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THE COMMONWEALTH OF MASSACHUSETTS

BILLERICA

City or Town

BOARD OF APPEALS



2006 00043405
Bk: 20371 Pg: 197 Page: 1 of 21
Recorded: 08/03/2006 11:34 AM

Date: September 9, 2005

Certificate of Granting of Variance or Special Permit
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the City or Town of Billerica

hereby certifies that a Comprehensive Permit, Variance or Special Permit has been granted

To PRINCETON DEVELOPMENT LLC BY EDITH M. NETTER, ESQ. EDITH NETTER & ASSOCIATES

Address 375 TOTTEN POND ROAD

City or Town WALTHAM, MA 02451

affecting the rights of the owner with respect to land of buildings at 495R Boston Road, Billerica, MA
Plate 70 Parcels 86-1 and 135-1; recorded in M.N.D.R. of D's Book 123 Page 61 and Book 144 Page 102. (Plans)

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said variance – special permit, and that copies of said decision, and of all plans referred to in the decision, have been filed with the planning board and the city or town clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.

Doris M. Pearson
Chairman
Ellen Sargent
Clerk

COMMONWEALTH OF MASSACHUSETTS
HOUSING APPEALS COMMITTEE

RECEIVED

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TOWN CLERK
BILLERICA

PRINCETON DEVELOPMENT LLC,
Appellant

v.

BILLERICA BOARD OF APPEALS,
Appellee

No. 04-32

DECISION ON STIPULATION

In its decision dated December 15, 2004, the Billerica Board of Appeals denied Princeton Development LLC's application for a Comprehensive Permit for the construction of rental units on approximately 16.6 acres in Billerica, Massachusetts.

Following Princeton's appeal to the Housing Appeals Committee, and during proceedings before the Committee, the parties engaged in negotiations. On August 29, 2005 they filed with the Committee an Agreement and Stipulation for Entry of Judgment (Stipulation) with an attached judgment to be executed by the Committee. The parties agree that the Committee shall enter judgment vacating the decision of the Board and directing the Board to issue a revised decision in the form attached as Exhibit 1 approving a Comprehensive Permit pursuant to G.L. c. 40B, §§ 20-23 for the construction of a 156 unit rental apartment community at 495R Boston Road, Billerica, Massachusetts, as generally depicted on the referenced Plans to Princeton Development LLC and/or its nominee/assignee Princeton Billerica LLC.

The project is to be funded by MassHousing under the MassHousing 80/20 Program, with no less than 20 percent of the units designated as affordable under the terms of that program. The parties agree that the development is consistent with local needs and with generally recognized standards of health, safety, the environment and open space. The revised decision is specified to be in the form annexed to the Stipulation as Exhibit 1.

I have examined the Stipulation and I find it satisfactory. I hereby incorporate by reference the Agreement and Stipulation for Entry of Judgment and the Exhibit 1 attached thereto, attaching them to and making them part of this decision.

The December 15, 2004 decision of the Board is hereby vacated. The Board is directed forthwith to issue a Comprehensive Permit in the form specified by the Stipulation and Exhibit 1, and in accordance with 760 CMR 31.09, and to take any further steps necessary to formalize the permit for recording or other purposes. If the Board fails to act within thirty days of this decision, this decision shall be deemed, pursuant to G.L. c. 40B, § 23, to be a Comprehensive Permit issued by the Board.

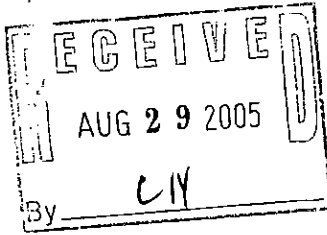
No construction shall commence until detailed construction plans and specifications and a regulatory agreement have received final approval by the subsidizing agency or the Project Administrator.

Housing Appeals Committee

Date: September 9, 2005



Shelagh A. Ellman-Pearl
Presiding Officer



COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Middlesex, ss.

HOUSING APPEALS COMMITTEE
Docket No. 2004-32

PRINCETON DEVELOPMENT LLC and
its nominee PRINCETON BILLERICA LLC

Appellants

vs.

