal control, or others where the fraud could have a material effect on the Accountant's Annual Determination and has no knowledge of any allegations of fraud or suspected fraud affecting the Developer or the Development received in communications from employees, former employees, subcontractors, regulators, or others, and (iv) the Developer has reviewed the information presented in the Accountant's Annual Determination and believes that such determination is an appropriate representation of the Development.

(g) DHCD shall have sixty (60) days after the delivery of the Accountant's Annual Determination to accept it, to make its objections in writing to the Developer and the Developer's CPA, or to request from the Developer and/or CPA additional information regarding it. If DHCD does not object to it or request additional information with respect to it, it shall have been deemed accepted by the DHCD. If DHCD shall request additional information, then the Developer shall provide DHCD with such additional information as promptly as possible and

DHCD shall have an additional thirty (30) days thereafter to review such information and either accept or raise objections to such Accountant's Annual Determination. If no such objections are made within such thirty day (30) period, the Accountant's Annual Determination shall be deemed accepted by DHCD. Prior to acceptance of the Accountant's Annual Determination, DHCD shall deliver a copy of the Accountant's Annual Determination to the Municipality with DHCD's determination of the Developer's compliance with the Comprehensive Permit Rules. The Municipality shall have the option of evaluating the report for accuracy (e.g., absence of material errors), applying the same standards as set forth herein, for a period of 30 days after receipt. Such thirty (30) day period may be extended upon the written request of the Municipality to DHCD, which request shall not be unreasonably withheld. DHCD will reasonably review any inaccuracies identified by the Municipality during this period and shall thereafter either accept or raise objections to the Accountant's Annual Determination as provided above.

To the extent that DHCD shall raise any objections to such Accountant's Annual Determination as provided above, then the Developer and DHCD shall consult in good faith and seek to resolve such objections within an additional thirty (30) day period. If any objections are not resolved during such period, then DHCD may enforce the provisions under this Section by the exercise of any remedies it may have under this Agreement.

(h) If upon the approval of an Accountant's Annual Determination as provided above, such Accountant's Annual Determination shall show that the Distribution Payments for such fiscal year shall be in excess of the Maximum Annual Distributable Amounts for such fiscal year, then upon thirty (30) days written notice from DHCD, the Developer shall cause such excess to be deposited in the Excess Revenue Account from sources other than Development Revenues to the extent not otherwise required by Lender to remain with the Development as provided in subsection (e) above.

If such Accountant's Annual Determination as approved shall show that there are Annual Excess Revenues for such fiscal year which have not been distributed, such amounts shall be applied as provided in subsection (e) above within thirty (30) days after the approval of the Accountant's Annual Determination as set forth in subsection (g) above.

(i) Notwithstanding anything to the contrary contained in this Agreement, a distribution resulting from the proceeds of a sale or refinancing of the Development shall not be regulated by this Agreement. A sale or refinancing shall not result in a new evaluation of Developer's Equity.

(j) Payment of fees and profits from capital sources for the initial development of the Development to the Developer and/or the Developer's related party consultants, partners and legal or beneficial owners of the Development shall (unless otherwise limited by DHCD) **be limited** to no more than that amount resulting from the calculation in Attachment B, Step 3 ("Calculation of Maximum Allowable 40B Developer Fee and Overhead") of the Cost Certification Guidance (the "Maximum Allowable Developer Fee")**.** The Maximum Allowable Developer Fee **shall not include fees or profits paid to any other party, whether or not related to the Developer, to the extent the same are arm's length and**

commercially reasonable in light of the size and complexity of the Development. The Developer shall comply with the requirements of Section 21 below regarding Cost Certification in accordance with the requirements of 760 CMR 56.04(8) (e), in the event that DHCD determines, following examination of the Cost Certification submitted by the Developer pursuant to Section 21 below, that amounts were paid or distributed by the Developer in excess of the above limitations (the "Excess Distributions"), the Developer shall pay over in full such Excess Distributions to the Municipality within fifteen (15) business days of notice and demand given by DHCD as provided herein.

(k) The Municipality agrees that upon the receipt by the Municipality of any cash available for distribution pursuant to subsection (e) above or upon the receipt of any Excess Distributions pursuant to subsection (j) above, the Municipality shall deposit any and all such monies into an affordable housing fund, if one exists in the Municipality, and otherwise into a fund established pursuant to G.L. c.44 §53A (collectively, an "Affordable Housing Fund") to be used by the Municipality for the purpose of reducing the cost to persons or families of low or moderate income to rent or purchase housing in the Municipality, or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing in the Municipality for persons and families of low and moderate income. The expenditure of funds from the Affordable Housing Fund shall be reported on an annual basis to DHCD.

MANAGEMENT OF THE DEVELOPMENT

8. Developer shall maintain the Development in good physical condition in accordance with DHCD's requirements and standards and the requirements and standards of the Lender ordinary wear and tear and casualty excepted. Developer shall provide for the management of the Development in a manner that is consistent with accepted practices and industry standards for the management of multi-family market rate rental housing. Notwithstanding the foregoing, DHCD shall have no obligation hereunder, expressed or implied, to monitor or enforce any such standards or requirements and, further, DHCD has not reviewed nor approved the Plans and Specifications for compliance with federal, state or local codes or other laws.

CHANGE IN COMPOSITION OF DEVELOPER ENTITY; RESTRICTIONS ON TRANSFERS

9. (a) Except for rental of Units to Low or Moderate Income Tenants as permitted by the terms of this Agreement, the Developer will not sell, transfer, lease, or exchange the Development or any portion thereof or interest therein (collectively, a "Sale") or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of DHCD and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Developer's obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;

- A certification from the Municipality that the Development is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless DHCD or the Municipality notifies the Developer in writing within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or
- The Development is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Developer shall provide DHCD and the Municipality with thirty (30) day's prior written notice of the following:

(i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or

(ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).

(iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of Developer's interest in the Development or any party of the Development.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company,

any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, DHCD's consent under this Section 9 shall not be required with respect to the grant by the Developer of any mortgage or other security interest in or with respect to the Development to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Development by deed in lieu of foreclosure), subject, however to the provisions of Section 25 hereof.

Developer hereby agrees that it shall provide copies of any and all written notices received by Developer from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Omitted.

BOOKS AND RECORDS

11. All records, accounts, books, tenant lists, applications, waiting lists, documents, and contracts relating to the Developer's compliance with the requirements of this Agreement shall at all times be kept separate and identifiable from any other business of Developer which is unrelated to the Development, and shall be maintained, as required by applicable regulations and/or guidelines issued by DHCD from time to time, in a reasonable condition for proper audit and subject to examination during business hours by representatives of DHCD or the Municipality. Failure to keep such books and accounts and/or make them available to the DHCD or the Municipality will be an Event of Default hereunder if such failure is not cured to the satisfaction of the DHCD within thirty (30) days after the giving of notice to the Developer. The Developer agrees to comply and to cause the Development to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders.

12. Within ninety (90) days following the end of each fiscal year of the Development, Developer shall furnish DHCD with a complete annual financial report for the Development based upon an examination of the books and records of Developer containing a detailed, itemized statement of all income and expenditures, prepared and certified by a certified public accountant in accordance with the reasonable requirements of DHCD which include: (i) financial statements submitted in a format acceptable to DHCD; (ii) the financial report on an accrual basis and in conformity with generally accepted accounting principles applied on a consistent basis; and (iii) amounts available for distribution under Section 7 above. A duly authorized agent of Developer must approve such submission in writing. The provisions of this paragraph may be waived or modified by DHCD.

