

TOWN OF EASTON
ZONING BOARD OF APPEALS

FINDING AND DECISION ON COMPREHENSIVE PERMIT

RE: Application of Eastondale Cottages, LLC

Property: 121 Pine Street, South Easton, MA

DATE: February 9, 2010

I. PROCEDURAL HISTORY

1. On or about September 3, 2008 Eastondale Cottages LLC, (the "Applicant"), applied for a comprehensive permit, pursuant to G.L. c.40B to construct for sale, twenty-eight (28) "cottage style" detached residential single family dwellings, garage structures, a commons building, a trash building, internal private roads and sidewalks on a 3.74+/- acre parcel of land located at 121 Pine Street, South Easton, MA (the "Site") to be known as "Eastondale Cottages" (the "Project").
2. A duly advertised public hearing was opened on October 15, 2008. With the Applicant's assent and for good cause the public hearing was continued to the following dates: November 12, 2008, December 10, 2008, January 14, 2009, February 11, 2009, April 15, 2009, May 13, 2009, May 27, 2009, June 17, 2009, July 13, 2009, August 12, 2009, September 29, 2009, October 28, 2009, November 23, 2009 and December 15, 2009.
3. The public hearing was closed on December 15, 2009. The Board deliberated on this Decision on January 13 and February 9, 2010.
4. The list of documents, plans and exhibits received during the public hearing is attached hereto as Exhibit A, and is incorporated by reference into this Decision.
5. The list of requested waivers from the Easton Zoning Bylaw, the Wetlands Protection Bylaw and Board of Health Regulations as granted by the Board is attached hereto as Exhibit B and is incorporated by reference into this Decision.

II. FINDINGS

1. The Applicant has standing based upon the submission of the following pursuant to 760 CMR 56.04:
 - a. it is or will become a "limited dividend corporation" as that term is used in G.L. c. 40B, §21 and 760 CMR 56.04 (1) (a) in that it will execute a

Regulatory Agreement that shall require the limiting of its profit to no more than twenty percent (20%) of total development costs.

- b. evidence of a subsidy as required by 760 CMR 56.04 (1) (b) as indicated by the August 6, 2008 project eligibility/site approval letter (“PEL”) from MassHousing under the Housing Starts Program and the New England Fund Program (“NEF”).
 - c. the Applicant is the owner of the land and has "control of the site" as that term is used in 760 CMR 56.04 (1) (c). by virtue of a deed dated October 26, 2006 and recorded with the Bristol North Registry of Deeds in Book 17180, Page 21.
2. The Town of Easton, according to the DHCD, has not achieved the statutory minimum set forth in G.L. c. 40B, §20 and or 760 CMR 56.03(3) in that affordable housing does not constitute more than 10% percent of the total number of dwelling units nor is 1.5% of the Town’s land area in affordable housing. The development of affordable homes consistent with the application 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.
 3. The Site is located in both the Residential and Business Zoning Districts, as established in the Easton Zoning By-law.
 4. The Project will be serviced by Town water and an on site shared septic system.
 5. The Board retained the following consultants to assist in the review of the Application:

Civil Engineering:	Traffic Engineering:
Sandy Brock, P.E.	Silpa Munukutla, EIT
Nitsch Engineering	Nitsch Engineering
186 Lincoln Street, Suite 200	186 Lincoln Street, Suite 200
Boston, MA 02111-2406	Boston, MA 02111-2406
 6. The Board received comments from its consultants, Town boards and commissions and the public, all of which have been made a part of the record of this proceeding and have been taken into consideration by the Board in rendering its decision.
 7. As proposed, twenty-five percent (25%) of the twenty-eight (28) dwelling or seven (7) of the units (the "Affordable Units") shall be reserved for sale to households earning no more than eighty (80%) percent of the Median Family Income for the Easton-Raynham, MA HFMA (HUD Metro Fair Market Area) as determined by the U.S. Department of Housing and Urban Development (HUD) and as adjusted for household size.