TOWN OF BILLERICA BOARD OF APPEALS

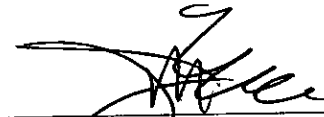
Appellees

AGREEMENT AND STIPULATION FOR ENTRY OF JUDGMENT

NOW COMES the Parties in the above captioned matter, the Appellant Princeton Development LLC, and its nominee Princeton Billerica LLC (collectively "Princeton") and the Appellee, the Billerica Board of Appeals ("Board") and pursuant to the agreement of the parties as stipulated herein, it is agreed that the Housing Appeals Committee shall enter Judgment directing the Board to issue this revised Decision annexed hereto as Exhibit 1 approving a Comprehensive Permit to build 156 rental units at 495R Boston Road in the Town of Billerica, which Decision shall be substituted and shall replace in all respects the original Decision of the Appellee on Appellants application.

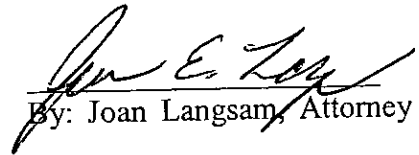
In its decision of December 15, 2004, The Billerica Board of Appeals denied the Appellants' request for a Comprehensive Permit. Pursuant to Massachusetts G.L. c. 40B, §22, the Appellant appealed to the Housing Appeals Committee. Princeton and the Board agree and stipulate that the development is consistent with the local needs and with generally recognized standards of health, safety, the environment and open space.

PRINCETON DEVELOPMENT LLC and
its nominee PRINCETON BILLERICA LLC

A handwritten signature in black ink, appearing to be 'Jeffrey M. Brown', written over a horizontal line.

By: Jeffrey M. Brown, Attorney for
for

TOWN OF BILLERICA
BOARD OF APPEALS

A handwritten signature in black ink, appearing to be 'Joan E. Langsam', written over a horizontal line.

By: Joan Langsam, Attorney

EXHIBIT 1

TOWN OF BILLERICA ZONING BOARD OF APPEALS

COMPREHENSIVE PERMIT Pursuant to Mass. Gen. Laws. C. 40B s. 20 to 23

RE: PRINCETON DEVELOPMENT LLC
PRINCETON AT BOSTON ROAD
495R BOSTON ROAD, BILLERICA, MA

Decision on Stipulation sup
In furtherance of the ~~Judgment~~ of the Commonwealth of Massachusetts, Department of Housing and Community Development, Housing Appeals Committee dated ~~August~~ *September 9,* ~~1999~~, 2005 and pursuant to its authority under the provisions of Massachusetts General Laws Chapter 40B, sections 20 thru 23, the Town of Billerica Zoning Board of Appeals ("Board") issues this Comprehensive Permit for the construction of a low and moderate income affordable apartment community known as "Princeton at Boston Road" consisting of 156 apartment units at 495R Boston Road, Billerica, MA based upon the following terms and conditions:

PROCEDURAL HISTORY

- 1 On September 10, 2003 Princeton Development LLC or its Nominee (the "Applicant"), applied for a Comprehensive Permit, pursuant to M.G.L. Ch. 40B (the "Act"), to construct 180 rental units (the "Project") on land consisting of approximately 16.6 acres, at 495 R Boston Road, Billerica, MA ("Property").
- 2 On November 5, 2003 at the opening hearing the Applicant presented revised plans to Board showing a total of 156 rental units plus Clubhouse and Pool.
- 3 The Zoning Board of Appeals (the "Board") opened a duly advertised public hearing on November 5, 2003 and continued the public hearing to the following dates:

December 17, 2003,
February 11, 2004,
July 14, 2004,
August 18, 2004,
October 6, 2004.

4. Pursuant to 760 CMR 31.03(3)(b), on October 6, 2004 the applicant informed the Board that it was seeking to amend its Application to include an easement on the adjacent parcel of land located at 495 Boston Road, Billerica. Said easement of approximately 2963 sf was to enable the Applicant to access the Property further south along Boston Road away from the existing bank development. On October 6, 2004 hearing the Board voted unanimously that the proposed change did not constitute a substantial change to the application.
5. The Board closed the public hearing on October 20, 2004.
6. The Board received the following comments from municipal boards, commissions, departments and peer review consultants:

Fire Department	Al Melaragni	12/12/03
Fire Department	Al Melaragni	8/13/04
Fire Department	Al Melaragni	10/6/04 e-mail
Board of Health		12/02/03
Board of Health		9/13/04
Public Schools	John D. McKenna	1/20/04
DPW	John R. Livsey	12/17/03
DPW	John R. Livsey	9/27/04
DPW Wastewater	Arthur Malcuit	12/17/03
Planning Board	Peter D. Kennedy	12/17/03
ConCom	Martin H. Houlne	12/19/03
Housing Partnership		8/06/03
Police Dept.		9/29/04
Traffic Management		10/6/04
Board of Selectmen		10/6/04
FST	Sharon T. Raymond	8/18/04
FST	Sharon T. Raymond	6/23/04
GPI	Jim Noyes	1/29/04
GPI	Jim Noyes	2/12/04
GPI	Jim Noyes	4/12/04 (2)
GPI	Jim Noyes	6/14/04

7. The Board retained the following consultants to assist in the review of the application:

Engineering Review:	Sharon Raymond Fay, Spofford & Thorndike (FST), Boston, MA
Traffic Review:	Jim Noyes Greenman-Pedersen, Inc, (GPI), Mansfield, MA

Documents from the above peer consultants are listed paragraph 6.

FINDINGS

Based upon the Stipulated Facts and the agreement of the Parties, the Town of Billerica Board of Appeals makes the following Findings of Fact:

1. Princeton has satisfied the Jurisdictional requirements to submit an application for a Comprehensive Permit pursuant to (760 CMR 31.01(1)):
 - a. Princeton Billerica LLC, the nominee of the Applicant and proposed assignee of the Comprehensive Permit, is or will be a complying limited dividend organization per 760 CMR 31.01(1)(a).
 - b. Princeton has established "site control" of the property at 495R Boston Road, Billerica, MA (as shown on the Billerica Assessor's Map 70 Parcel 135-1 and Parcel 86-1 ("Property") as is required under 760 CMR 31.01(1)(c). Site control is evidenced by Princeton's May 15, 2003 Purchase and Sale Agreement with Mitchell Albanese as amended July 14, 2003 and further amended January 21, 2005.
 - c. Princeton has demonstrated that the project is "fundable by a subsidizing agency" as is required under 760 CMR 31.01(1)(b), as evidenced by MassHousing's September 17, 2003 Site Approval letter for funding under the MassHousing 80/20 Program.
2. The Town of Billerica has not met any of the statutory minima for housing and/or land area set forth in G.L. c. 40B, §20 or 760 CMR 31.04, nor is affordable housing located on sites comprising one and one-half percent or more of the total land area zoned for residential, commercial or industrial use. Furthermore, the development of affordable housing consistent with the application for a Comprehensive Permit submitted in this matter will not result in the commencement of construction of such housing on sites comprising more than three-tenths of one percent of such land area in any one calendar year.
3. The proposed development of the Property for a 156 unit low and moderate income apartment community in five (5) detached buildings ("Development") as depicted on the set of plans entitled "Princeton at Boston Road 495R Boston Road, Billerica, Mass." dated February 25, 2005 prepared by Noonan & McDowell, Inc. consisting of a cover sheet and 11 sheets ("Plan") and with the conditions set forth herein is consistent with local needs and with generally recognized standards of health, safety, the environment, design and open space.