FINANCIAL STATEMENTS AND OCCUPANCY REPORTS

13. At the request of DHCD or the Municipality, Developer shall furnish financial statements and occupancy reports and shall give specific answers to questions upon which information is reasonably desired from time to time relative to the ownership and operation of the Development as it pertains to the Developer's compliance with the requirements of this Agreement.

NO CHANGE OF DEVELOPMENT'S USE

14. Except to the extent permitted in connection with a change to the Comprehensive Permit approved in accordance with the Regulations or as set forth in Section 28 below, Developer shall not, without prior written approval of DHCD and the Municipality and an amendment to the Agreement, change the type or number of Affordable Units. Developer shall not permit the use of the dwelling accommodations of the Development for any purpose except residences and any other use permitted by the Comprehensive Permit;

NO DISCRIMINATION

15. (a) There shall be no discrimination upon the basis of race, color, creed, religious creed, national origin, sex, sexual orientation, age, ancestry, disability, or marital status or any other basis prohibited by law in the lease, use, or occupancy of the Development (provided that if the Development qualifies as elderly housing under applicable state and federal law, occupancy may be restricted to the elderly in accordance with said laws) or in connection with the employment or application for employment of persons for the operation and management of the Development.

(b) There shall be full compliance with the provisions of all state or local laws prohibiting discrimination in housing on the basis of race, creed, color, religion, disability, sex, sexual orientation, national origin, age, familial status, or any other basis prohibited by law and providing for nondiscrimination and equal opportunity in housing, including without limitation in the implementation of any local preference established under the Comprehensive Permit. Failure or refusal to comply with any such provisions shall be a proper basis for the Municipality or DHCD to take any corrective action it may deem necessary.

DEFAULTS; REMEDIES

16. (a) If any default, violation, or breach of any provision of this Agreement by the Developer is not cured to the satisfaction of the DHCD within thirty (30) days after the giving of notice to the Developer as provided herein, then at DHCD's option, and without further notice, the DHCD may either terminate this Agreement, or DHCD may apply to any state or federal court for specific performance of this Agreement, or DHCD may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct noncompliance with this Agreement. If any default, violation, or breach of any provision of this Agreement by the Municipality is not cured to the satisfaction or DHCD within thirty (30) days after the giving of notice to the Municipality as provided herein, then DHCD may either terminate this Agreement or may apply to any state or federal court for specific performance of this Agreement, or may exercise any other remedy at law or in equity or take any other action as may be necessary to correct noncompliance with this Agreement. The thirty (30) day cure periods set forth in this paragraph shall be extended for such period of time as may be necessary to cure such a default so long as the Developer or the Municipality, as the case may be, is diligently prosecuting such a cure.

(b) If DHCD elects to terminate this Agreement as the result of an uncured breach, violation, or default hereof, then whether the Affordable Units continue to be included in the Subsidized Housing Inventory maintained by DHCD for purposes of the Act shall from the date of such termination be determined solely by DHCD according to the rules and regulations then in effect.

(c) In the event DHCD brings an action to enforce this Restriction and prevails in any such action, DHCD shall be entitled to recover from the Developer all of DHCD's reasonable costs of an action for such enforcement of this Restriction, including reasonable attorneys' fees.

(d) The Developer hereby grants to DHCD or its designee the right to enter upon the Development for the purpose of enforcing the terms of this Agreement or to prevent, remedy or abate any violation of this Agreement.

MONITORING AGENT; FEES; SUCCESSOR SUBSIDIZING AGENCY

17. DHCD intends to monitor the Developer's compliance with the requirements of this Agreement. The Developer hereby agrees to pay DHCD fees for its services hereunder, as set forth on Appendix B hereto, initially in the amounts and on the dates therein provided, and hereby grants to DHCD a security interest in Development Revenues as security for the payment of such fees subject to the lien of the Mortgage and this Agreement shall constitute a security interest with respect thereto.

18. DHCD shall have the right to engage a third party (the "Monitoring Agent") to monitor compliance with all or a portion of the ongoing requirements of this Agreement. In carrying out its obligations as a Monitoring Agent, the third party shall apply and adhere to the standards and policies of DHCD related to the administrative responsibilities of Subsidizing

Agencies. DHCD shall notify the Developer and the Municipality in the event DHCD engages a Monitoring Agent, and in such event (i) as partial compensation for providing these services, the Developer hereby agrees to pay to the Monitoring Agent an annual monitoring fee in an amount reasonably determined by DHCD, payable within thirty (30) days of the end of each fiscal year of the Developer during the Limited Dividend Term as defined in Section 24(b) below, but not in excess of the amounts as shown on Appendix D hereto and any fees payable under Section 17 hereof shall be net of such fees payable to a Monitoring Agent; and (ii) the Developer hereby agrees that the Monitoring Agent shall have the same rights, and be owed the same duties, as DHCD under this Agreement, and shall act on behalf of DHCD hereunder, to the extent that DHCD delegates its rights and duties by written agreement with the Monitoring Agent.

19. The Municipality shall have the right to engage a third party (the "Affordability Monitoring Agent") to monitor compliance with all or a portion of the ongoing affordability requirements of this Agreement which Municipality is responsible for overseeing hereunder. In carrying out its obligations as an Affordability Monitoring Agent, the third party shall apply and adhere to the standards and policies of DHCD related to the administrative responsibilities of Subsidizing Agencies. The Municipality shall notify the Developer and DHCD in the event the Municipality engages an Affordability Monitoring Agent, and in such event (i) as partial compensation for providing these services, the Developer hereby agrees to pay to the Affordability Monitoring Agent an annual monitoring fee in an amount reasonably agreed upon by the Municipality and the Developer, payable within thirty (30) days of the end of each fiscal year of the Developer; and (ii) the Developer hereby agrees that the Affordability Monitoring Agent shall have the same rights, and be owed the same duties, as the Municipality under this Agreement, and shall act on behalf of the Municipality hereunder, to the extent that the Municipality delegates its rights and duties by written agreement with the Affordability Monitoring Agent.

CONSTRUCTION AND FINAL COST CERTIFICATION

20. The Developer shall provide to the Municipality evidence that the final plans and specifications for the Development comply with the requirements of the Comprehensive Permit and that the Development was built substantially in accordance with such plans and specifications.

21. Upon Substantial Completion, the Developer shall provide the Municipality with a certificate of the architect for the Development in the form of a "Certificate of Substantial Completion" (AIA Form G704) or such other form of completion certificate acceptable to the Municipality.

In addition, within ninety (90) days after Substantial Completion, the Developer shall provide DHCD with its Cost Certification for the Development.

As used herein, the term "Substantial Completion" shall mean the time when the construction of the Development is sufficiently complete so that all of the units may be occupied and amenities may be used for their intended purpose, except for designated punch list items and seasonal work which does not interfere with the residential use of the Development.

