



TOWN OF LANCASTER
Office of Community Development & Planning
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FINDINGS AND DECISION

**RE: Application of Richmond Development Corp.
for Comprehensive Permit**

DATE: February 28, 2008

PROCEDURAL HISTORY

1. On or about June 12, 2006, Richmond Development Corp. (hereinafter, the "Applicant"), applied for a comprehensive permit from the Town of Lancaster Zoning Board of Appeals (the "Board"), pursuant to G.L. c. 40B, to construct an affordable housing project on the southerly side of Sterling Road near the intersection with Deershorn Road in Lancaster (the "Application"). The Applicant proposed to construct 150 "for sale" townhouse condominium dwelling units, each containing two bedrooms, to be called "Fieldcrest Estates" (the "Original Development Proposal"). The Original Development Proposal contained 56 buildings, each with two or three dwelling units. The Original Development Proposal would be located on a site with approximately 45.4 +/- acres of land, being Assessors Map 41, Lot 34A (hereinafter, the "Subject Property"). The Subject Property is zoned Residential as set forth in the Lancaster Zoning By-Law.
2. A duly advertised public hearing was opened on June 29, 2006, and continued to the following dates:
 - * August 24, 2006
 - * October 5, 2006
 - * October 26, 2006
 - * November 16, 2006
 - * December 14, 2006
 - * January 25, 2007
 - * March 1, 2007
 - * March 22, 2007

- * April 26, 2007
- * May 24, 2007
- * June 14, 2007
- * July 26, 2007
- * September 27, 2007
- * October 25, 2007
- * November 29, 2007
- * January 24, 2008

3. The public hearing was terminated on January 24, 2008.
4. During the course of the public hearing, the Applicant amended the Original Development Proposal. As amended, the project would contain 84 single-family homes, each with no more than three bedrooms (the "Development").
5. The following documents and exhibits were received during the public hearing:
 - * Submission of Comprehensive Permit Application to Lancaster Zoning Board of Appeals, submitted by Richmond Development on June 12, 2006.
 - * Submission of Traffic Impact and Access Study to Lancaster Zoning Board of Appeals, submitted by Richmond Development on June 12, 2006.
 - * Letter from Lancaster Historical Commission to Lancaster Board of Appeals regarding signage for Fieldcrest Estates, submitted on June 27, 2006.
 - * Memo from Lancaster Board of Health to Lancaster Planning Board regarding concerns and requesting a joint meeting to discuss, submitted on June 29, 2006.
 - * Letter from Town Administrator to Lancaster Board of Appeals, commenting on issues of overall town importance, submitted on July 11, 2006.
 - * Letter from Nitsch Engineering regarding the review of the traffic impacts as prepared by MS Transportation, submitted August 11, 2006.
 - * Letter from Nitsch Engineering to Chair, Lancaster Board of Appeals Regarding the review of Stormwater Management for Fieldcrest Estates, submitted August 14, 2006.
 - * Response from Pare Engineering Corporation to Lancaster Board of Appeals submitted October 13, 2006, in response to letters from: Orlando Pacheco to Scott Miller, Chair, Sandra Brock, Nitsch Engineering to Scott Miller, Chair Martin Gannon of the Board of Public Works to the Board of Appeals.

- * Letter from Nitsch Engineering to the Lancaster Board of Appeals regarding the review of the seven proposed lay-out concepts for Fieldcrest Estates, submitted October 25, 2006.
- * Letter from Lancaster Sewer District Commission to Scott Miller, Chair, Lancaster Board of Appeals, regarding sewer connections for Fieldcrest Estates, submitted December 5, 2006.
- * Letter from Steven Hickey to Lancaster Board of Appeals regarding estimated pro-forma figures and financial impacts to the town, submitted December 12, 2006.
- * Letter from Nitsch Engineering to Lancaster Board of Appeals regarding review of the water and sewer information for Fieldcrest Estates, submitted December 13, 2006.
- * E-Mail from Robert Sims, Pare Corporation, to Scott Miller, Lancaster Board of Appeals regarding I/I for Lancaster Sewer District and Fieldcrest Estates, submitted December 18, 2006.
- * Letter to Michael Woods, Superintendent of Nashoba Regional School District, submitted by Noreen Piazza, Planning Director, on December 21, 2006.
- * Submission of Fieldcrest Financial Analysis to the Lancaster Board of Appeals, submitted by Michael Jacobs on January 15, 2007.
- * Submission of "Revised" Fieldcrest Financial Analysis to the Lancaster Board of Appeals, submitted by Michael Jacobs on January 19, 2006.
- * Submission of "Revised" Fieldcrest Financial Analysis to the Lancaster Board of Appeals, submitted by Michael Jacobs on January 21, 2006.
- * Submission of proposed floor plans for Fieldcrest Estates to Lancaster Board of Appeals on April 11, 2007.
- * Letter from Michael Jacobs, MHJ, to Richmond Development on revised pro forma and plans, submitted on April 19, 2007.
- * Letter to Michael Jacobs from Steve Hickey, Richmond Development on layout plans, submitted on April 23, 2007.
- * Updated Financial Analysis submitted to the Lancaster Board of Appeals from MHJ Associates on May 31, 2007.
- * List of requested exemptions and waivers submitted to the Board of Appeals on

June 14, 2007.