8. The Project as conditioned herein is consistent with local needs.

III. DECISION

Pursuant to G.L. c. 40B, the Easton Zoning Board of Appeals, after public hearing and findings of fact, hereby grants a Comprehensive Permit to the Applicant for the construction on the Site of twenty-eight (28) “cottage style” detached single family dwellings with associated infrastructure, accessory buildings, garages and improvements, subject to the following conditions. This Comprehensive Permit is subject to compliance by the Applicant with the terms and conditions of this decision. The Board finds that the waivers granted, as conditioned or limited, are consistent with local needs and do not render the Mass. Gen. Laws c. 40B Project uneconomic. The terms and conditions of this Comprehensive Permit, together with the Deed Rider and Regulatory Agreement to be entered into, governing the affordable units, shall control the development of the Project, to the extent the Comprehensive Permit and Agreements are inconsistent with any other instrument document, agreement or plan submitted in connection with the Project, the Comprehensive Permit shall control to the full extent permitted by law. As used herein, the term "Applicant" shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Easton Zoning Board of Appeals. Unless otherwise indicated herein, the Board of Appeals may designate an agent or agents to review and approve matters set forth herein.

IV. CONDITIONS

A. Administrative

1. The Project shall be constructed and completed in conformance with the following plans as revised during the public hearing (collectively referred to as the “Plans”):

Plan Prepared on April 15, 2007 by Gallagher Engineering revised October 7, 2008, April 28, 2009, July 2, 2009 and October 26, 2009 Drawing entitled Cover Sheet – Proposed Site Plan of Eastondale Cottages Plan No. 1, containing 1 sheet;

Plan Prepared on April 15, 2007 by Gallagher Engineering revised October 7, 2008, April 27, 2009, July 2, 2009 and October 26, 2009 Drawing entitled Site Plan #1 – Proposed Site Plan of Eastondale Cottages Plan No. 2, containing 1 sheet;

Plan Prepared April 15, 2007 by Gallagher Engineering revised October 7, 2008, April 27, 2009, July 2, 2009 and October 28, 2009;

Drawing entitled Site Plan #2 – Proposed Site Plan of Eastondale Cottages Plan No. 3, containing 1 sheet;

Plan Prepared on April 15, 2007 by Gallagher Engineering revised October 7, 2008, April 27, 2009, July 2, 2009 and October 26, 2009;

Drawing entitled Shared Septic System Design Plan No. 4, containing 1 sheet;

Plan Prepared on April 15, 2007 by Gallagher Engineering revised on October 7, 2008, April 27, 2009, July 2, 2009 and October 26, 2009;

Drawing entitled Existing Conditions Plan – Proposed Site Plan of Eastondale Cottages Plan No. 5, containing 1 sheet;

Plan Prepared on April 15, 2007 by Gallagher Engineering revised on October 7, 2008, April 27, 2009, July 2, 2009 and October 26, 2009; and

Drawing entitled Construction Detail Plan – Proposed Site Plan of Eastondale Cottages Plan No. 6, containing 1 sheet.

Any substantial deviations from the Plans shall require a modification of this Comprehensive Permit in accordance with 760 CMR 56.05 (11) (c).

2. This comprehensive permit is granted to Eastondale Cottages, LLC and shall not be sold or transferred without prior written approval by the Board. Written approval by the Board for a transfer of the comprehensive permit shall also be required in the event that control of the subject LLC results in the current owner(s) having less than a 51% interest therein.
3. The Board shall have the power, at a public meeting and without further public hearing to modify or amend the terms and conditions of this Comprehensive Permit on the application of the Applicant, or upon its own motion, to correct technical errors in this Comprehensive Permit.
4. In the event the Applicant seeks any change in the Comprehensive Permit after this decision is final, whether deemed by the Board to be an "insubstantial change" or a "substantial change" in the Project as herein defined, any such change must be presented to the Board for approval and for modification of this decision. Any substantial changes or modifications to this Comprehensive Permit shall only be made upon written request and upon the holding of a public hearing after which the Board may approve or disapprove the requested modifications or amendments to this decision, in accordance with the provisions of Mass. Gen. Laws c. 40B, §21 and the provisions of 760 CMR 56.05(11). The Board will determine whether additional information and advice is necessary from other boards and officials in the event of such a substantial change, and will then determine whether the change or requested relief is to be approved and the