For the purposes hereof the term "Cost Certification" shall mean the determination by the DHCD of the aggregate amount of all Development Costs as a result of its review and approval of: (i) an itemized statement of Total Development Costs together with a statement of gross income from the Development received by the Developer to date in the format provided in the Cost Certification Guidance (the "Cost Examination"). The Cost Certification must be examined in accordance with the attestation standards of the American Institute of Certified Public Accountants (AICPA) by an independent certified public accountant (CPA) and (ii) an owner's and/or general contractor's certificate, as provided in the Cost Certification Guidance, executed by the Developer and/or general contractor under penalties of perjury, which identifies the amount of the Construction Contract, the amount of any approved Change Orders, including a listing of such Change Orders, and any amounts due to subcontractors and/or suppliers. "Allowable Development Costs" shall mean any hard costs or soft costs paid or incurred with respect to Development as determined by and in accordance with the Guidelines.

Prior to acceptance of the Cost Certification, DHCD shall deliver a copy of the Cost Certification to the Municipality with DHCD's determination of the Developer's compliance with the Comprehensive Permit Rules. The Municipality shall have the option of evaluating the report for accuracy (e.g., absence of material errors), applying the same standards as set forth herein, for a period of 30 days after receipt. Such thirty (30) day period may be extended upon the written request of the Municipality to DHCD, which request shall not be unreasonably withheld. DHCD will reasonably review any inaccuracies identified by the Municipality during this period and shall thereafter either accept or raise objections to the Cost Certification as provided in Section (g) above.

22. In order to ensure that the Developer shall complete the Cost Certification as required by Section 21 hereof, the Developer has provided DHCD herewith adequate financial surety (the "Surety") provided through a letter of credit, bond or cash payment in the amounts and in accordance with the Comprehensive Permit Rules and in a form approved by DHCD. If DHCD shall determine that the Developer has failed in its obligation to provide Cost Certification as described above, DHCD may draw on such Surety in order to pay the costs of completing Cost Certification.

23. Omitted.

TERM

24. (a) This Agreement shall bind, and the benefits shall inure to, respectively, Developer and its successors and assigns, and DHCD and its successors and assigns and the Municipality and its successors and assigns, in perpetuity, except as provided in Section 24(b) below, (the "Term"). Upon expiration of the Term, this Agreement and the rights and obligations of the parties hereunder shall automatically terminate without the need of any party executing any additional document.

(b) Notwithstanding subsection (a) above, the provisions of Section 7(a)–(i) herein ("Limited Dividends") shall bind, and the benefits shall inure to, respectively, Developer

and its successors and assigns, and DHCD and its successors and assigns, and the Municipality and its successors and assigns until the date which is fifteen (15) years from the date of this Agreement (the "Limited Dividend Term.").

LENDER FORECLOSURE

25. The rights and restrictions contained in this Agreement shall not lapse if the Development is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Development.

INDEMNIFICATION/LIMITATION ON LIABILITY

26. The Developer, for itself and its successors and assigns, agrees to indemnify and hold harmless DHCD and the Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against DHCD or the Municipality by reason of its relationship to the Development under this Agreement to the extent the same is attributable to the acts or omissions of the Developer and does not involve the negligent acts or omissions of DHCD or the Municipality.

27. DHCD and the Municipality shall not be held liable for any action taken or omitted under this Agreement so long as they shall have acted in good faith and without gross negligence.

28. Notwithstanding anything in this Agreement to the contrary, upon the occurrence of any breach or default by the Developer hereunder, DHCD will look solely to the Developer's interest in the Development for the satisfaction of any judgment against the Developer or for the performance of any obligation of the Developer hereunder. Further, no officer, partner, manager, member, agent or employee shall have any personal liability hereunder.

CASUALTY

29. Subject to the rights of the Lender, Developer agrees that if the Development, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer shall have the right, but not the obligation, to repair and restore the Development to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Development in accordance with the terms of this Agreement. Notwithstanding the foregoing, in the event of a casualty in which some but not all of the buildings in the Development are destroyed, if such destroyed buildings are not restored by Developer, Developer shall be required to maintain the same percentage of Affordable Units of the total number of units in the Development.

DEVELOPER'S REPRESENTATIONS AND WARRANTIES

30. The Developer hereby represents and warrants as follows:

(a) The Developer (i) is a Massachusetts limited liability company, qualified to transact business under, the laws of the Commonwealth of Massachusetts, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Development is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Development free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, and any other documents executed in connection with the Construction Loan, or other encumbrances permitted by DHCD).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

MISCELLANEOUS CONTRACT PROVISIONS

31. This Agreement may not be modified or amended except with the written consent of DHCD or its successors and assigns, the Municipality or its successor and assigns, and Developer or its successors and assigns.

32. Developer warrants that it has not, and will not, execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that, in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict therewith.

33. The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

34. Any titles or captions contained in this Agreement are for reference only and shall not be deemed a part of this Agreement or play any role in the construction or interpretation hereof.

35. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons.

36. The terms and conditions of this Agreement have been freely accepted by the parties. The provisions and restrictions contained herein exist to further the mutual purposes and goals of DHCD, the Municipality and the Developer set forth herein to create and preserve access to land and to decent and affordable rental housing opportunities for eligible families who are often denied such opportunities for lack of financial resources.

NOTICES

37. Any notice or other communication in connection with this Agreement shall be in writing and (i) deposited in the United States mail, postage prepaid, by registered or certified mail, or (ii) hand delivered by any commercially recognized courier service or overnight delivery service, such as Federal Express, or (iii) sent by facsimile transmission if a fax number is designated below, addressed as follows:

If to the Developer:

Laneco LLC
40 Brunt Avenue_____
Dedham, MA 02026_____
Attention: William Lane, Jr.
Fax: (781) 461-2971

If to DHCD:

Department of Housing and Community Development
100 Cambridge St., Suite 300
Boston, MA 02114
Attention: Director of Local Initiative Program
Fax: 617-573-1330

If to the Municipality:

Town House_____
459 Main Street
Medfield
Attention: Town Administrator
Fax: 508.359.6182

Any such addressee may change its address for such notices to any other address in the United States as such addressee shall have specified by written notice given as set forth above.

A notice shall be deemed to have been given, delivered and received upon the earliest of: (i) if sent by certified or registered mail, on the date of actual receipt (or tender of delivery and refusal thereof) as evidenced by the return receipt; or (ii) if hand delivered by such courier or overnight delivery service, when so delivered or tendered for delivery during customary business hours on a business day at the specified address; or (iii) if facsimile transmission is a permitted means of giving notice, upon receipt as evidenced by confirmation. Notice shall not be deemed to be defective with respect to the recipient thereof for failure of receipt by any other party.

RECORDING

38. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded or filed with the Registry, and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to DHCD and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

GOVERNING LAW

39. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

DELEGATION BY DHCD

40. DHCD may delegate its compliance and enforcement obligations under this Agreement to a third party, if the third party meets standards established by DHCD, by providing written notice of such delegation to the Developer and the Municipality. In carrying out the compliance and enforcement obligations of DHCD under this Agreement, such third party shall apply and adhere to the pertinent standards of DHCD.

IN WITNESS WHEREOF, the parties have caused these presents to be signed and sealed by their respective, duly authorized representatives, as of the day and year first written above.