- * Preliminary Stormwater Management Analysis for Fieldcrest Estates submitted to the Lancaster Board of Appeals from Nitsch Engineering on July 23, 2007.
- * Letter to Jim and Steve Hickey at Richmond Development Corporation on work done in the buffer zone from Cara Sanford of the Lancaster Conservation Commission submitted on August 11, 2007.
- * Appraisal of Fieldcrest Estates – Colonial Style by Robert E. Hammer III to Richmond Development Corporation on August 24, 2007.
- * Appraisal of Fieldcrest Estates – Cape Style by Robert E. Hammer III to Richmond Development Corporation on August 24, 2007.
- * Appraisal of Fieldcrest Estates – Gambrel Style by Robert E. Hammer III to Richmond Development Corporation on August 27, 2007.
- * Appraisal of Fieldcrest Estates – Modern Colonial Style by Robert E. Hammer III to Richmond Development Corporation on August 27, 2007.
- * Letter from Steven Hickey to Scott Miller, Chair, Lancaster Board of Appeals, regarding Boggini Realty vs MHJ Associates appraisals submitted to the Lancaster Board of Appeals on September 19, 2007.
- * Letter from Beveridge & Diamond regarding the Board of Appeals authority to issue permits, submitted to Scott Miller, Chair, Lancaster Board of Appeals on September 19, 2007.
- * Letter from Richmond Development regarding LLC creation submitted to Scott Miller, Chair, Lancaster Board of Appeals on September 27, 2007.
- * Updated and corrected final Fiscal Impact Analysis from Judi Barrett to Lancaster Board of Appeals, submitted on September 28, 2007.
- * Letter from John A. Foster II, Superintendent of Public Works, to the Lancaster Board of Appeals regarding water supply, submitted on October 24, 2007.
- * Engineering review submitted by Nitsch Engineering to the Lancaster Board of Appeals on October 25, 2007.
- * Letter from Richmond Development to the Lancaster Board of Appeals with additional detail for each base house, submitted on November 26, 2007.

- * Letter from Richmond Development to the Lancaster Board of Appeals in response to the letter from the Town of Lancaster Department of Public Works, submitted on November 26, 2007.
- * Letter from GLM Engineering to Lancaster Zoning Board of Appeals in response to the review letter from Nitsch Engineering, submitted November 28, 2007.
- * E-mail from Michael Jacobs, MHJ Associates, to the Lancaster Board of Appeals with the water and sewer rates and building fees increased, submitted on November 29, 2007.
- * E-mail from Chief Fleck to Noreen Piazza regarding new locations for the hydrant system, submitted on December 10, 2007.
- * E-mail from Steve Hickey to Lancaster Zoning Board of Appeals, dated January 16, 2008.

FINDINGS

6. The Applicant submitted the following information pursuant to 760 CMR 31.01:
 - * evidence that it has established a limited liability corporation, Fieldcrest LLC, whose profits will be limited in the Regulatory Agreement as required by G.L. c. 40B, § 21 and 760 CMR 31.01(1);
 - * evidence of a subsidy as indicated by the project eligibility/site approval letter of MassHousing dated October 18, 2005, pursuant to its Housing Starts Program and the New England Fund Program of the Federal Home Loan Bank of Boston;
 - * evidence that the Applicant has “control of the site” as that term is used in 760 CMR 31.01, by virtue of the purchase and sale agreement dated May 3, 2004, extended to July 15, 2008.

The Board is satisfied that, as of the date of this Decision, the Applicant and the Development have met the jurisdictional requirements set forth in G.L. c. 40B, § 21 and 760 CMR 31.01(1).

7. The Town of Lancaster (the “Town”), according to the Massachusetts Department of Housing and Community Development (“DHCD”), has not achieved any of the statutory minimum set forth in G.L. c. 40B, § 20 and or 760 CMR 31.04 in that (i) affordable housing does not constitute more than 10% percent of the total number of dwelling units according to the Chapter 40B Subsidized Housing Inventory (updated as of February 7, 2008), (ii) affordable housing does not exist on 1.5% of the Town’s

countable land area, and (iii) the Development will not result in the commencement of construction of affordable housing on sites comprising more than 0.3 of 1% of the land area or 10 acres in any calendar year.

8. The Development does not trigger the large scale project provisions of 760 CMR 31.07(g) or related application provisions of 760 CMR 31.07(h). The Town does not have an eligible planned production plan pursuant to 760 CMR 31.07(i).
9. The Board retained the following consultants to assist in the review of the Application:
 - * Civil Engineer: Nitsch Engineering, Boston, MA
 - * Traffic Engineer: Nitsch Engineering, Boston, MA
 - * Special Legal Counsel: Mark Bobrowski, Concord, MA
 - * Pro Forma: MHJ Associates, Brookline, MA
 - * Fiscal Analysis: Community Opportunities Group, Inc., Boston, MA
10. The proposed development was reviewed by the following municipal officers or agencies:
 - * Board of Health
 - * Planning Board
 - * Building Commissioner
 - * Conservation Commission
 - * Fire Department
 - * Department of Public Works
 - * Board of Selectmen
 - * Police Department
 - * Historical Commission
 - * Town Administrator
 - * Sewer District Commission
 - * Superintendent of Nashoba Regional School District
11. If developed in accordance with the conditions set forth herein, the Development will be consistent with local needs.
12. Pursuant to 760 CMR 31.07 (1) (j), the Development is governed by the bylaws, regulations, and other local requirements in effect in the Town on June 12, 2006.

DECISION

Pursuant to G.L. c. 40B, the Board, after public hearing and findings of fact, hereby grants a comprehensive permit to the Applicant for the construction on the

Subject Property of 84 dwelling units with associated infrastructure and improvements, subject to the following conditions. As used herein, the term "Applicant" shall mean the Applicant, its heirs, successors, and assigns. Unless otherwise indicated herein, the Board may designate an agent or agents to review and approve matters set forth herein.