decision amended accordingly. "Substantial change" for the purposes of this paragraph shall include, but not be limited to, all matters defined as substantial changes in 760 CMR 56.07 (4). If it deems necessary the Board may at the Applicant's expense retain consultants to review and advise the Board regarding any proposed changes.

B. Housing

1. The Project shall be limited to twenty-eight (28) "cottage style" single family residential dwelling units, with associated infrastructure, accessory buildings, garages and improvements in compliance with the approved Final Site Plans. The total number of bedrooms in the Project is limited to fifty (50).
2. The mix of one and two bedroom Affordable Units shall be as determined by DHCD and/or MassHousing but there shall be no more than twenty (20) two bedroom units. At least 25% of the garages shall be made available to purchasers of the Affordable Units. If the purchasers of the Affordable Units choose not to purchase the garages, the garages may be offered for sale to the Market Rate Unit owners.
3. A minimum of two (2) parking spaces shall be provided with each dwelling unit as shown on the Plans. A garage is considered to be one parking space. All garages shall be detached from the dwelling units.
4. The Project shall not be age restricted.
5. Affordable units shall be the primary residence of the owner(s) and shall not be rented/leased unless approved by the Monitoring Agent (affordability and resale monitoring agent). In the event that an Affordable Unit is leased, the rental must be to a household satisfying all of the eligibility requirements of the Project Administrator and Deed Rider.
6. Twenty-five percent (25%) of the dwelling units (or 7 units) (the "Affordable Units") shall be restricted, in perpetuity, for sale to households earning not more than eighty percent (80%) of the adjusted median housing income ("AMI") for the Easton-Raynham, MA HFMA. The deed riders and/or use restriction that is required in order to ensure the restrictions on affordability is subject to the review and approval of the Board, which may consult with Town Counsel. Such approval must be provided prior to the issuance of building permits and evidence of the recorded deed rider/restriction must be provided to the Board and the Building Inspector prior to the issuance of occupancy permits. The location of the Affordable Units shall be shown on the Final Site Plans and shall not change absent written consent of the Board or its agent.
7. Subject to the approval of MassHousing, the initial sales price of each Affordable Unit shall be determined based on the U.S. Department of Housing & Urban

Development (HUD household income date for the Easton-Raynham, MA HFMA. The resale price for the Affordable Units shall be established in accordance with the terms of the deed rider and/or use restriction executed for each of the Affordable Units.

8. The maximum number of affordable units allowed by law and the applicable subsidy program, but no more than seventy percent (70%) of the Affordable Units, shall be reserved for sale to persons or families who satisfy all eligibility requirements and who are either (a) Easton residents; (b) Parents or children of Easton residents; and (c) employees of the Town of Easton or its school system, including the Southeastern Regional Vocational Technical School. The local preference shall be implemented by a lottery established in a form approved by DHCD and/or the Project's Monitoring Agent with an approved secondary lottery for all other applicants. No occupancy permits may be granted until the Board, in consultation with legal counsel has approved the lottery plan and such approval shall not be unreasonably withheld. The Board shall be kept informed of all events in the lottery process. All costs associated with the Lottery shall be exclusively borne by the Applicant.
9. The Affordable Units shall be evenly distributed throughout the Project and shall not be segregated from the market rate units. The exterior facades of the Affordable Units shall maintain the same architectural character and shall be consistent with exterior facades of the market rate units. As for interior finishes of and appliances in the Affordable Units, the Applicant shall provide outline specifications to the Board for its review and approval. The Affordable Units shall be identified on the Final Plans. If there is any conflict between the specifications and this decision, the terms and conditions of the decision shall control.
10. 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.
11. A right of first refusal to purchase Affordable Units on resale shall be granted to the Town of Easton, or its designee, for a period of fifteen (15) days upon receipt of notice to sell as set forth in the deed rider and/or use restriction governing resale.
12. Any change in the subsidy source shall be subject to the Board's review and approval under the provisions of 760 CMR 56.05(11).