DECISION AND CONDITIONS

1. A Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, §20-23 ("the Act") is hereby issued to Princeton Development LLC and its nominee /assignee Princeton Billerica LLC (collectively "Princeton") to construct a 156 unit low and moderate income apartment community in five (5) detached buildings, the infrastructure associated with the same and amenities ("Development") all as generally depicted on the set of plans entitled "Princeton at Boston Road 495R Boston Road, Billerica, Mass." dated February 25, 2005 prepared by Noonan & McDowell, Inc. consisting of a cover sheet and 11 sheets ("Plan") as may be amended by compliance with the further terms and conditions of this Comprehensive Permit.
2. The Applicant has requested, and the Board of Appeals, pursuant to its authority under G.L. c. 40B §21 grants the waivers from Billerica by-laws, rules and regulations set forth in Exhibit A. To the extent that the Plan, or such future Plan as may be approved per the terms of this Comprehensive Permit, requires additional waivers from the Billerica by-laws, rules or regulations at specific locations not expressly set forth above, these waivers are also granted.
3. The Development shall be limited to one hundred fifty six rental units. There shall be no more than two bedrooms in each unit.
4. Twenty percent (20%) of the units in the Development ("Affordable Units") will be restricted in perpetuity for rental by households earning not greater than 50% of the area median household income or the maximum income allowed under the subsidized Funding Program (MassHousing's 80/20 Program) for the Lowell PMSA ("Eligible Renters") as set forth in the MassHousing guidelines ("Median Income").
5. To the extent legally permissible, preference for twenty-two (22) of the Affordable Units shall be given to Eligible Renters who are either: (a) Town Residents; (b) the children or parents of Town residents; (c) employees of the Town and/or (d) persons who work within the Town in a manner consistent with all requirements of state and federal fair housing and anti-discrimination laws through a lottery procedure to be conducted by Princeton and/or a designated agent pursuant to the lottery procedures set forth in the guidelines established by the Department of Housing and Community Development.
6. The Development shall be constructed in five (5) buildings as shown on the Plans, Building 1 shall have a parking garage on the ground floor and three floors of units above and shall contain no more than sixty (60) units. Buildings 2-5 shall be three story, wood framed structures with no more than twenty-four (24) units. The Affordable Units shall be dispersed throughout the development and shall be indistinguishable as to size and architecture from the Market Rate Units. The

interior finishes of the Affordable Units shall contain the same quality of materials as the Market Rate Units.

7. There shall be two hundred eighty-one (281) off street parking spaces (driveways and garages) in the Development.
8. There shall be a clubhouse and pool for the use of the residents and their guests, as shown on the Plans. There shall also be set aside a recreation area.
9. Princeton shall consult with the local ADA (Americans with Disabilities Act) enforcement officer to determine to what extent the proposed units and parking will require handicap accessibility and to comply with the statutory regulations.
10. The following shall be forever private and the Town shall not have any legal responsibility for their operation or maintenance:
 - site lighting;
 - driveways and parking areas;
 - landscaping
 - snow plowing;
 - trash removal;
 - stormwater management;
 - water and sewer lines within the Development.
11. Princeton shall install a school bus shelter/waiting area (bus stop) in the area of the site drive near its intersection with Boston Road. The design and location of the bus shelter shall be shown on the final Site Plans approved per the terms set forth in Paragraph 12. The Board and/or its designated agent shall seek comments from the Billerica School Department regarding the location of the school bus shelter/waiting area and its' compliance with the existing school bus routing and stop designation. The ownership of this shelter/stop shall not be transferred to the Town of Billerica.
12. Prior to the commencement of any construction on site, Princeton shall submit the following information or plans for approval by the Board of Appeals or its agent/consultant. The Board shall review any such submittals. Failure of the Board to request any changes to said plans within forty-five (45) days of submission shall be deemed their acceptance of said plans. The following plans shall constitute the "Final Design Plans":
 - a. Photometric lighting plan showing compliance with the zoning by-law which shall include the roadway and cul-de-sac area within the development, as needed;
 - b. Landscaping/planting plan shall include all common areas, if applicable and all designated school bus stop/waiting areas;
 - c. Detailed grading plan;

- d. Erosion Control and Sedimentation plan;
- e. Signage Plan which shall include all monument and traffic control signage;
- f. Final Site Layout/Lotting plan which shall detail the location of any lots to be created, the dwelling units and roadway layout;
- g. Final utilities plan, including water, gas, electric, cable, etc. showing all utilities to be installed underground; and
- h. Snow Management Plan.

The above noted Final Design Plans and supplemental documentation shall be prepared and designed in accordance with the Town of Billerica applicable rules, regulations and standards.