DEVELOPER:

_____

By: _____

By:_____
Its

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AS SUBSIDIZING AGENCY AS AFORESAID

By:_____
Its:

MUNICIPALITY:

TOWN OF MEDFIELD

By:_____
Its:

Attachments:

Exhibit A – Legal Description
Appendix A – Rent Schedule
Appendix B – Fees Payable to DHCD

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, ss.

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ of _____ [Developer], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

_____
Notary Public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY, ss.

On this _____ day of _____, 20___, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as _____ for the Commonwealth of Massachusetts acting by and through the Department of Housing and Community Development, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

_____
Notary Public
Print Name:
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____,ss.

On this _____ day of _____, 2010, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document, as the Town Manager for the City/Town of _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

_____
Notary Public
Print Name:
My Commission Expires:

CONSENT AND SUBORDINATION OF MORTGAGE TO REGULATORY AGREEMENT

Reference is hereby made to a certain Mortgage a dated June 17, 2020 given by Laneco, LLC to Rockland Federal Credit Union with a principal place of business at 241 Union Street, Rockland, MA 02370 recorded with the Norfolk Registry of Deeds at Book 37989 , Page 409 ("Mortgage").

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

Witness my hand and seal this 26th day of October, 2020

Rockland Federal Credit Union

By: _____
Thomas C. White, President

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF PLYMOUTH ,ss.

On this 26TH day of October , 2020, before me, the undersigned notary public, personally appeared Thomas C. White , who is personally known to me, signed this document, as President of Rockland Federal Credit Union , and acknowledged to me that he signed it voluntarily for its stated purpose.

_____
Notary Public
Print Name: Heidi J Chandler
My Commission Expires: 10/18/2024

HEIDI J CHANDLER
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
October 18, 2024

EXHIBIT A

LEGAL DESCRIPTION

See Metes and Bound Description Attached

LEGAL DESCRIPTION

50 PETER KRISTOFF WAY

THE LAND IN MEDFIELD, NORFOLK COUNTY, MASSACHUSETTS BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE SOUTHERLY CORNER OF THE PROPERTY ON THE NORTHERLY SIDELINE OF PETER KRISTOFF WAY, SAID POINT BEING AN IRON PIPE TO BE SET, THENCE;

RUNNING ALONG THE NORTHERLY SIDELINE OF PETER KRISTOFF WAY S 89°-01'-17" W, FOR A DISTANCE OF 1.68 FEET TO A POINT OF CURVATURE, THENCE;

RUNNING ALONG THE NORTHERLY SIDELINE OF PETER KRISTOFF WAY ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 170.00 FEET, FOR A DISTANCE OF 159.39 FEET TO A POINT OF TANGENCY, THENCE;

RUNNING ALONG THE NORTHERLY SIDELINE OF PETER KRISTOFF WAY N 37°-15'-28" W, FOR A DISTANCE OF 207.57 FEET TO A POINT OF CURVATURE, THENCE;

RUNNING ALONG THE NORTHERLY CORNER ROUNDING OF PETER KRISTOFF WAY AND WEST STREET ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 40.00 FEET, FOR A DISTANCE OF 61.57 FEET TO A POINT OF COMPOUND CURVATURE, THENCE;

RUNNING ALONG THE SOUTHEASTERLY SIDELINE OF WEST STREET ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 3,600.00 FEET, FOR A DISTANCE OF 211.99 FEET TO A POINT OF TANGENCY, THENCE;

RUNNING ALONG THE SOUTHEASTERLY SIDELINE OF WEST STREET N 54°-19'-22" E, FOR A DISTANCE OF APPROXIMATELY 352 FEET TO A POINT AT THE CENTERLINE OF TURTLE BROOK, THENCE;

TURNING AND RUNNING ALONG THE CENTERLINE OF TURTLE BROOK FOR A DISTANCE OF APPROXIMATELY 290 FEET; THENCE;

TURNING AND RUNNING S 41°-33'-30" W, FOR A DISTANCE OF APPROXIMATELY 146 FEET TO A POINT, THENCE;

TURNING AND RUNNING S 45°-01'-58" W, FOR A DISTANCE OF 53.50 FEET TO A POINT, THENCE;

TURNING AND RUNNING S 42°-52'-08" W, FOR A DISTANCE OF 331.31 FEET TO THE POINT OF BEGINNING.

MEANING AND INTENDING TO DESCRIBE THE PROPERTY BOUNDARIES OF THE LAND KNOWN AS 50 PETER KRISTOFF WAY.

APPENDIX A
RENT SCHEDULE (INITIAL)

Re: Aura at Medfield
(Development name)
Medfield MA
(City/Town)
Laneco LLC
(Developer)

Initial Maximum Rents and Utility Allowances for Low and Moderate Income Units

	Rents	Utility Allowances
Studio Units	NA	NA
One-bedroom Units	$1,804	$0
Two-bedroom Units	$2,166	$0
Three-bedroom Units	$2,503	$0
Four-bedroom Units	NA	NA

APPENDIX B

FEES PAYABLE TO DHCD

During the term of this Agreement, the Developer shall pay to DHCD a Monitoring Fee of $30.00 per month for each Affordable Unit (14 units) with a maximum annual fee of $4,000.00. The Developer shall make each such payment to DHCD within ten (10) days of the end of the calendar year.

Rockland
FEDERAL CREDIT UNION
Serving generations - our legacy, our future.

IRREVOCABLE STANDBY LETTER OF CREDIT

November 13, 2020

Department of Housing and
Community Development
100 Cambridge Street, Suite 300
Boston, Massachusetts 02114

Re: Laneco, LLC Medfield, MA

Dear DHCD:

Rockland Federal Credit Union, with a principal place of business at 241 Union Street, Rockland, MA 02370 (the Credit Union") hereby establishes an **Irrevocable Standby Letter of Credit** in favor of the Department of Housing and Community Development ("DHCD") for the account of **Laneco, LLC** for a sum or sums not exceeding in all Seventy Five Thousand Dollars ($75,000.00) available by your drawing(s) at SIGHT on us accompanied by your signed statement reading as follows:

1. **Laneco, LLC** has failed to submit a cost examination to DHCD in accordance with the Comprehensive Permit Regulations, 760 CMR 56.00, *et seq.*, and DHCD's Comprehensive Permit Guidelines (collectively, the "Comprehensive Permit Rules"); or

2. DHCD has determined not to approved the cost examination or any revised cost examination, as the case may be, in DHCD's reasonable discretion in accordance with the Comprehensive Rules; or

3. **Laneco, LLC** has failed to distribute any excess funds in accordance with the Regulatory Agreement and the Comprehensive Permit Rules.

SPECIAL CONDITIONS

1. The Standby Letter of Credit shall remain irrevocable and in effect until DHCD has accepted the final cost certification and, if there are any funds in excess of the maximum profit limitation allowed to the developer, they have been distributed in accordance with the terms of the Regulatory Agreement.

2. Each drawing hereunder must be marked "Drawn under Rockland Federal Credit Union Standby Letter of Credit dated November 13, 2020",

DHCD drawing(s) presented hereunder and in compliance with the terms of this Standby Letter of Credit will be duly honored by us on delivery of documents as specified, if presented at this office on or before a period two years and six months following substantial completion of the project as defined in Section 4(c) of the Regulatory Agreement, unless released in whole or in part by DHCD, in writing, prior thereto. In the event that DHCD has not accepted the final cost certification by this date, this Standby Letter of Credit shall renew, upon request of **Laneco, LLC** and/or DHCD, for successive one-year terms until such time as DHCD provides notification that said cost certification has been accepted.