C. Construction

1. Prior to commencing construction, the Applicant shall prepare and present to the Board or its designee, for its approval, a construction mitigation plan that shall address all aspects of construction which shall include, but not be limited to,
 - a. measures to control erosion and sedimentation;
 - b. a description of proposed earth removal, if applicable;
 - c. access routes for construction vehicles that meet the approval of the Easton Police Department and which are contained to primary roads;
 - d. tree and brush clearing;
 - e. stockpiling of materials; and
 - f. grading and general site mitigation measures.
2. During construction, the Applicant shall conform to all local, state and federal laws regarding noise, vibration, and dust and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction shall not commence before 7:00 a.m. and shall not continue beyond 6:00 p.m. on Monday through Friday, not before 9:00 a.m. or continue beyond 3:00 p.m. on Saturdays. There shall be no construction on any Sunday or state or federal legal holiday. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures.
3. 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.
4. Prior to the issuance of a building permit for any dwelling unit, the Applicant shall submit final fully designed site plans (the "Final Site Plans") for approval by the Board. The Final Plans shall be of a quality and level of detail sufficient to allow the Board and its consulting engineer and the Building Inspector to review the Final Plans for consistency with the Plans, the terms of this Comprehensive Permit, legal requirements and industry standards. No construction shall commence and no building permits shall issue under this Comprehensive Permit until the Board, in consultation with its consulting engineer has approved the Final Site Plans as being in conformance with this Decision. If no written response has been given to the Applicant by the Board concerning the Final Site Plans within forty-five (45) days after the submission of the Final Site Plans, the Final Site Plans as submitted shall be deemed to have been approved, provided

that for good cause shown, the Applicant shall allow a 30-day extension of such approval period. Nothing herein shall be construed to limit or otherwise affect the Easton Building Department's authority and obligations under the State Building Code. The Final Site Plans shall include, but not be limited to,

- a. complete construction plans;
 - b. a lighting plan with photometric information. The lighting plan shall ensure proper lighting while mitigating, to the maximum extent possible, both any unreasonable light pollution, as well as "light spill" onto abutting properties;
 - c. a landscaping and planting plan which plan shall identify species, quantities, sizes, and planting details of all plant material. All plantings shall be guaranteed by the Applicant for at least two (2) years;
 - d. utilities plan including water, hydrants, gas, electric, cable, and telephone and the locations thereof;
 - e. signage plan, including signs during the marketing phase which shall comply with the Town of Easton Zoning By-Law; and
 - f. stormwater management plan consistent with the DEP's Stormwater Management Policy. Additionally, an operation and maintenance plan for the stormwater system must be approved by the Board's consulting engineer. The maintenance plan shall include the number of times per year that the catch basin is cleaned and streets are swept in accordance with DEP's recommendations.
5. The Final Site Plans shall be designed to conform to all pertinent requirements of the Americans with Disabilities Act and Massachusetts Architectural Access Board, if applicable.
 6. The shared septic system shall conform to Title V and a copy of all approved permits and plans shall be filed with the Board.
 7. All units in the Project shall be constructed with fire resistant concrete siding.
 8. The following conditions are based on recommendations from the Board's consulting engineers, Nitsch Engineering, and the Board hereby requires compliance therewith:

Site and Layout

- a. The garages must be maintained for parking space only.

- b. The porches shall not be enclosed and no additions to the dwelling units are permitted.
- c. The Condominium Phasing Plans shall indicate the exclusive use areas assigned to each dwelling unit.
- d. The Project requires the issuance of a NPDES Permit. The NPDES Permit and supporting documents (including the Stormwater Pollution Prevention Plan (SWPP) shall be submitted to the ZBA for their records prior to construction beginning.