Conditions

1. The Development shall be constructed in substantial conformance with the plans of record set forth below (the "Plans"). The Plans are identified as:

Comprehensive Permit M.G.L. c. 40B, "Fieldcrest Estates", Definitive 84-Lot Single-Family Subdivision, Lancaster, Massachusetts, dated September 27, 2007;

and

Fieldcrest Estates Comprehensive Permit House Plans.

Any proposed change shall be governed by the provisions of 760 CMR 31.03.

2. The Development shall be limited to 84 single-family homes. All of the dwelling units shall have three bedrooms or less. Deeds for each of the homes shall contain a restriction, submitted to the Board for approval as to form by legal counsel prior to the sale of any unit, establishing this restriction.
3. Twenty-five percent (25%) of the dwelling units (the "Affordable Units"), shall be reserved in perpetuity for sale to households earning no more than eighty percent (80%) of the median household income for the Boston PMSA, or applicable PMSA in the event of a change. The price for such Affordable Unit shall be set at the price affordable for a household earning not more than seventy percent (70%) of the median household income in the Boston PMSA, adjusted for household size, with a five percent (5%) down payment used to calculate such price. If the Development is funded by the New England Fund of the Federal Home Loan Bank of Boston, pricing shall be in accordance with the "Guidelines for Housing Programs in which Funding is Provided through a Nongovernmental Entity," as published by the DHCD.
4. To the extent permitted by law, preference for the sale of seventy percent (70%) of the Affordable Units in the initial round of sales shall be given to persons or families who are first-time buyers and who are either (a) Lancaster residents; and/or (b) the parents of Lancaster residents; and/or (c) employees of the Town of Lancaster. The local preference shall be implemented by a Lottery Agent approved by the Board. Prior to conducting the Lottery, the Lottery Agent shall submit a final Lottery Plan to the Board for its approval. All costs associated with the Lottery for the initial sale of the Affordable Units shall be exclusively borne by the Applicant.
5. Prior to the issuance of any building permit, the Applicant shall prepare the final draft of a Regulatory Agreement and a Deed Rider for the affordable units and submit

same to the Board for approval as to form by the Board's legal counsel and for execution by and with the Board and/or the Town as required. The form of Deed Rider to be used is the so-called Universal Deed Rider, which Deed Rider has been approved by Fannie Mae and is designed to preserve the Chapter 40B Affordability Requirement in the instance of a foreclosure by a lender. Such document(s) shall contain at a minimum, the following terms:

- a. The Affordable Units shall be reserved for sale in perpetuity to households earning not more than eighty percent (80%) of the median household income for the Boston PMSA, and the price for such Affordable Unit shall be set at the price affordable to a household earning not more than seventy percent (70%) of the median household income in the Boston PMSA or applicable PMSA in the event of a change, adjusted for household size, with a five percent (5%) down payment used to calculate such price.
 - b. The right of first refusal to purchase an Affordable Unit on resale shall be granted to the Board, or its designee.
 - c. The actual Affordable Units shall be identified in the Regulatory Agreement.
 - d. The Affordable Units shall be owner-occupied only; provided, however, that the Board may authorize the temporary rental of such unit at a price affordable to a household earning not more than 80% of area median household income where the owner demonstrates that there is a bona fide reason for same, such as an illness in the family, military duty, or the like.
6. Prior to the issuance of any certificate of occupancy, the Applicant shall enter into a Monitoring Agreement, approved as to form by the Board's legal counsel. The Board shall notify the Building Commissioner, in writing, of such approval and provide to him or her copy of the Monitoring Agreement. Such Monitoring Agreement shall be consistent with the terms of this Decision and shall contain the following terms:
 - a. The Monitoring Agent shall be an entity acceptable to MassHousing, the Applicant, and the Board.
 - b. All costs associated with monitoring shall be borne by the Applicant, and, after the first round of sales, by the sellers of the Affordable Units.
 - c. All financial information submitted by the Applicant to the Monitoring Agent or other entity designated to perform the required cost certification after the first round of sales shall be provided by certified mail to the Board at the same time.
 - d. The final cost certification by the Monitoring Agent or other entity designated to perform that task shall be conducted in accordance with the provisions of the

Regulatory Agreement, which shall be consistent with the regulatory agreement issued by MassHousing for comprehensive permit projects in which funding is provided through a non-governmental entity.

7. The Affordable Units shall not be segregated from the market rate units. The Affordable Units shall not be substantially different in exterior appearance from the standard market rate units.
8. During construction, the Applicant shall conform with all local, state and federal laws regarding noise, vibration, dust and blocking of Town roads, unless otherwise provided in this Decision. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction shall not commence on any day before 7:00 a.m. and shall not continue beyond 6:00 p.m. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Lancaster Police Department.
- 8A. Prior to the issuance of a building permit for any dwelling unit, the Applicant shall submit the following final plans for approval by the Board as consistent with this Decision. A separate plan is not required for each item specified and the content of such item or items may be incorporated into several pre-existing plans. The Board shall render such approvals within 45 days of submission of such final plans, unless a longer time period is reasonably required. Failure to take action within such 45 days shall be deemed a lack of opposition thereto.
 - a. Grading plan;
 - b. Utilities plan including water, hydrants, gas, electric, cable, and telephone;
 - c. Cutting plan, showing the limits of clearing;
 - d. Construction phasing plan.
9. The homes in the Development shall be in substantial compliance with the architectural elevations and floor plans submitted to the Board in the packet entitled, "Fieldcrest Estates Comprehensive Permit House Plans" on file at the office of the Board. The Applicant shall have discretion to alter architectural details and invert plans, including increasing or decreasing the size of homes by up to 2' in width and depth in the aggregate, in order to add architectural diversity to the Development without further consultation with the Board. Additional plans may be added to the Development upon approval by the Board.
10. The Applicant shall design final plans with the following specifications:

- a. The Applicant shall conform with all pertinent requirements of the Americans with Disabilities Act and Massachusetts Architectural Access Board, if applicable.
 - b. Except as otherwise provided, all signage shall comply with the Zoning By-law and shall be maintained in a sightly condition by the Applicant or unit owners association in conformance therewith. During the initial sales of the homes, the Applicant may utilize a marketing sign not to exceed 40 square feet until the last initial sale occurs.
 - c. Water and sewer system design shall be in conformance with the applicable Department of Public Works and the Lancaster Sewer District rules and regulations and installation specifications.
 - d. All utilities shall be installed underground, except for lots that front Sterling Road.
 - e. The final plan shall show the boundaries of any open space to be dedicated to the Town.
 - f. The final plan shall be reviewed by the Lancaster Fire Department for hydrant locations and any other safety related issues.
11. The Applicant shall install one (1) exterior pole light for each house at an appropriate location. The Applicant shall not install street lights for the Development. To the extent residents of the Development install flood lights, all such flood lights shall be connected to motion detectors and shall be directed downward so as not to cause the overspill of light onto adjacent properties or into the night sky in compliance with the International Dark Sky standards.
12. Prior to the closing on Lot 21 and Lot 22, the Applicant shall convey an easement at no cost to the Town, meeting the characteristics shown on Sheet 13/29 of the Plans.
13. The roadway and storm water management facilities within the Development shall be maintained by the Applicant until such time as the road (and accompanying storm water management facilities, including detention basins) is dedicated to and accepted by the Town Meeting or the Applicant creates and transfers responsibility to a unit owners association for the Development.
14. The Applicant shall establish a unit owners association ("Association") in order to take over responsibility for the maintenance of the roadway and storm water management facilities within the Development until such time as the roadway or storm water management facilities are accepted by Town Meeting, or, in the event no such acceptance occurs, after the Applicant has turned over such maintenance

responsibility. The documents establishing the Association shall be subject to review as to form by counsel for the Board prior to the conveyance of the first deed. The deeds prepared by the Applicant for each lot in the Development shall contain a provision that the owner(s) of such lot shall be a member of the Association. The form of the deed proposed for each lot shall be subject to review as to form by counsel for the Board. The Association documents may contain a provision that in the event the Town accepts all roadways and the storm water management facilities so that the Association has no continuing maintenance responsibilities, the Association may be dissolved.

15. If the Town accepts the roadway of the Development, the Applicant may also convey to the Town at the same time any land contained in the Development not contained in any buildable lots, subject to the approval of Town Meeting. No proposed dedication and acceptance of the roadway shall take place unless one full winter season has elapsed since installation of the top coat.
16. All invoices generated by the Board's peer reviewers during the application stage shall be paid by the Applicant within forty-five (45) days of the filing of this decision with the Town Clerk provided such invoices are submitted to the Applicant for payment no later than fifteen (15) days after the Board files the decision with the Town Clerk. No post-permit reviews of documents or plans shall be conducted until such invoices have been paid in full or otherwise resolved on appeal. No building permit or certificate of occupancy shall be issued until such invoices have been paid in full or otherwise resolved on appeal.
17. The Applicant shall promptly pay the reasonable fee of the consulting engineer and the Board's legal counsel for review of the plans or documents described herein or for inspections during the construction phase. The results of any inspections shall be provided to the Board in written format with a copy to the Applicant. The Board shall obtain a scope of work and estimate from any consulting engineer or counsel in advance of authorizing any such work and shall present such scope of work and estimate to the Applicant for approval. The Board and the Applicant shall work in good faith to resolve any disputes. The Board shall establish an escrow account pursuant to G.L. c. 44, s. 53G in order to assure such payment. No review shall commence and the time period for review shall be tolled until such time as adequate funds have been placed in escrow account for such review.
18. A preconstruction conference with town departments shall be held prior to the commencement of construction. For the purposes of this paragraph, "commencement of construction" shall occur when the clearing and grubbing (removal of stumps and topsoil) has been initiated. The contractor shall request such conference at least one week prior to commencing construction by contacting the Board in writing. At the conference, a schedule of inspections shall be agreed upon by the Applicant, the Board, and other municipal officials or boards.

19. The Board or its agents may enter onto and view and inspect the Property during regular business hours, with 24-hour notice to the Applicant, to ensure compliance with the terms of this Decision, subject to applicable safety requirements.
20. The Development requires an Order of Conditions pursuant to 310 CMR 10.00. If there is any inconsistency between the plan of record for this permit and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to the Board and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another. Such submittal shall be made by certified mail or in hand at a regular meeting. Said amended plan submitted to the Board shall be accompanied by a letter setting forth any and all changes from the submitted plan of record and shall include revised drainage calculations, if applicable.
21. No certificate of occupancy for any building or phase shall be issued until the infrastructure or common facilities or common improvements specified in this decision and set forth on the plans of record are constructed and installed so as to adequately serve said building or phase, or adequate security has been provided, reasonably acceptable to the Board, and approved as to form by the Board's legal counsel, to ensure the completion of such improvements. The choice of performance guarantee shall be governed by the provisions of G.L. c. 41, § 81U (excluding the statutory covenant which shall not apply in this matter) and shall be approved as to form by the Board's legal counsel. The Board shall notify the Building Commissioner, in writing, of such completion of performance guarantee. The Applicant shall have all statutory choices of performance guarantees available under G.L. c. 41, § 81U at all stages of construction up until request for certificate of occupancy.
22. Performance bonds, if any, shall be released by the Board in accordance with the Subdivision Rules and Regulations of the Planning Board.
23. In determining the amount of the bond or surety, the Board shall be guided by the following formula in setting the sum of the security:
 - a. The Board's estimate of the cost to complete the work; plus
 - b. A ten-percent margin of error; plus
 - c. An appropriate rate of inflation over a five-year period.
24. The Applicant shall provide an "as-built" plan of the subdivision roadway and utilities to the Board and Building Department at a reasonable time after the completion of the roadway, including the top coat of asphalt, which shall be approved by the Board or

its agent. The Board may require a bond or surety to secure this condition, which shall not be released until such as-built plan has been provided.