All Credit Union charges are for the account of **Laneco, LLC**.

The Standby Letter of Credit is subject to the uniform customs and practice for documentary credits (2007 Revision) International Chamber of Commerce Publication No. 600.

Rockland Federal Credit Union

By:_____
Thomas C. White
President

Rockland
FEDERAL CREDIT UNION
Serving generations - our legacy, our future.

November 13, 2020

RE: Laneco, LLC Medfield, MA

I agree that Rockland Federal Credit Union will hold funds in the amount of $75,000 under Laneco, LLC pursuant to the Irrevocable Standby Letter of Credit dated November 13, 2020.

_____ _____

Laneco, LLC Date

_____ _____

Edward M. Coolbrith Date

_____ _____

William D. Lane, Jr. Date

Informational

TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 906-3027
(508) 359- 6182 Fax

No. 1393

October 8, 2020

Decision of the Board of Appeals on the petition of: Open Spaces Builders/David MacCready

Property Owned by: LCB Medfield, LLC

Location of Property: 353-355 Main Street

Norfolk County Registry of Deeds: Book: 35952 Page: 391

Medfield Assessors' Record: Map: 43 Lot: 067

Zoning District: Residential Suburban (RS) with Secondary Aquifer Overlay

By Application dated June 1, 2020, which was filed with the Zoning Board of Appeals on the same date, Open Spaces Builders/David MacCready (hereafter the "Applicant") and LCB Medfield, LLC (owner) seek a Special Permit under MGL Ch 40A Section 9 and Medfield Zoning Bylaw Section 300-5.6 Historic Properties including the required findings under Section 300-14.10 Special Permit criteria, The proposed project consists of an adaptive reuse of the existing property as a five (5) Unit multi-family development, incorporating historically significant elements of the existing two-family dwelling and the construction of a new two-family dwelling and a new single family dwelling. The project will also include ancillary attached garages, driveways, utilities, landscaping and historic fencing. The original Application was revised to include the development of, and perpetual access to, five (5) additional parking spaces to be located on adjacent property owned by Frederick King (parcel ID 43-184) for use by visitors to the Peak House. The property is located at 353-355 Main Street; Assessors' Map 43 Lot 067; RS Zoning District with Secondary Aquifer Overlay.

Notice of the Application was originally published in *The Press* on June 19, 2020 and June 26, 2020. In accordance with said Notice, the initial public hearing was held jointly with the

Planning Board via Zoom virtual meeting platform (due to COVID-19) on Wednesday, July 8, 2020. A subsequent Notice for the King parcel was published in *The Press* on July 17, 2020 and July 24, 2020 in advance of the Monday, August 3, 2020 public hearing session. Additional sessions of the ZBA public hearing were held on Monday, September 21, 2020 (continuance) and Thursday, October 8, 2020. A Site Visit was conducted on Friday, September 18, 2020. The public hearing was closed on Thursday, October 8, 2020.

Notice of the Application and hearing was provided to the Applicant and to abutters, appropriate Town boards and officials, and the planning boards of neighboring towns. In accordance with Section 300-5.6 D. (3), copies of the Application and the supporting documents were transmitted to the Medfield Historical Commission for their review and comment. The Minutes of the July 8, 2020, August 3, 2020, September 21, 2020, and October 8, 2020 public hearing sessions are available at the Town Hall and on the Town of Medfield website and are incorporated by reference into this decision.

FINDINGS OF FACT

Based upon the testimony and materials presented at the hearing, the documents and written comments in the Board's file and the visual observations made at the Site Visit, the Board makes the following Findings of Fact:

1. The Property is located at 353-355 Main Street, Medfield, in the Residential Suburban (RS) Zoning District and the Secondary Aquifer Zone (Zone 2), as shown on Assessor's Map 43 , Lot 067, and contains approximately 39,056 square feet of land.
2. Main Street (Route 109) is a well-traveled public way in the Town of Medfield.
3. The property was most recently used as two-family dwelling and has been largely vacant since the last residential owner died in 2007. The structure is was in poor condition when the Application was filed and was further damaged by a large tree fall that has compromised the building's structural integrity and rendered it unsafe.
4. The property is serviced by Town water and sewer.
5. The Applicant has provided the required site plans, architectural plans and renderings.

6. The Applicant has provided the required historic documentation, including an Historic Survey prepared by The Public Archaeology Laboratory, Inc. in June 1997 on the Massachusetts Historical Commission form.
7. The Board received a letter dated June 29, 2020 from the Medfield Historical Commission supporting the project. The letter was read into the record by the Medfield Historical Commission Chair David Temple.
8. There is no neighborhood opposition to the proposed project and the record contains some affirmative statements of support. Michael Taylor, Chair of the Medfield Historic District Commission, spoke at length at each session of the public hearing. He raised concerns that the proposal would not preserve the structure and that it is not in the spirit of the Bylaw.
9. The property is not located within an Historic District in the Town of Medfield.
10. Due to significant deterioration, damage and decades of neglect, a literal preservation of the existing Clark Tavern structure would be cost prohibitive, impractical and dangerous. At no time has the Applicant expressed to this Board the intention or ability to do so.
11. Open Spaces proposes to dismantle the existing structure and construct a new two Unit dwelling building with great attention to recreating historic details (doors, windows, shutters, portico, trim and chimneys) while complementing the garage alterations with period appropriate architectural detail.
12. The existing clapboards, windows, doors, trim and shutters cannot be re-used. They will be replaced by new versions intended to replicate the historic exterior appearance of the Tavern in a manner similar to the Applicant's restoration of the Ord Block building at 445 Main Street in Medfield.
13. Much of the fieldstone foundation can be reused in the construction of retaining walls or other landscape features on the site.
14. The existing fireplaces cannot be salvaged but the brick chimneys above the roofline will be re-created to match the historic appearance. At the time of construction Open Spaces will determine if any existing brick can be re-used.
15. The Applicant has advised the Board that, between 2013 and 2015, a report documenting tree ring dating of numerous structural elements was commissioned by a

former owner. Many of these elements date from the mid 1600's into the early 1800's. Open Spaces has expressed a commitment to saving, where possible, these elements and using them throughout the development in the following manner:

- use larger, structurally intact beams as wall plates and ceiling beams that can be exposed
- re-create the arched ceiling of the "dance hall" in the ceiling of Unit 1 great room and expose the original arched beams
- use existing wide wood wall panel construction to create new wainscoting in the reconstructed tavern Units 1 and 2 as is presently in the "dance hall"
- if any significant timbers cannot be re-used, they will be donated to a salvage company specializing in resale of historical building element.

16. Throughout the Hearing process, the Applicant has expressed the intention and ability to preserve this historic property by rebuilding the Clark Tavern structure in compliance with 21st century Building Codes, replicating the exterior architectural design and features of the Tavern and incorporating as many of the structural elements from the original structure as possible.
17. Pursuant to Section 300-5.6 D. (4) the Board makes the following specific findings of fact:
    - a) The proposed use represents a reasonable adaptive reuse of the historic property.
    - b) The proposed use will preserve or substantially preserve the historic nature and character of the property and the historic structures thereon.
18. The Applicant has committed to constructing and maintaining five (5) additional parking spaces on adjacent land owned by Frederick King for public use by visitors to the Peak House and providing perpetual access to those spaces.