Grading

Additional grading details for the following items must be shown on the final construction plans:

- a. Grading and a detail of the bioswale shall be shown on the final plans;
- b. The swale along the southerly property line should be fully graded;
- c. The entrance driveway should have detailed grading to allow for the maximum pavement area to enter the bio swale;
- d. Finished floor elevations for all buildings;
- e. Garage slab elevations; and
- f. Spot elevations should be added as needed to further define runoff flow patterns.

Drainage

- a. The emergency spillway shall be detailed and graded and shown on the final plans.
- b. Copies of future soil testing associated with the detention basis shall be included with the final construction plans.

Traffic

- a. Lighting shall be installed at the entrance of the Project.
- b. A stop line and a stop sign shall be installed at the exit from the Project onto Pine Street.

D. Infrastructure

- 1. The Applicant has proposed, and the Board hereby requires, that the following aspects of the Project shall be and shall remain forever private, and that the Town of Easton shall not have, now or ever, any legal responsibility for operation, maintenance, repair or replacement of same:
 - a. All driveways, walkways and parking areas

- b. Storm water management facility;
 - c. Snow plowing
 - d. Landscaping
 - e. Trash removal
 - f. All on site external light fixtures, poles and street lighting
 - g. Shared septic system.
 - h. Water delivery system (water mains, hydrants, gate valves and individual water services).
2. The Applicant shall grant a “Title 5 Covenant and Easement” (310 CMR 15.00 et seq.) to the Board of Health, which includes requirements concerning inspection and pumping, insurance, maintenance, access easements, and lien authority for the Board of Health.
3. The following conditions are based on recommendations from the Easton Water Division and the Board hereby requires compliance therewith:
 - a. The water main should be looped from Pine Street to the west side of Washington Street (Route 138).
 - b. The water mains within the project shall also be designed so there are no dead end mains.
 - c. Each dwelling unit shall have its own separate service, consisting of a corporation stop, curb stop, curb box, main valve and meter.
4. The Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the common or private facilities set forth above until the sale of the last dwelling unit. Thereafter, such facilities shall be conveyed to a Unit Owners Association and such operation and maintenance shall be the responsibility of said Association. Prior to the turnover of responsibility to the Association, the Applicant shall provide written evidence to the Board that a reserve of three months has been established to fund maintenance and operation. In the event that a management company is engaged, the Applicant or the Unit Owners Association shall provide the Board with a copy of the contract.
5. Prior to the issuance of any certificate of occupancy, the Applicant shall establish a Unit Owners Association. Membership in said Unit Owners Association shall

be required by a deed restriction prepared by the Applicant and approved as to form by the Board's legal counsel prior to execution thereof. The Board's legal counsel shall approve such document as to form after determining that the document is consistent with this decision. Approval shall not be unreasonably withheld and shall be deemed granted if not reviewed by the Board or their Agent within sixty (60) days of submission by the Applicant. Such Unit Owners Association shall maintain the facilities set forth above in Condition D (1). The Board of Appeals shall notify the Building Commissioner, in writing, of such approval and provide a copy of the approved documents.