25. The construction site shall be secured in a manner approved by the Building Department so as to prevent injury or property damage to the residents of the Town.
26. The following conditions were recommended by the Board's consulting traffic engineers, Nitsch Engineering, Inc., and the Board hereby requires same:
 - a. Safety measures shall be implemented at the active freight rail line crossing on Sterling Road, which is located west of the site. The proponent shall provide capital assistance for signing and pavement markings that should be installed in conformance with the Manual on Uniform Traffic Control Devices (MUTCD). This improvement would enhance safety at this location.
 - b. Stop signs (MUTCD designation R1-1) and Stop lines shall be installed at the site driveway approaches to Sterling Road.
 - c. The Sterling Road approach to Clinton Road (Route 62) shall be marked with a double yellow centerline and a Stop line to improve safety at this location. A Stop Ahead sign (MUTCD W3-1) should be posted along Sterling Road, approximately 300 feet in advance of this intersection.
 - d. Vegetation, landscaping, grading, and signage along the site frontage shall be cleared, planted and maintained to ensure adequate sight lines at the proposed driveway intersections.
 - e. The Applicant will design and construct an upgrade for the Sterling Road/Deershorn Road intersection. Sterling Road should be realigned to form a 90-degree intersection, with Stop sign control at the eastbound Sterling Road approach. This concept is shown in the proponent's traffic study and is attached as **Exhibit A** hereto. This will improve safety and improve driver expectations at this location. If the Town is unable to provide the necessary right of way within four years from the date of the Decision, this requirement shall be null and void. If the Town is so able to provide access, the improvements described herein shall be completed prior to the issuance of the 43rd certificate of occupancy, or within three years of the issuance of the 1st certificate of occupancy, whichever occurs first.
 - f. The existing sidewalk along the north side of Sterling Road shall be extended to the site. This will improve pedestrian accessibility to/from the proposed development and will allow for pedestrian access to the Town center area.
27. The following conditions were recommended by the Board's consulting civil engineers, Nitsch Engineering, Inc., and the Board hereby requires same:

- a. The Applicant shall provide a copy of the NPDES Permit Application, if applicable, and Stormwater Pollution plan to the Board.
28. Blasting, if any, shall be performed in accordance with regulations of the Commonwealth of Massachusetts, 527 CMR 13.00, and in accordance with any existing written regulations for blasting of the Fire Department.
29. Parking shall be allowed on one side only of all internal site roadways and the Applicant shall place appropriate signage at the entrance to the Development so indicating. This condition shall be enforced by the Lancaster Police Department.
30. The exterior facades of the Affordable Units shall maintain the same architectural character and shall be consistent with the market rate units. The Affordable Units shall include central air conditioning only if the market rate units are provided with central air conditioning in the base package. The Applicant shall provide Affordable Units with no garage, a one-car garage, or a two-car garage in the same proportion as the market rate units are ultimately constructed with these amenities. For purposes of this paragraph, the percentages shall be Development-wide and not as the units are constructed pursuant to paragraph 31 below.
31. The Applicant shall construct and convey one Affordable Unit for every three market rate units. Prior to the issuance of any certificate of occupancy for the last four (4) market rate units, the Applicant shall complete construction, obtain certificates of occupancy for, and convey all of the Affordable Units, and shall have satisfactorily completed or bonded, as determined by the Board or its agent, all infrastructure and other work detailed in the Plans, as applicable.
32. Irrigation systems in the Development shall utilize a moisture sensitive control system to limit the water used for irrigation.
33. If any damage to Town or State ways occurs from construction activity, the Applicant shall repair such damage and restore the way to its prior condition to the Town's reasonable satisfaction and at the Applicant's expense. The Applicant shall, at its own expense, create a videotape record of the area roadways prior to construction and provide a copy thereof to the Board. The disturbed area of pavement on Sterling Road shall receive a full-width overlay upon completion of the sewer installation.
34. The water service to each unit shall be separate and metered to the specifications of the Department of Public Works.
35. The Town of Lancaster and its agents are hereby authorized to enter upon the Subject Property for the purpose of maintaining and repairing the water supply system after the connection of the system to the public water supply. The Town will be responsible for operating and maintaining the onsite water connection to the existing public system up to the water shut off at the right of way.