OPINION

This Application seeks an Historic Properties Special Permit under Section 300 - Section 5.6 of the Zoning Bylaw, including the required findings under Section 300 – 14.10. The proposed development also requires Site Plan Approval by the Medfield Planning Board.

For clarity and convenient reference, Section 300 -5.6 is set forth in its entirety below and is incorporated into this Decision.

§ 300-5.6 Historic properties.
Properties containing historic structures are an important resource to the Town of Medfield, providing a direct connection with the Town's past and contributing to the Town's character.

A. Purpose. The purpose of this Historic Properties Section is to preserve historic structures as defined herein by providing a regulatory process to enable a property owner to increase the productive use of the property.

B. Definitions.
HISTORIC PROPERTY - Any property which contains a still-existing principal or significant structure (constructed or erected upon it prior to 1900).
PRINCIPAL STRUCTURE - The main or primary structure, in terms of the present purpose or use of the property.
SIGNIFICANT STRUCTURE - A structure the use or purpose of which is substantial, in terms of the present purpose or use of the property, such as a carriage house, caretaker's house, barn, or similar building.

C. Specially permitted use or uses. The Board of Appeals, upon application, may issue a special permit to the owner of an historic property for any use or combination of uses listed in the Table of Use Regulations;[1] the decision whether or not to grant a special permit under this Section is entirely within the Board's discretion; the Board shall not be required to issue a special permit, even if it is able to make the required findings to support granting a permit.

D. Procedure.
(1) Generally, the requirements set out in § 300-14.10 for special permits by the Board of Appeals shall apply to this Section.
(2) In addition to the application requirements contained in § 300-14.10A, applicant shall submit the following:
(a) Historic documentation, including an historic survey prepared by a qualified professional.
(b) Plans prepared by a licensed architect or other design professional showing all proposed exterior improvements and changes; these shall include both a concept rendering and a site plan meeting the requirements of § 300-14.12.
(3) In addition to the notice requirements contained in § 300-14.10C, the Board of Appeals shall forthwith transmit copies of the application and supporting documents to the Medfield Historical Commission for their review and comment.
(4) In addition to the required findings contained in § 300-14.10E, the Board of Appeals shall make the following specific findings of fact:
(a) The proposed use(s) represents a reasonable adaptive reuse of the historic property.
(b) The proposed use(s) will preserve or substantially preserve the historic nature and character of the property and the historic structures thereon.

(5) In addition to the authorized conditions contained in § 300-14.10H, the Board of Appeals, if it decides to grant a special permit under this Section, shall impose such conditions, limitations, and safeguards as it deems necessary to preserve the historic nature and character of the property and the historic structures thereon, including a requirement that the property serve as the applicant's primary residence, and/or a requirement that applicant place a permanent historic preservation restriction, as defined in MGL c. 184, § 31, upon the property.

Historic Properties Special Permit

The stated purpose of the Historic Properties Bylaw is to preserve historic structures by enabling the property owner to increase the productive use of the property. The Clark Tavern property meets the definition of an historic property as it contains a principal structure constructed prior to 1900 and is the principal and significant structure on the land. The original Clark Tavern was built prior to the Revolutionary War and had an active history during that War.

Section 5.6 of the Bylaw provides that the Zoning Board of Appeals may issue a Special Permit for any use of the property. In this case, the use of a parcel in the RT Zoning District for a multi-unit development would not be allowed without the Special permit. Section 5.6 further provides that the decision whether or not to grant a Special Permit is entirely within the Board's discretion.

In order to grant the Special Permit sought by the Applicant, the Board has considered and made two (2) specific Findings of Fact:

Section 5.6. D.(4)(a) - The proposed use(s) represent a reasonable adaptive reuse of the historic property. The proposed development of the site, taken as a whole, represents an adaptive reuse of the property that is consistent with the Bylaw. Absent a Special Permit, the typical development of this site as a single or two-family residence would result in the Tavern structure being razed and replaced by an attractive, but hardly historical, home similar to those just to the West of the site. The Applicant's commitment to dismantling the Tavern and rebuilding as two residential units, retaining and reusing as many of the original structural elements as possible, replicating the exterior appearance of the original Tavern and preserving the historical appearance of the site is to be applauded. Allowing the construction of three (3) additional residential units justifies the financial investment in converting the Tavern structure and preserving the historic site. The property is located on one of the most travelled ways in the Town of Medfield and is long overdue for revival.

A prior proposal to "restore" the Tavern as a restaurant was met with overwhelming neighborhood opposition and ultimately defeated. A second proposal that might have "restored" the Tavern as a two-family dwelling was linked to the commercial development of the land behind the Tavern as an Assisted Living facility. In the face of town wide opposition, this venture also failed. It is unclear how much, if any, of the original Tavern structure could have been preserved had either of those projects gone forward. The intended result of the current proposal is clear. The Board finds that the proposed multi-family residential development is a reasonable adaptive reuse of this historic property.

Section 5.6. D.(4)(b) - The proposed use(s) will preserve or substantially preserve the historic nature and character of the property and the historic structures thereon.
As stated in the Massachusetts Historical Commission Inventory, the structure on this historic property was used as a tavern, inn, function hall, innkeeper's residence, toll house and post office. It has long been known in the Town of Medfield as "The Clark Tavern" and has a rich history going back to the Revolutionary War. The National Register of Historic Places Criteria Statement Form, submitted with this Application, notes that "the period of significance extends from 1743 to 1947." Before us now is the only proposal to utilize the site for residential development which specifically includes the reuse of construction elements from the original Tavern building and the preservation the exterior appearance of the Tavern itself. Although the Tavern is not being fully restored, the alternative to this proposal is demolition, either by bulldozer or by neglect. This redevelopment substantially preserves the historic look and character of the Tavern property, and substantially preserves the Tavern structure itself. The additional buildings will serve to blend nicely with the new Tavern to maintain the colonial look and feel of the site. The Applicant's restoration of the use as a multi-family residential development will preserve the history associated with this structure and will preserve the nature and character of the structure itself. It is an opportunity to prevent this structure from being destroyed.

Finally, Section 5.6 D. (5) provides that if it decides to grant a Special Permit, the Board "shall impose such conditions, limitations and safeguards ***as it deems necessary*** to preserve the historic nature and character of the property and the historic structures thereon, including the requirement that the property serve as the applicant's primary residence, and/or a requirement that (the) applicant place a permanent historic preservation restriction, as defined in MGL c. 184,

Section 31, upon the property" (emphasis added). As noted earlier, whether or not to do so is within the Board's sole discretion. The conditions, limitations or safeguards being imposed by the Board are set forth in the Decision below. The Board has concluded that the development for which the Special Permit is being granted may not meet the requirements for the statutory Historic Preservation Restriction. As the Bylaw does not require the Board to impose this condition, we decline to do so.

Taking into consideration all of the evidence, materials and testimony presented during the hearing process, the Board has decided that the project presented by the Applicant meets the purposes, intent and goals of the Historic Properties Bylaw.