6. The Applicant's registered professional engineer shall prepare guidelines for the operation and maintenance of the stormwater management system and the shared septic system subject to the approval of the Board of Appeals or its agent. Such guidelines shall be incorporated by reference in the organizational documents of the Unit Owners Association. In the event a management company is engaged, the guidelines shall be incorporated by reference in the management contract.
7. In the event that the Applicant, its successors, or agent, including the Unit Owners Association, fails to maintain the shared septic system or the stormwater management system in accordance with applicable guidelines for operation and maintenance, the Town may conduct such emergency maintenance or repairs, and the Applicant or its successor shall permit entry onto the Property to implement the measures set forth in such guidelines. In the event the Town conducts such maintenance or repairs, the Applicant or its successor shall promptly reimburse the Town for all reasonable expenses associated therewith; if the Applicant fails to so reimburse the Town, the Town may place a lien on the Project or any unit therein to secure such payment.
8. All invoices generated by the Board's peer reviewers during the application stage, shall be paid within thirty days of the filing of this decision with the Town Clerk, whether this decision is appealed or not. No post-permit reviews of documents or plans shall be conducted until such invoices have been paid in full. No building permit or certificate of occupancy shall be issued until such invoices have been paid in full.
9. The Applicant shall promptly pay the reasonable fee of the consulting engineer, the Board's legal counsel and the Board's 40B advisor for review of the plans or documents described herein or for inspections or reviews that are required by the Board during the construction phase. The results of any such inspections shall be provided to the Board in written format. All fees for services contemplated hereunder by the Board's engineer or counsel shall be paid by the Applicant in the manner prescribed by G.L. c.44, §53G. The Board may require an initial deposit subject to replenishment.
10. The Board or its agents may enter onto and view and inspect the Property during regular business hours, with reasonable notice to the Applicant, to ensure

compliance with the terms of this Decision, subject to applicable safety requirements.

11. Any Order of Conditions issued by the Easton Conservation Commission pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, regarding this property, shall be made a part of this comprehensive permit. 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 Zoning Board of Appeals 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.
12. 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 of Appeals, 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. The Board of Appeals shall notify the Building Commissioner, in writing, of such completion or performance guarantee.
13. Performance bonds, if any, shall be released by the Zoning Board of Appeals in accordance with the Subdivision Rules and Regulations of the Planning Board.
14. 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.
15. The construction site shall be secured in a manner so as to prevent injury or property damage to the residents of the Town.
16. The landscaping shown on the final approved plan shall be maintained in perpetuity by the Unit Owners Association. Any dead vegetation shall be removed immediately and replaced in accordance with the specifications on said plan.

17. 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.
18. All handicap spaces provided shall have the required five or eight foot loading zone.
19. If a particular unit is going to be designated as handicap accessible, provisions shall be made for that unit to have the necessary loading areas for parking and access to the building.
20. As security for completion of the infrastructure shown on the Final Site Plans, including but not limited to the roadways, driveways, sidewalks, parking, stormwater management system, lighting, shared septic system, landscaping and utilities (collectively the "Infrastructure"), the release of occupancy permits for the dwelling units shall be subject to the following restrictions:
 - a. No occupancy permit for a dwelling unit shall be issued until: (1) the roadway, driveway and parking area shown on the Final Site Plans for the subject dwelling unit has been installed, excepting the final course of pavement for the roadways, drives and parking areas; and (2) all other Infrastructure as shown on the Final Site plans for each dwelling unit, as approved by the Board's consulting engineer, has been constructed or installed so as to adequately serve the dwelling unit, unless otherwise bonded..
 - b. In that the Plans reviewed by the Board were preliminary, no occupancy permits shall be issued until the Applicant complies with any other requirements or specifications that are reasonably required by the Board's consulting engineer for compliance with the Final Site Plans, this decision and recognized best management practices.
 - c. Upon completion of all such Infrastructure for the construction of the dwelling units or the posting of a bond sufficient to ensure completion of the Infrastructure, as described above, the Board's consulting engineer shall inform the Inspector of Buildings to release the occupancy permits. No occupancy permit shall be issued without such authorization and such authorization shall not be effective unless it is in writing. The Board's review and approval under this paragraph shall be undertaken at an administrative meeting rather than a full public hearing.