- 13. Princeton shall incorporate into the final design plans, approved as set forth above, all future recommendations from the peer review consultant, Fay, Spofford & Thorndike unless waived by the Board. Prior to the Board and or its designated agent endorsing the final design plans, Princeton shall obtain from their professional consultant a letter indicating that the plans are in compliance with the zoning bylaws, the rules, and regulations of the Town of Billerica and any other Departments, Boards or Commissions having jurisdiction (unless waived as set forth herein). Said departments and commissions include, but are not limited to, Board of Health and Conservation Commission.
- 14. Prior to the issuance of a Building Permit, Princeton shall receive written approval from the Massachusetts State Highway Department for an access permit for the driveway onto Boston Road (Rt. 3A). To the extent it is either a condition of the access permit, or a requirement prior to the issuance of the same, that Princeton make improvements to the Glad Valley Drive/ Lexington Road/Boston Road intersection, Princeton will be entitled to make those improvements and to receive a reimbursement for all out of pocket costs from the funds deposited per the terms of Paragraph 33 except for those funds deposited pursuant to paragraph 16. Notwithstanding the above, Princeton and the Board agree to issue a joint letter to MassHighway indicating their preference that any improvements to Glad Valley Drive/Lexington Road and Boston Road intersection, not be a condition of the MassHighway Access Permit but that the same be resolved in the manner set forth in Paragraph 33 of this Permit.

15. Princeton shall demonstrate to the Board that construction plans and specifications have received final approval from the Subsidizing Agency (MassHousing).
16. All work shall be approved and comply with the Town of Billerica standards and regulations for design and construction with regard to water distribution, wastewater standards and connections, roadway and sidewalk construction within the Development. Notwithstanding the previous provisions, Princeton shall be under no obligation to investigate capacity issues for public water and sewage disposal but will upon execution of this agreement provide funding to the Town for a down stream analysis in the amount of \$10,000 which such amount shall be included in the funds provided pursuant to Paragraph 33 herein. Further, to the extent said analysis determines that improvements are necessary to the water and wastewater systems to allow the Development to connect to the same, the Board agrees to immediately release such portion of the remaining funds deposited per the terms of Paragraph 33 into the appropriate town department to immediately initiate said improvements and to take all appropriate action to compel them to undertake said improvements.
17. Prior to any site work, a "preconstruction meeting" shall be held with Town of Billerica/DPW engineers, the designated agent of the Zoning Board of Appeals and Princeton to establish inspection schedules.
18. The Development's utilities shall be located underground.
19. There shall be a gated emergency access drive (15 ft. wide), approved by the Fire Department location as shown on the Plans, which shall have a sub-base of gravel and paved with bituminous concrete paving.
20. Princeton shall provide documents demonstrating that the emergency access easement through the Carlton Realty Trust property and Innis Drive to the Property shall be maintained in a condition that allows emergency vehicles to pass over it and that it shall be plowed in the winter and kept free of obstructions throughout the year and that Princeton shall have the right to maintain and repair such easement in the event the Grantor fails to maintain or repair the same. Easements and/or agreements shall be to the satisfaction of the Board's counsel and recorded at the Middlesex North Registry of Deeds. The Applicant shall satisfy this condition prior to the issuance of any Certificate of Occupancy.
21. The on-site roadways and parking areas shall be striped and traffic control signage installed as per national standards and shall be maintained in perpetuity.
22. There shall be no parking on the main access drive. To further this requirement, Princeton shall locate "no parking" signs on both sides of the main access drive. The main access drive shall be a minimum of 24' wide paved with a 4' wide sidewalk on the northerly side.

23. Princeton shall provide vertical granite curbing along the main entryway to the Project site and concrete curbing throughout the remainder of the Project.
24. The drainage design shall meet the Massachusetts DEP Storm water Management Guidelines.
25. The Development shall be connected to the Town wastewater disposal system and shall obtain all necessary state permits before connected. All normal and customary sewer connection fees and Inflow/infiltration fees must be paid prior to obtaining any local sewer connection permits.
26. With the exception of the irrigation system which shall be by onsite wells, the Development shall use public water by connection to a public water line.
27. The Development water main shall be looped from Boston Road to Glad Valley Drive. Said system shall be installed as per requirements of the Town of Billerica DPW requirements.
28. Princeton shall screen the property located at 58, 60 and 62 Glad Valley Drive, Billerica with the same specifications as shown on the Hawk Landscape and Design Plan dated January 21, 2004 (Hawk Landscaping Plan). Princeton shall plant trees along the boundary line of these properties that are at least twenty feet in height. Princeton shall plant these trees after conducting the initial site work for the Project or at the earliest possible time given the constraints of the weather and preferably prior to the framing of the building closest to the properties. All landscaping within the site shall be professionally maintained by Princeton and/or its property management company and any dead vegetation shall be removed and replaced in accordance with the specifications on the approved landscaping plan.
29. During construction, Princeton shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roads. Princeton shall at all times use all reasonable means to minimize inconvenience to residents in the general area. 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 construction on any Sunday or federal legal holiday.