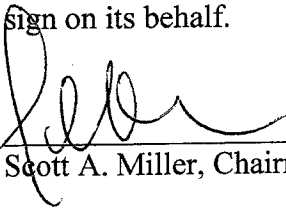
36. Prior to issuance of each certificate of occupancy for a market rate dwelling unit, the Applicant shall provide the sum of one thousand dollars (\$1,000) to the Town, pursuant to G.L. c. 44, § 53A, or G.L. c. 40, § 5B, or other acceptable financing mechanism, for the purpose of making improvements to the public water supply or other valid public purpose. The total amount of such payments paid at the issuance of such certificates of occupancy shall not exceed sixty-three thousand (\$63,000) dollars.
37. The Applicant has testified to the Board that the market rate units shall be sold at a modest price, as reflected in the Pro Forma analysis conducted by MHJ Associates. In recognition of this representation, the Board has not required in Condition #36 its customary mitigation fee of \$2,500 to \$5,555 per market rate unit. However, the Board remains concerned that such market rate units may be sold for more than the stipulated price. In the event that the cost certification conducted pursuant to the Regulatory Agreement results in a developer's profit of at least fourteen (14%) percent, the Applicant shall provide, in addition to the payment set forth in Condition #36, above, the sum of Two Thousand Dollars (\$2,000.00) per market rate dwelling unit to the Town, pursuant to G.L. c. 44, § 53A or G.L. c. 40, § 5B, or other acceptable financing mechanism, for the purpose of affordable housing, mitigation for the public school system, or other valid public purpose. The total amount of such payments, in addition to the payments set forth in Condition #36, shall not exceed One Hundred Twenty Six Thousand Dollars (\$126,000.00) and shall be provided within 60 days of such cost certification.
38. The Board hereby waives no fees associated with the Development. However, this Decision shall in no way inhibit or prevent the Applicant from seeking reduction of applicable fees or costs from the Town entities or officials imposing such fees or costs, including, but not limited to, the Lancaster Sewer District.
39. The Applicant will provide at its own cost five hundred (500) water conservation kits to the Town. The kits will be a 10-piece indoor retrofit kit assembled by Niagara Conservation or the equivalent.
40. In the event of serious or repeated violations of the substantive or reporting requirements of this Decision, or a failure by the Applicant to take appropriate actions to cure a default under this Decision, DHCD or the Town shall have the right to take appropriate enforcement action against the Applicant, including, without limitation, legal action to compel the Applicant to comply with the requirements of this Decision. DHCD, the Town and/or the Town's designee shall be entitled to seek recovery of its respective fees and expenses incurred in enforcing this Decision against the Applicant and to assert a lien on the Project, to secure payment by the Applicant of such fees and expenses.
41. The Applicant has requested, and the Board has granted, the waivers from local rules set forth in **Exhibit B**. To the extent that the Plan shows additional waivers at

specific locations not expressly set forth in Exhibit B, these waivers are also granted. To the extent the plans are silent on a particular issue, the appropriate Town by-law shall apply. In the event the Applicant or the Board's consulting engineer determines, in the final design of the Project, that additional waivers, not shown on the plans or set forth in Exhibit B are required, the Applicant shall be required to obtain such additional waivers after written request to the Board. The Board may grant such additional waivers in accordance with applicable rules and regulations.

42. The Board shall endorse the subdivision plans in its capacity as the Comprehensive Permit granting authority within forty-five (45) days of submission if such subdivision plan is consistent with this Decision.
43. The Board provides any and all necessary permits, approvals, and permissions for the Applicant to construct a sewer line for the Development and connect said sewer line to the municipal sewer system, subject to any state requirements for mitigation.
44. The Board provides any and all approvals necessary to connect to the Town's water system.
45. This Comprehensive Permit is issued to the Applicant with the understanding that such permit shall or may be transferred to Fieldcrest, LLC, pursuant to 760 CMR 31.03, which transfer shall be deemed an insubstantial change.
46. The Applicant shall install seven (7) sewer stubs for abutters (house numbers 625, 637, 651, 663, 675, 691 and 707 Sterling Road) to the public sewer extension that it is installing on Sterling Road.

RECORD OF VOTE

The Zoning Board of Appeals, by a vote of three in favor to none opposed, granted this comprehensive permit subject to the above-stated terms and authorized the Chairman to sign on its behalf.



Scott A. Miller, Chairman

Filed with the Town Clerk on March 4, 2008.