E. Condominium:

1. The Affordable Units shall constitute a percentage (beneficial) interest in the condominium that shall be in proportion to the initial price of the Affordable Units to the sum of the initial prices of the affordable and market-rate units.
2. The Association and purchasers of all units shall be forever bound by all conditions and restrictions contained herein and the Association shall be responsible for:

- a. Repairing and maintaining the shared septic system.
 - b. Ensuring that private driveway, sidewalks and parking areas are kept clear at all reasonable times and that snow is appropriately stored on or removed from the premises.
 - c. Ensuring there are semi-annual inspections of the stormwater and sewage disposal systems conducted in the early spring and early fall. The stormwater report shall be filed with the Easton Department of Public Works and the sewer disposal system report shall be filed with the Easton Board of Health.
 - d. Ensuring that any building and surface exterior lighting shall be shielded in such a way that there will be no unreasonable glare into the neighbors' houses, abutting properties, and no interference with vehicular traffic.
 - e. Operating and maintaining all common areas and improvements;
 - f. Units shall submit to the Condominium Association copies of all applications for building permits.
3. The condominium documents shall provide that:
- a. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this decision without Board of Appeals approval.
 - b. Conditions set forth in the decision concerning condominium governance must be set forth in the documents (it does not suffice to simply reference the decision); in the event of any conflict between the condominium document and the decision, the terms of the decision shall control.
 - c. The Master Deed shall reference the deed rider and/or use restriction and the Regulatory Agreement.
 - d. The number of bedrooms in each unit is identified and that the addition of bedrooms to the units or the retrofitting of existing space for use as additional bedrooms is prohibited. The condominium documents shall prohibit any and all expansions and additions to units including, but not limited to, decks. The porches shall not be enclosed. Conversion of garage space to habitable space shall also be prohibited. Paving beyond that shown on the Plans shall be prohibited.
 - e. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
 - f. Condominium Association fees for the Affordable Units shall be established as a pro-rate percentage of the fees for the comparable market

rate units, based on the initial sales price. The fair market value shall be based on current zoning as of right uses and shall be as of the date of the filing of the application

- g. To the extent permitted by law, upon turnover of the Association by the Applicant to the unit owners, at least 25% of the trustees of the Association shall be owners of Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
- h. The Master Deed shall provide that in the event of condemnation or casualty, proceeds above the resale price of the Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing in the event that the unit is not rebuilt or is rebuilt and there are excess monies available.

F. Regulatory and Monitoring Agreements

1. Prior to the commencement of any construction (as defined in Section G (4) herein) and/or the issuance of any building permit for the Project, the Applicant shall submit to the Board a copy of Regulatory Agreement, Monitoring Agreement (Affordability Monitoring Services Agreement) and Deed Rider (Affordable Housing Restriction) for its review to ensure consistency with this Comprehensive Permit Decision. The Regulatory Agreement, Monitoring Agreement and Deed Rider shall be in a form acceptable to MassHousing. Such documents shall be consistent with the terms of this Comprehensive Permit governing the protection and administration of the Project.
2. The Monitoring Agency for the Project shall be a qualified entity approved by MassHousing. The Applicant shall provide the Board with copies of any and all correspondence, documents and statements provided by the Applicant to the Monitoring Agent or from the Monitoring Agent to the Applicant. The copy of the Monitoring Services Agreement(s) must be approved by the Board's Counsel. All costs associated with monitoring shall be borne by the Applicant.
3. The final cost certification will be conducted in accordance with the rules and regulations of the Subsidizing Agency and in accordance with 760 CMR 56.04(8)(d). All financial information submitted by the Applicant to the Subsidizing Agency for the required cost certification shall be provided by certified mail to the Board at the same time.
4. In accordance with 760 CMR 56.04(8) and the DHCD's Guidelines, the Applicant's profit shall be limited to the maximum extent allowed by the Subsidizing Agency. Any profit in excess of such amount shall be paid to the Town, in a form that will allow the Town to use such funds to facilitate the

development of affordable housing. Review of the Applicant's limited dividend obligations shall be done in accordance with the Regulatory Agreement.