For this condition, construction activities shall be defined as start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling, excavating, import or export of earth materials, installation of utilities both on or off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures.

30. All buildings shall be constructed as per the Massachusetts State Building Code (780 CMR) and any local rules, regulations and adopted statutes (except to the extent waived by the terms of this Comprehensive Permit).

31. Princeton shall submit final plans to the Billerica Fire Department for its review and approval of proposed building fire protection and unit addresses and unit numbers.
32. All trash storage locations, interior and exterior, shall conform to applicable provisions of 527 CMR 34:00 Rubbish Handling.
33. Prior to the issuance of an Building Permit, Princeton shall pay \$110,000 into an appropriate Town of Billerica account to fund the improvements to be made by the Town to the Glad Valley/Lexington Road/Boston Road intersection per the July, 1986 "Intersection Analysis: Lexington Road/Glad Valley Drive/Boston Road", prepared by the Northern Middlesex Area Commission or as may be determined to be necessary by the Town Engineer. Princeton shall also have their traffic engineer, at their sole cost, develop and create engineering plans to improve the safety of this intersection. The plan and the financial contribution shall constitute the full and complete obligation of Princeton and its successors, assigns and nominees as owner of the Property for the improvements to this intersection and as such, they will not be responsible for any betterments, assessments, fees or charges of any kind related to this improvement unless required by the Massachusetts State Highway Department. The Town of Billerica or any appropriate department may use these funds to complete those improvements subject to the approval of the Board. If such improvements are not undertaken or only partially undertaken if a balance exists after the completion of any such improvements, the balance of such contribution after deducting other permissible withdrawals per the terms of this Permit may be applied towards any town improvements or utilities or any related infrastructure related to this Development subject to the approval of the Board. Further, to the extent the Town of Billerica uses these funds for said improvements, utilities or infrastructure, the same shall represent the full and complete obligation on the part of Princeton and its successors, assigns and nominees as owners of the Property for the same and they will not be responsible for any betterments and assessments of any kind related to these improvements, (exclusive of customary property taxes, regular sewer impact/user fees and connection fees.) The willingness of Princeton to permit the use of the funds in the manner described herein shall not constitute an admission that they are responsible for said costs or expenses in any way.
34. Fire hydrant locations shall be approved by the Fire Department and shall be installed and activated prior to any building permits being issued.
35. Prior to the granting of a building permit, Princeton shall submit the final draft Regulatory Agreement to the Board and/or its counsel for review and approval. Such documents shall contain, at a minimum, the following terms:
 - No less than twenty (20%) percent of the units shall be affordable to Eligible Renters for the maximum term allowed by law,

- The Monitoring Agent for all aspects of this Development shall be designated by the Subsidizing Agency (MassHousing).
 - The maximum rental price for the Affordable Units shall be set in accordance with MassHousing guidelines for the "80/20" program ("Guidelines") as they now exist or may be amended in the future.
 - The Applicant's average annual profit shall be limited to no more than ten percent (10%) return on equity on the Development, per year, as set forth in the Guidelines.
 - The affordable units shall be identified in the Regulatory Agreement subject to Princeton's right to relocate the same with the prior approval of the Board or their appointed agent, which approval shall not be unreasonably refused. Failure of the Board to object to said relocation within thirty (30) days of a written request shall be deemed an approval of the same.
 - The interests of successors, assigns or nominees in title to Princeton and of all mortgagees in the subject property are subordinated to the terms of this Comprehensive Permit; the terms of the same survive any foreclosure upon the subject property and any bankruptcy proceeding relating to the subject property or an owner of the subject property.
36. Prior to the issuance of the first Certificate of Occupancy, Princeton shall submit the final draft of the Monitoring Agreement to the Board's legal counsel for approval, as to form. The Town reserves the right to conduct its own audit to determine compliance with conditions of the Limited Dividend requirements. Upon receipt of a written request from the Board Princeton will provide copies of all documents submitted to MassHousing or its agent relative to its compliance with the terms of this Comprehensive Permit
37. Prior to the issuance of the first apartment building occupancy permit the clubhouse and pool must be completed and ready for occupancy.
38. No certificate of occupancy for any building or phase shall be issued until the 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, to ensure the completion of such improvements. The choice of performance guarantee shall be governed by the provisions of G.L. c. 41, s. 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.
39. The Applicant's registered professional engineer shall prepare guidelines for the operation and maintenance of the stormwater management system, subject to the approval of the Board of Appeals or its agent.
40. In the event that Princeton, its successors, or agent fails to maintain the stormwater management system in accordance with such guidelines for operation