Required Findings for Grant of Special Permit

Having determined that the requirements of Section 300-5.6 have been met in this case, the Board must next address the general requirements of Section 14.10.E of the Bylaw, which states that "the Board of Appeals may grant a special permit if it concludes that a special permit is warranted by the application and the evidence produced at the public hearing and if it makes the following specific findings of fact":

Section 300-14.10.E (1). Overall design is consistent and compatible with the neighborhood, including as to factors of building orientation, scale, and massing. The design, as shown on the draft site plan included with the application, shows the Tavern with a restored exterior transformed back into a residential duplex and two additional buildings behind the Tavern which will contain three more residential units (there are 5 total residential units proposed). The proposed new structures present as rustic colonial buildings, which blend nicely with the Tavern and the residential neighborhood. The Board finds that this condition is satisfied.

Section 300-14.10.E (2). Vehicular traffic flow, access and parking and pedestrian safety are properly addressed such that the proposed use will not result in a public hazard due to substantially increased vehicular traffic or parking in the neighborhood. Each unit will include a two-car garage and driveway parking. Access driveways to the site have been located to provide safe ingress and egress from Route 109. Adding five (5) residential units will increase traffic to a previously vacant site will

but the insubstantial increase will not create a public hazard. The parking provided complies with the Bylaw requirements. The Board finds that this condition satisfied.

Section 300-14.10.E (3). Drainage, utilities and other infrastructure are adequate or will be upgraded to accommodate development. The drainage and utilities at the Tavern site will be improved. The drainage and utilities to the other two buildings will be new and will properly accommodate the development. In addition, the project drainage must satisfy the Planning Board via the site plan approval process and comply with the Board of Health's stringent stormwater permit regulations. The Board finds that this condition is satisfied.

Section 300-14.10.E (4). The proposed use will not have any significant adverse effect upon properties in the neighborhood, including property values. The neighborhood has heard and strongly opposed two prior ZBA applications to develop this site for commercial uses. The neighborhood has lived for more than a decade with the uncertainty of what will become of the Tavern property. This residential development will blend in nicely with the other homes in the neighborhood, many of which are new construction or have been substantially renovated and improved in recent years. The five (5) new units on a single lot will not have any significant adverse impact on properties in the neighborhood as they will be similar to the other residential properties only somewhat more tightly massed. Creating certainty for the neighborhood that this property will remain residential in perpetuity will tend to improve surrounding property values. Therefore, the proposed use will not have any adverse effect on property values in the neighborhood. The Board finds that this condition satisfied.

Section 300-14.10.E (5). Project will not adversely affect or cause substantial damage to any environmentally significant natural resource, habitat, or feature or, if it will, proposed mitigation, remediation, replication, or compensatory measures are adequate. Given that this site is already developed to some extent and the requisite approval from the Conservation Commission, no environmentally significant natural resource, habitat or feature will be impacted by this development. The Board finds that this condition is satisfied.

Section 300-14.10.E (6). Number, height, bulk, location and siting of building(s) and structure(s) will not result in abutting properties being deprived of light or fresh air circulation or being exposed to flooding or subjected to excessive noise, odor, light, vibrations, or airborne particulates. No abutting properties will be so deprived or otherwise impacted. The proposed residential development, while including more units on the lot than other properties in the neighborhood, will be generally consistent with the minimal impact that any other residence may have on the neighborhood, such as reasonable lighting and noise impacts. The Board finds that this condition is satisfied.

Section 300-14.10.E (7). Water consumption and sewer use, taking into consideration current and projected future local water supply and demand and wastewater treatment capacity, will not be excessive. All of the units will be on town water and sewer, which will have only a negligible impact on the town's capacity for both municipal water and sewer use. The Board finds that this condition is satisfied.

Section 300-14.10.E (8). The Proposed use will not create any hazard to public safety or health in the neighborhood. Traffic will not significantly increase in the neighborhood as a result of this multi-family use. Vehicles coming and going from the site will be accessing residential units with the impact being very similar to that created by other homes in the neighborhood. No hazard to public health will be created by the development. The location of the driveways accessing the property addresses and substantially mitigates any hazard to public safety. The Board finds that this condition is satisfied.

Section 300-14.10.E (9). If public sewerage is not provided, plans for on-site sewage disposal systems are adequate and have been approved by the Board of Health. Since all of the units will be connected to the town sewer system, this finding is not applicable.

Having determined that the Applicant has met each of the requirements of Section 300-14.10.E (1)-(9), the Board concludes that a Special Permit is warranted by the application and the evidence produced at the public hearing.

DECISION

Based upon the Findings of Fact and the Opinion set forth above, and having made all of the required specific findings, the Zoning Board of Appeals grants the Application of Open Spaces Builders/David MacCready for a Special Permit under Section 300-5.6 of the Zoning Bylaw. The Special Permit authorizes an adaptive reuse of the existing property as a five (5) Unit multi-family development, incorporating historically significant elements and structural materials into the replication of the existing two-family dwelling; the construction of a new two-family dwelling and a new single-family dwelling together with ancillary attached garages, driveways, utilities, landscaping and historic fencing; and the development of, and perpetual access to, five (5) additional parking spaces to be located on adjacent property owned by Frederick King (parcel ID 43-184) for use by visitors to the Peak House. The Special Permit is subject to the conditions specified below:

1. All exterior lights at the Locus shall be dark sky compliant. Any lighting installed at the site, whether by the Applicant or any future owner(s), shall be fully shielded, downward facing and installed in a way that will not impact neighboring homes.
2. Parking of vehicles on the property shall be limited to the garages, driveways, and the area designated for Peak House visitors.
3. The Applicant shall negotiate with Frederick King a perpetual easement to allow public access across the site to the five (5) parking spaces developed by the Applicant on land owned by Mr. King, for use by visitors to the Peak House. The Easement shall be approved by Town Counsel prior to execution and recording.
4. The construction shall be completed substantially as set forth in the materials submitted with this Application, including the Site Plan as approved by the Planning Board, the architectural plans and renderings, and the historical survey and related documentation.
5. The Applicant shall obtain all necessary permits from all other Town Boards and commissions.
6. The applicant shall retain and maintain the stone wall along the rear property line.
7. The dismantling of the existing Tavern structure and the construction of the new two-Unit dwelling at approximately the same location on the site shall be done as represented by the Applicant through-out the Hearing process. Construction of Units 1 & 2 will be consistent with the details set forth in the Findings of Fact numbered 11,12,13,14 and 15.

8. The Applicant shall reuse or otherwise incorporate into the development as many of the historic interior and structural elements of the existing Tavern as possible.
9. Throughout the course of construction, the Applicant shall, in consultation with the Medfield Historical Commission, keep an accurate inventory of all elements of the existing Tavern structure that are retained, preserved or reused as well as an accurate record of where and how each is incorporated into the development.
10. The Board will not require the placement of a statutory Historical Preservation Restriction. However, the Applicant and all future owners shall, as a permanent condition of this Special Permit, be required to preserve and maintain the historic nature and character of the property, particularly the exterior appearance of the replicated Tavern structure. The recording of this Decision shall constitute a perpetual restriction which runs with the land and is binding upon the Applicant, its successors, transferees and assigns, to the full legal extent of the Decision itself.
11. The Applicant and all future owners will ensure proper management and maintenance of the porous pavement system to ensure that the driveway areas remain permeable.
12. All future Condominium documents, including but not limited to the Master Deed and Condominium Trust, shall be subject to review and approval by Town Counsel and shall specifically reference:
    - This Decision and the specific conditions set forth above.
    - The perpetual easement for access to the Peak House parking spaces.
    - An agreed maintenance schedule and plan for the porous pavement system.
    - Any other provisions that the Applicant or Town Counsel deem appropriate to permanently subject the future Unit owners to the rights, privileges, obligations and restrictions contained in this Special Permit.