Exhibit A

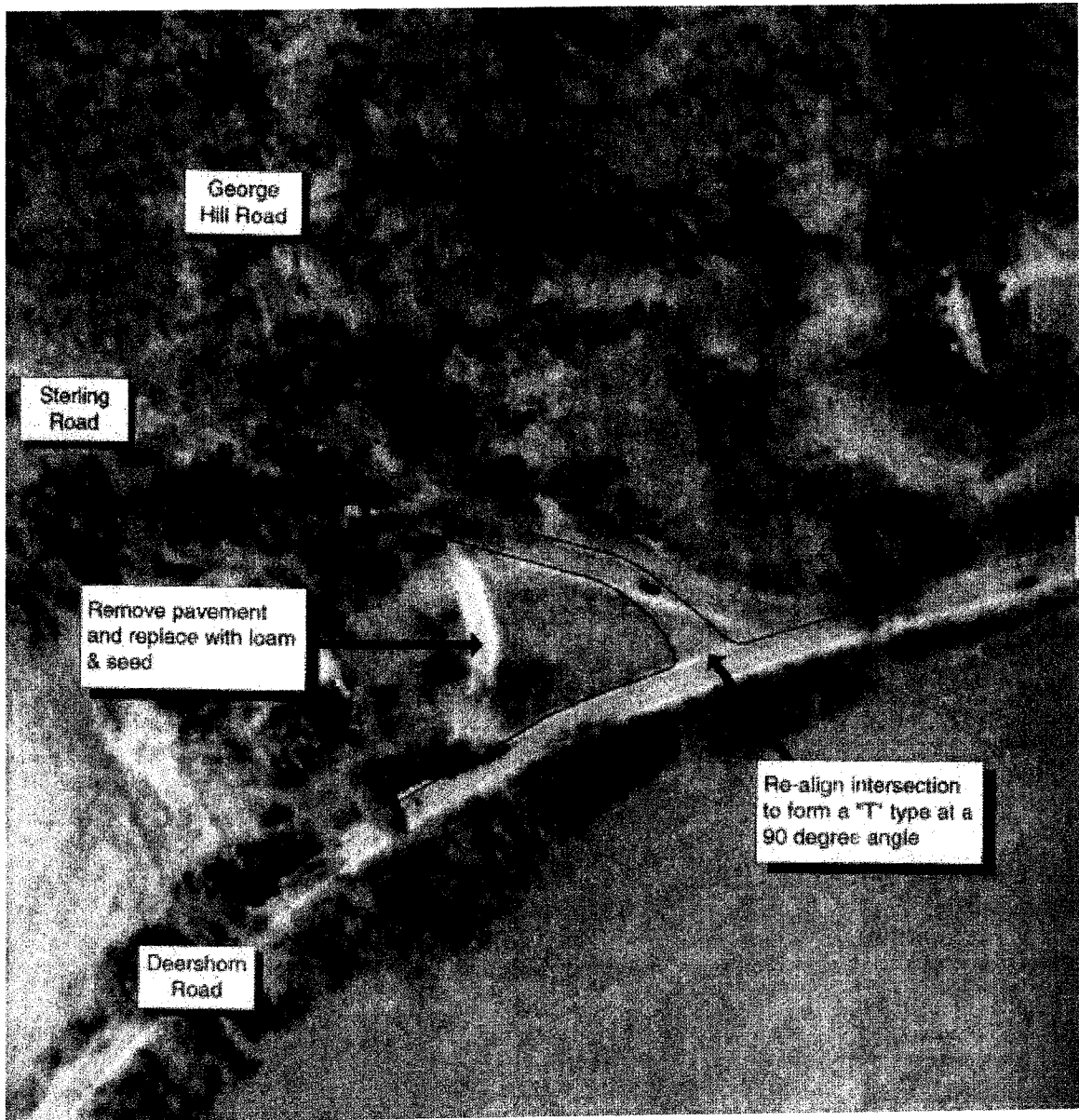


EXHIBIT B

FIELDCREST ESTATES LIST OF REQUESTED EXEMPTIONS, WAIVERS, AND PERMITS

The Applicant seeks the following (1) local permits and approvals and (2) exemptions from or waivers of all local bylaws, rules, regulations, permits and approvals including, but not limited to, the following:

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
ZONING BY-LAW		
1. Zoning By-law, § 3.21(F), Major Residential Development	Special permit for Major Residential Development	ZBA grant permission for Major Residential Development pursuant to G.L. c. 40B
2. Zoning By-law, § 4.11, Lot Area	Residential district lot area minimum of two (2) acres	A minimum lot area of the lesser of 8,000 sq. ft or the actual lot areas shown on the plans.
3. Zoning By-law, § 4.12, Lot Frontage	Minimum frontage of 225 feet	Minimum frontages of the lesser of 50 feet in cul-de-sacs and 75 feet for lots not in cul-de-sacs or the actual frontages shown on the plans.
4. Zoning By-law, § 4.21, Street Yard Setback	60-foot setback from Sterling Road (collector road); 55-foot setback from minor streets	Minimum street yard setback of 18 feet from the property line; corner lots shall have two street yard setbacks.
5. Zoning By-law, § 4.22, side and rear yard setbacks	Not less than 20 feet in Residential	A minimum setback from side and rear lot lines of eight (8) feet. No two houses shall be closer than 20 feet apart.

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
6. Zoning By-law, § 4.23, Permitted Uses in Required Yards	All required minimum setback areas shall be landscaped or left with natural vegetation	Buildings, structures, and parking within street yard setback and providing landscaping as per representative landscaping plans.
7. Zoning By-law, § 4.50, Lot Shape	Requirements regarding lot shapes	Waiver of requirements of section
8. Zoning By-law, § 4.60, Flexible Development	Requirements for flexible developments	Waiver of requirements of section
9. Zoning By-law, § 5.24, Access to Parking	No curb cut or access for parking shall exceed 30 feet in width	Driveway curb cuts onto Sterling Road as shown on plans
10. Zoning By-law, § 7.32, Free Standing Signs	Free-standing signs limited to one per premise and shall not exceed 3 square feet	One temporary marketing sign permitted pursuant to conditions of Comprehensive Permit
11. Zoning By-law, § 7.51, Permits	Permit required for signs of 3 square feet or greater	ZBA grant permission for signage per plans pursuant to G.L. c. 40B
12. Zoning By-law, § 7.52, Fee	Annual inspection fee of \$1/square foot	Waiver of annual inspection fee
13. Zoning By-law, § 9.13, Temporary Structures	Temporary structures may be authorized by the Building Inspector for a period not to exceed 6 months .	Construction and storage trailers permitted during construction.
14. Zoning By-law, § 9.15, Building Permit	Building permit shall not issue until front two lots' bounds have been permanently set in proper locations by a registered land surveyor.	Waiver of requirements of section