5. The affordability requirements of the Comprehensive Permit shall be senior to any mortgage. Any foreclosure shall be subject to the affordability requirements required by this Comprehensive Permit. This provision shall be included in the Deed Rider.
6. The Applicant is responsible for the preparation and execution of any document that may be required by DHCD in order to have all of the affordable homeownership units in the Project including on the Town's Subsidized Housing Inventory.
7. 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, the Town or the Monitoring Agent (with the prior consent of the Town) shall have the right to take appropriate enforcement action against the Applicant, including, without limitation, legal action to compel the Applicant to comply with the requirements of this Decision. In addition to the foregoing, the Applicant shall be obligated to pay all reasonable fees and expenses (including legal fees) of the Eligibility Monitoring Agent and/or the Town in the event successful enforcement action is taken against the Applicant or the Applicant's successors and assigns.

G. General

1. The Applicant has requested waivers, and the Board has granted, with the limitations set forth in this decision, the waivers from local rules set forth in Exhibit B attached hereto. The Board has reviewed the plan in light of all applicable Zoning Bylaws, Wetlands Protection By-Law, Board of Health Regulations, Demolition Delay By-Law and all other Town of Easton rules, regulations and bylaws applicable as of the date of the Applicant's filing of its Comprehensive Permit Application and hereby grants the waivers set forth in Exhibit B. In the event the Applicant, the Board's consulting engineer or Agent determines, in the final design of the Project, that additional waivers, not shown on Exhibit B are needed the Applicant shall be required to request such additional waivers in writing from the Board. The Board may grant such additional waivers in accordance with applicable rules and regulations.
2. The Board hereby does not waive any permit fees associated with the Affordable Units or market rate units.
3. The Applicant shall provide "as-built" plans of the roads, buildings, and all underground utilities, including water, sanitary system, stormwater system, electrical and gas distribution systems, to the Board of Appeals and Building Department in accordance with the Town of Easton Subdivision Rules and

Regulations applicable regulations, which shall be approved by the Board or its agent. Approval shall not be unreasonably withheld and shall be deemed granted if not reviewed by the Board or their Agent within thirty (30) days of submission by the Applicant.

4. Evidence of Final Approval by DHCD or MassHousing together with evidence of a funding commitment shall be submitted to the Board prior to the start of any construction activities on the property and/or the issuance of building permits. For this condition, construction activities shall include, but not be limited to: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; demolition of existing structures; removal of stumps and debris; and erection of new structures.
5. A preconstruction conference with town departments shall be held prior to the commencement of construction. For the purposes of this decision, "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.
6. If handicap households are selected in the affordability lottery, Applicant shall make alterations so that the unit is accessible.
7. Prior to commencement of construction, the Applicant shall provide, and update as necessary, the Board with the name, address, and 24 hour contact information for an on-site construction manager who shall have primary responsibility for the oversight of day-to-day construction activities on the Site.
8. No tree stumps or other demolition and construction debris shall be buried on the Site. All tree stumps shall either be ground or removed from the Site. No burning is allowed on Site.
9. All staging areas, including without limitation parking areas for construction personnel, portable toilets, temp work facilities, etc. shall be on the Site. No parking shall be permitted on town ways by Project personnel or others in connection with the construction of the Project.
10. This permit shall expire if construction has not commenced within three (3) years from the date it is filed by the Board with the Town Clerk. For the purposes of this paragraph, commencement of construction shall be defined as the full construction of the foundation for at least one of the Project's dwelling units.

11. Prior to any alteration and/or construction of the Site, the Applicant shall have received Final Order of Conditions from the Easton Conservation Commission.
12. Upon their construction, the buildings in the Project shall be considered non-conforming and no exterior alterations, expansions or changes shall be permitted without an approved project modification under the provisions of 760 CMR 56.05 (11).
13. This permit shall not be valid until recorded with the Bristol County Registry of Deeds and evidence of such recording is provided to the Inspector of Buildings and the Board of Appeals.

VOTE OF ADOPTION

The Board, by vote of (4-1), adopts the foregoing decision and hereby grants a Comprehensive Permit to construct the Project, subject to the conditions and limitations set forth herein.

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

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

Any person aggrieved by this Decision may appeal pursuant to G.L. c.40B, §21.