and maintenance, the Town may conduct such emergency maintenance or repairs, and Princeton and any successor in interest shall permit entry onto the Property to implement such guidelines. In the event the Town conducts such maintenance or repairs, Princeton shall promptly reimburse the Town for all reasonable expenses associated therewith; if Princeton fails to so reimburse the Town, the Town may place a lien on the Development or any unit therein to secure such payment.

41. Princeton 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 per the agreed upon schedule. The results of any inspections shall be provided to the Board in written format with copies provided to Princeton. The Board may require the establishment of an escrow account to assure such payment, with an initial deposit of \$10,000.00, subject to replenishment. Any funds not used upon completion of the Development shall be returned to Princeton and/or its successors, assigns or nominees.
42. The Board of Appeals hereby waives no fees and leaves to each Town Department, Board or Commission the option of waiving fees related to the Affordable Units.
43. If there is substantial inconsistency between the final plans approved per the terms of Paragraph 12 of this Comprehensive Permit and the plans as may be approved by the Conservation Commission or the DEP, Princeton shall submit an amended plan to the Zoning Board of Appeals or to the Conservation Commission or to DEP for approval in order that all approvals are consistent with one another. Such amended plan shall be submitted 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. Pursuant to 760 CMR 31.03(3) the Board shall determine if such changes are substantial, if the Board determines the changes are insubstantial the Comprehensive Permit will be modified to incorporate said changes. If Board determines the changes are substantial the Board shall hold a public hearing with thirty (30) days to consider only those changes to the Development pursuant to the terms of 760 CMR 31.03(3)(c).
44. Princeton shall provide an "as-built " site plan to the Board prior to the issuance of the final Certificate of Occupancy for the Development in accordance with applicable regulations, which shall be approved by the Board or its agent. The Board may use those funds deposited for its consulting engineer to pay for said review.
45. The Board or its designated agent may enter onto and view and inspect the Property during regular business hours, without notice, to ensure compliance with the terms of this Comprehensive Permit. However, Princeton will not be

responsible for consulting fees for said inspections outside of the pre-determined schedule unless they are found not to be in compliance with the terms of this Comprehensive Permit.

46. Upon execution by the members of the Board, the Clerk of the Board is directed to file this Comprehensive Permit with the Town Clerk and send a copy of the same to the Applicant by certified mail and to the Department of Housing and Community Development by first class mail.
47. Subsequent to the end of all applicable appeal periods and prior to the commencement of construction, the Applicant shall record this Comprehensive Permit in the North Middlesex Registry of Deeds and shall provide the Board and the Building Inspector with documentation (book and page) of the filing of this Comprehensive Permit or a copy of this decision with all recording information thereon.
48. Any finding, by any court of competent jurisdiction, that any preceding condition, or portion thereof is unenforceable, shall not otherwise affect the enforceability of the remainder of the condition or conditions hereof.
49. In the event of any conflict between the conditions imposed by this Comprehensive Permit and the terms of any other document or agreement regarding this Development, the terms and conditions of this permit shall control, except as to the terms of MassHousing's Regulatory Agreement and residential Compliance Agreement which shall control, so long as the said agreements shall remain undischarged of record.

RECORD OF VOTE

The following members of the Town of Billerica Zoning Board of Appeals voted to grant this Comprehensive Permit subject to the terms and conditions stated herein.

<u>Doris Mearns</u> <i>Chair</i>	_____
<u>Julia K. Cullen</u>	_____
<u>Ellen Sargent</u>	_____
_____	_____
_____	_____

Dated: August ____, 2005

EXHIBIT A

REQUESTED WAIVERS FOR PRINCETON AT BOSTON ROAD (10/20/04)

The Applicant seeks waivers from the Billerica Zoning Bylaws and such other local by-laws, rules and regulations, as are necessary to allow the construction of the proposed project as set forth in this application and the accompanying plans. Because the project is an apartment home development on one lot, it is not a subdivision and is not subject to subdivision regulations. The Applicant asks that a Comprehensive Permit be issued in lieu of all local permits.