<u>Local Regulation</u>		<u>Requirement</u>	<u>Proposed</u>
15.	Zoning By-law, § 12.10, Earth Products Removal	Permission required for removal of earth products	Waiver of requirements of section for the removal of earth products in the ordinary course of the construction of the Project.
16.	Zoning By-law, § 13.21, Design Guidelines	Design requirements	Project design per plans
17.	Zoning By-law, § 13.30, Disturbance Controls	Requirements regarding sound, noise, vibration, odor, etc.	Waiver of requirements of section
18.	Zoning By-law, § 13.52(a), Erosion Control Plan	Requirement to submit erosion control plan	Waiver of requirement to submit erosion control plan beyond that submitted for compliance with Order of Conditions
19.	Zoning By-law, § 13.40, Landscaping Requirements	Landscaping requirements	Landscaping pursuant to landscaping plan
20.	Zoning By-law, § 14.11, Single-family and two-family conversion limitation	Limits rate of construction of new single-family dwellings	Waiver of requirements of section
21.	Zoning By-law, § 14.30, Major Residential Development, Applicability	Special permit required for construction of more than 6 dwelling units within a 2-year period	Waiver of requirements of section
WATER AND SEWER REQUIREMENTS AND REGULATIONS			
22.	Sewer Commission Rules, Building Sewers	Permit required for connection to public sewer	ZBA approval of connections to public sewer pursuant to G.L. c. 40B.
23.	Sewer Commission Rules, Sewer Design Approval	Design of proposed sewer works must be approved by superintendent	ZBA approval of sewer design pursuant to G.L. c. 40B

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
24. Water Connection Permit	Water Connection Permit	ZBA approval of connections to public water system pursuant to G.L. c. 40B
SUBDIVISION REGULATIONS		
25. Schedule of Fees for Plans Submitted under the Rules and Regulations Governing the Subdivision of Land		The fees for definitive subdivision be waived.
26. Article 1. Authority		The Zoning Board of Appeals be the authority for the rules and regulations governing the subdivision of land in the Town of Lancaster instead of the Planning Board.
27. Section 252. Standards of Access Adequacy		The right-of-way be 40', the surface type be 3" bituminous concrete, the surface width be 22', the minimum sight distance be 225' and the maximum grade be 11%.
28. Section 253 Obligations		The provisions of this section be waived.
29. Section 321		Zoning Board of Appeals to issue Definitive Subdivision Plan without further specific submissions beyond those already made as part of comprehensive permit process; Definitive Plan shall meet requirements of Section 322
30. Section 321 (a) (3)		The requirement to show "outstanding individual trees" be waived. The requirement to show indication of annual high watermark be waived.

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
31. Section 321 (a) (6)		There be no requirement for test pit logs or locations
32. Section 321 (b)(1)		There be no requirement for traverse notes
33. Section 321(b)(3)		The Administrative and Review Fee be waived
34. Section 321 (d)		The provisions of this section be waived.
35. Section 322(i)		The Definitive plan shall provide suitable space to record the action of the Zoning Board.
36. Section 323(h)		The provisions of this section be waived. No street lights to be required for the project.
37. Section 324 Environmental Analysis		The provisions of this section be waived.
38. Section 325 Performance Guaranty		The provisions of this section be waived and Massachusetts law as it relates to subdivision performance guarantees be used.
39. Section 326 Review by Board of Health		This provisions of this section be waived.
40. Section 327 Public Hearing		No additional public hearing necessary for Definitive Plan approval.
41. Section 328 Decision		No separate decision necessary for Definitive Plan.
42. Section 411(a)(2)		Waiver of requirement to reduce, to the extent reasonably possible, area over which existing vegetation will be disturbed
43. Section 411(a)(3)		Waiver of requirement to reduce, to the extent reasonably possible, number of mature trees removed

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
44. Section 411(a)(5)		Waiver of requirement to reduce, to the extent reasonably possible, visual prominence of man-made elements not necessary for safety or orientation
45. Section 421(a)(9)		Waiver of the provisions of this section.
46. Section 421(c)		Waive requirement to provide for extending streets to adjoining property
47. Section 422(b)		The minimum centerline radius for all roads in the subdivision shall be 80 feet.
48. Section 422(d)		Site distances of at least 225 feet in each direction shall be provided at all intersections.
49. Section 423(b)		Waive the existing cul-de-sac pavement diameter of 120 feet and allow a cul-de-sac pavement diameter of 102 feet. Waive the existing cul-de-sac property line diameter of 160' and allow a cul-de-sac diameter of 120 feet.
50. Section 424(a) Width		The right-of way for all roads in the project be 40 feet. The paved width for all roads in the project be 22'.

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
51. Section 426 (c) Placing and Compacting Base Course Materials		The requirement for placing gravel in 8" lifts be waived and placing gravel in 12" lifts be allowed. The requirement that the base course gravel be placed not less than two months prior to surfacing be waived and the paving be allowed to be done without any time constraints after the base course gravel has been placed.
52. Section 426 (d) Conditions of Base Course Prior to Surfacing		The requirements of this provision be waived.
53. Section 427 Berms and Curbs		The curb throughout the project will be bituminous modified cape cod style berm (1 foot in width).
54. Section 428. Driveways		The requirement that driveways from the road surface to the lot line have 3 inches of bituminous concrete be waived and 2 inches of bituminous concrete be allowed.
55. Section 431		The requirement that a volumetric increase of "run-off at the boundaries of the development in a 25 year frequency storm shall be no higher following development than prior to development" be waived.
56. Section 451(a) Sidewalks		Sidewalks will be installed on one side of the street only and will be 5' wide.
57. Section 453(b) Plantings		The provisions of this section be waived. One tree per lot will be planted if a suitable tree is not otherwise on a lot.

<u>Local Regulation</u>	<u>Requirement</u>	<u>Proposed</u>
58. Section 453(c) Plantings		Trees required to be planted will be 1.5" to 2" caliper.
59. Section 455(a) Monuments		Monuments will be replaced by ½-inch x 4-foot pins.
60. Section 461 Open Space		The requirements of this section be waived.
61. Section 469 Special Studies		The requirements of this section be waived.