THIS DECISION WAS UNANIMOUS.

MEDFIELD ZONING BOARD OF APPEALS

John J. McNicholas, Chair

William McNiff, Member

Michael Whitcher, Member

Jared Spinelli, Associate Member, sat as an Alternate Member for this Hearing and participated in the deliberations, but did not vote. Charles Peck, Associate Member, and Jared Gustafson, Associate Member, were not present at the hearing on this application and did not participate in the deliberations and vote of the Board or in the ultimate decision on this application.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS, CHAPTER 40A, SECTION 17 AND SHALL ALSO BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

TOWN OF MEDFIELD

Office of the

BOARD OF APPEALS

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 906-3027
(508) 359- 6182 Fax

INSTRUCTIONS FOLLOWING THE RECEIPT OF A DECISION:

- Your decision was filed with the Town Clerk on: Friday, December 18, 2020
- Your 20-day appeal period ends: Thursday, January 7, 2021
- On Friday, January 8, 2021 or thereafter you should contact the Town Clerk's Office for the certified decision as well as a letter from the Town Clerk indicating that no appeals have been taken regarding the Board's decision.
    - Marion Bonoldi, Assistant Town Clerk (508) 906-3024 or mbonoldi@medfield.net
- Take the Town Clerk's letter & the decision to the Registry of Deeds in Dedham and record them. (There is a fee of around $106 according to recent filings.)

  Norfolk County Registry of Deeds
  649 High St, Dedham, MA
  (781) 461-6101 norfolkdeeds.org

  Directions from Town Hall, Medfield:
    - Take 109 East to Dedham
    - Bear Right on High Street
    - Destination will be on the left in approximate ½ mile
    - Note: On street meter parking or parking in rear (w/ fee)
- **Save the numbers they will give you as proof of recording. Call or email my office with the Book and Page numbers. *This is a required part of the process!***
- When you apply to the Building Department for a permit, you will also give them the Book and Page numbers.

Sarah Raposa, Town Planner
(508) 906-3027
sraposa@medfield.net

TOWN OF MEDFIELD

Office of the

Board of Appeals on Zoning

TOWN HOUSE, 459 MAIN STREET
MEDFIELD, MASSACHUSETTS 02052-2009

(508) 906-3027
(508) 359- 6182 Fax

NOTICE OF DECISION

APPLICANT: Open Spaces Builders/David MacCready
DECISION DATE: December 17, 2020
DATE OF FILING DECISION: December 18, 2020
DECISION NUMBER: 1393

At a public meeting held on December 17, 2020 the Town of Medfield Zoning Board of Appeals, acting in the above referenced matter, voted to approve with conditions the requested approvals under MGL Ch 40A Section 9 and Medfield Zoning Bylaw Section 300-5.6 (ZBA Historic Properties Special Permit), Section 300-14.10 (ZBA Special Permit criteria), and Section 300-14.12 (PB Site Plan Approval) the proposed work consisting of the adaptive reuse of the existing property as a multi-family development (existing two-family dwelling and the new construction of a two-family dwelling and new single family dwelling for a total of 5 units), plus ancillary attached garages, driveways, utilities, landscaping, etc.

The property is located at 353-355 Main Street; Assessors' Map 43 Lot 067; RS Zoning District with Secondary Aquifer Overlay. The Application was revised to include additional parking spaces on property owned by Frederick King, off Main Street, parcel ID 43-184 which was recently combined with 51-007 and 43-183 for the benefit of the Peak House.

An appeal of this decision of the permit granting authority may be made by any person aggrieved pursuant to MGL Chapter 40A Section 17, as amended, within 20 days after the date of filing the notice of decision in the Office of the Town Clerk.

Copies of the decision may be obtained online at www.town.medfield.net > ZBA Webpage > ZBA Decisions or by emailing sraposa@medfield.net.

Sarah Raposa
Town Planner
(508) 906-3027
sraposa@medfield.net

MEMORANDUM

TO: Municipal Coronavirus Relief Fund Recipients
FR: A&F Federal Funds Office (FFO)
DT: December 29, 2020
RE: Extension of CARES Act Coronavirus Relief Fund Covered Period

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On December 27, 2020, an extension of the CARES Act Coronavirus Relief Fund "covered period" was signed into law. This change extends the deadline for use of the Coronavirus Relief Fund from **December 30, 2020 to December 31, 2021**. This memorandum provides an updated definition of eligible uses.

Background

CARES Act Coronavirus Relief Fund

On March 27, 2020, the federal Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") was signed into law. This $2.2 trillion package created the Coronavirus Relief Fund (CvRF), a $150 billion effort to provide state and local governments with resources to address unexpected costs incurred due to COVID-19. The Commonwealth of Massachusetts received approximately $2.7 billion from this fund, including $2.4 billion paid to the Commonwealth, $121 million for the City of Boston, and approximately $91 million for Plymouth County.

Coronavirus Relief Fund – Municipal Program

On May 14, 2020, A&F partnered with the Department of Revenue's Division of Local Services (DLS) to create the Coronavirus Relief Fund – Municipal Program ("CvRF-MP") for eligible municipalities to access the Coronavirus Relief Fund (excluding the City of Boston and municipalities in Plymouth County). CvRF-MP made up to approximately $502 million available to eligible municipalities.

Eligible Uses as Revised by Phase 4.0 Legislation

On December 27, 2020, new legislation was signed into law that amended the "covered period" during which recipients must receive the beneficial use of eligible expenses.

To be an eligible use of the CvRF, expenses must meet at least three major statutory conditions. Date changes included in Phase 4.0 are highlighted in **bold**:

- "Necessary expenditures incurred due to the public health emergency with respect to … COVID-19"
- Expenses must be unbudgeted as of March 27, 2020

- Expenses must be incurred during the covered period beginning March 1, 2020 and ending **December 31, 2021**
    - Treasury has clarified that to be an eligible use of the CvRF, recipients must receive the "beneficial use" of the good or service (goods delivered and in use or services rendered) by **December 31, 2021**.
    - Program guidance issued prior to the enactment of Phase 4.0 indicated that payments for eligible expenses can be made up to 90 days following the end of the covered period, or **March 31, 2022**.

Note About the Potential for Further CvRF-MP Changes

CvRF-MP participants are reminded that major elements of CvRF are defined in program guidance issued by the US Department of the Treasury. Anticipated changes in personnel and priorities at Treasury on or after January 20, 2021 may have a material impact on CvRF-MP.

Contact Us

Inquiries about CvRF-MP can be submitted to A&F using this web-based submission form: https://massgov.formstack.com/forms/municipal_covid_spending_questions