The specific waiver requests are as follows:

Required By Regulation or Bylaw	Requested Waiver
Zoning Bylaw: Neighborhood Residence (NR)	
Only one building on a lot (§7.B.11)	Waiver requested to allow 156 units on Project site
175' min. frontage (§7.J.)	Waiver requested to allow 90' frontage
15' min. side yard setback (§7.J.)	Waiver requested for the retaining wall only (see §7.D.5) - Allowed as per final building plans
2 ½ stories maximum (§7.J.)	Waiver requested - Allowed as per final building plans
35' maximum height (§7.J.)	Waiver requested - Allowed as per final building plans
3:1 or 5' tall max. slope (§7.I.1)	Waiver requested - Allowed as per final building plans
6' max. height for a retaining wall (§7.J)	Waiver requested - Allowed as per final building plans
Apartment homes are not permitted in the NR Zone (§5.C.2)	Waiver requested - Apartment homes to be permitted.
Accessory building, structure or use must be on the same lot as principal building, structure or use (§2 Definitions)	Waiver requested (Town Counsel has stated this waiver is necessary for the project). Allowed
General Bylaws	
Bylaws, regulations and fees adopted after this application do not apply. A waiver is being sought in the interest of clarity.	Waiver requested from all requirements enacted subsequent to the date of this application - Allowed as to all subsequently enacted by-laws and regulations, including any increase in fees

Fees for Building Permits, Plumbing and Electrical Permits (Art. IX 2)	Not allowed
Fees for Water and Sewer Connections	Not allowed
Removal of more than 500 cubic yards or thirty truck loads, whichever is smaller, of earth materials is prohibited unless authorized by a ZBA permit (Art. IX.6)	Waiver requested from the special permit requirement in the zoning bylaw
Wetlands Bylaw	
Local wetlands bylaw (Art. XXII)	Waiver requested - Allowed as per final approved building plans
Board of Health	
Section 5.2 General Construction Regulations: §5.2.003 (basement floor must be 2' above seasonal high groundwater §5.2.004 (floodplain filling) §5.2.005 (board of health drainage review; plans must meet planning board specifications)	Waiver requested - Allowed as per final building plans Allowed as per final building plans Allowed as per final building plans Allowed as per final building plans
Section 5 Rules and Regulations Regarding the Floodplain	Not allowed
Section 1.3 Definitive Subdivision Plans	Waiver requested even though project is not a subdivision - Allowed
Section 1.4 Consultant Engineers, Consultant Services	Waiver requested; no need to duplicate ZBA review
Section 1.7 Fee Schedules/Bonds	Not allowed

Certificate of Service

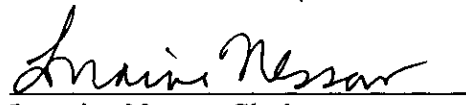
I, Lorraine Nessar, Clerk to the Housing Appeals Committee, certify that this day I caused to be mailed, first class, postage prepaid, a copy of the within Decision on Stipulation in the case of Princeton Development, LLC v. Billerica Board of Appeals, No. 2004-32, to:

Jeffrey M. Brown, Esq.
Princeton Corporate Centre
1115 Westford Street
Lowell, MA 01851

Joan E. Langsam, Esq.
Brackett & Lucas
19 Cedar Street
Worcester, MA 01609


Edith M. Netter, Esq.
Edith M. Netter & Associates, PC
375 Totten Pond Road
Waltham, MA 02451

Dated: September 9, 2005


Lorraine Nessar, Clerk
Housing Appeals Committee

I hereby certify that the Decision of the Comprehensive permit was received in this office on December 17, 2004, and subsequently an appeal was made to the Housing Appeals Committee, that subsequently a Decision of Stipulation (#4-32) was received in this office on October 7, 2005 and no appeal has been received in the twenty days following.

DATE: October 31, 2005


Shirley B. Schult, CMC, CMMC
Town Clerk

END OF DOCUMENT

