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**PLANNING BOARD
TOWN OF WEST NEWBURY, MASSACHUSETTS**

**CERTIFICATE OF VOTE
SPECIAL PERMIT FOR
OPEN SPACE PRESERVATION DEVELOPMENT (§6.B.)
and SITE PLAN REVIEW (§8.B.)
At Whetstone Street and Sullivans Court
Assessors Map U-1, Parcel 19, and R-11, Parcel 18
Follinsbee Lane, also known as The Cottages at River Hill
May 12, 2014**

At a meeting of the West Newbury Planning Board (hereinafter the "Board") held on March 11, 2014, Board members voted to approve with Conditions the Applications filed for Special Permit for Open Space Preservation Development (OSPD) (Section 6.B.) and Site Plan Review (Section .B.) for Follinsbee Lane, the Cottages at River Hill, by a vote of four to one. Planning Board members Richard W. Bridges, Raymond A. Cook, Brian R. Murphey and John Todd Sarkis voted in favor, and Ann E. Bardeen voted in opposition. The Approval incorporates by reference all the plans and drawings noted below as submitted by the Applicant, Cottage Advisors, LLC, (hereinafter the "Applicant") and the Owners, Kathryn Coffin, Louise F. Beard, Vincent P. Sullivan, and Priscilla J. Santos (hereinafter the "Owners") and to the Applicants' and Owners' heirs, successors and assigns as their interest may appear, subject to the Conditions of this Decision to be met. The Board responded to plans and an Application, which are incorporated by reference into this Decision. The submittal is further described as follows:

OWNERS:

Kathryn Coffin, 541 Main Street, Louise F. Beard, 11 Poores Lane, and Vincent P. Sullivan, P.O. Box 31, all in West Newbury, and Priscilla J. Santos, 8065 Long Branch Terrace, Glenn Burnie, MD

APPLICANT:

Cottage Advisors, LLC, 454 Post Road, Wells, ME 04090

REFERENCES:

Civil Engineering Plan, "Cottages at River Hill, in West Newbury, Massachusetts, Open Space Preservation Development", "the Plan"

Prepared for:

Cottage Advisors, LLC, 454 Post Road, Wells, ME 04090

Prepared by:

LandTech Consultants, 515 Groton Road, Westford MA 01886

Dated:

January 25, 2013, as revised June 28, 2013, August 8, 2013, September 6, 2013, October 18, 2013, November 12, 2013, December 27, 2013, March 4, 2014 and as revised as Final, consisting of 28 (twenty-eight) sheets.

Scale:

As noted

Stamped By:

Matthew A. Waterman, Registered Professional Engineer, and Kenneth T. Strom, Registered Professional Land Surveyor.

Stormwater Management Report: Prepared by LandTech Consultants, dated January 28, 2013, as revised, Final Report dated December 27, 2013.

"Special Permit Application Project Narrative", dated January 26, 2013.

Traffic Study: "Traffic Impact and Access Study, Sullivan Farm Estates Residential Community, West Newbury MA", prepared by Vanasse & Associates, Inc., 10 New England Business Center Drive, Suite 314, Andover MA 01810-1066; and additional information requested in a letter from Jeffrey S. Dirk, Principal, dated June 10, 2013.

Landscape Plans: "The Cottages at River Hill", Prepared by Amory Land Design, LLC, 268 Strong Street, Newburyport MA 01950, consisting of 11 (eleven) sheets, final revision date March 28, 2014, "the Landscape Plan".

Architectural Plans: "Cottages at River Hill", Prepared by Scott M. Brown, Architect, 29 Water Street, Suite 209, Newburyport MA 01950, consisting of 19 (nineteen) sheets, various dates, "the Architectural Plan".

"Exterior Material Specifications", The Cottages at River Hill, West Newbury, undated, listing Exterior Material Specifications and Sherwin Williams color schemes

"Stormwater Wetland & Rain Garden Planting Plan": Prepared by Norse Environmental Services, Inc., 92 Middlesex Road, Unit 4, Tyngsboro, MA 01879, consisting of four sheets, dated August 23, 2013.

(Note: References below, unless otherwise noted, are to the Zoning Bylaw.)

PRE-APPLICATION CONFERENCES and SITE WALK:

Pre-Application Conferences, in compliance with Section 6.B.5., were held on December 7, 2010, October 2 and October 16, 2012. A Site Walk was held on November 17, 2012.

FILING and PUBLIC HEARING INFORMATION:

The Application package was filed with the Town Clerk and the Planning Board on January 28, 2013. In accordance with the requirements of M.G.L. Chapter 40A, §11., Legal Notice was published in the Daily News of Newburyport on February 14 and February 21, 2013, mailed to abutters and abutting communities on February 15, 2014, and posted with the Town Clerk on February 15, 2013. Copies of the Application package were distributed to the Board of Health,

Building Inspector, Conservation Commission, Department of Public Works, Fire, Police, and Water Departments in compliance with Section II.B.2. of Planning Board Rules and Regulations.

Responses were received from Gary Bill, DPW Director, Scott Berkenbush, Fire Chief, Michael Gootee, Water Department, Paul Sevigny, Health Agent, and are on file in the Planning Board Office.

The Plans and Application filed were for thirty units of single-family residential housing and related infrastructure, and an Open Space component, off Whetstone Street and Sullivans Court.

The Public Hearing was opened on March 5, 2013, and Public Hearings were continued to March 19, April 2, April 16, May 7, June 4, June 18, July 16, August 20, September 17, October 15, November 5, November 19, December 3, 2013 and January 7, January 28, February 25, March 4, and March 11, 2014. The Public Hearing was closed on March 11, 2014.

Board Members invoked the Mullen Rule Law for a missed Public Hearing as follows: Ann Bardeen for March 19, 2013; Richard Bridges for April 2, 2013; and Raymond Cook for April 16, 2013, and B. Dennis Lucey (Associate Member) for February 25, 2014 .

DESCRIPTION OF PARCEL:

The parcel, located in the Residential C Zoning District, consists of 24.4 acres, (1,064,358 square feet) with 779.78 feet of frontage on Whetstone Street and 50 feet on Sullivans Court. Access to the parcel and to Sullivans Court is from Whetstone Street, off Main Street. The terrain of the parcel slopes toward the Merrimack River.

In recent years, the property has been used agriculturally as a field for growing crops such as corn. Much of the parcel has been cleared for the fields, with vegetation growing primarily around the edges of the parcel and in the wetland areas.

According to information supplied by the Applicant, approximately 6.1 acres, (266,044 square feet), or 25% of the parcel, are comprised of wetlands, and 18.3 acres (798,314 square feet) consist of upland. (Sheet C2)

PROPOSED PARCEL DATA:

	<u>ACRES</u>	<u>SQUARE FEET</u>
USE AREA: (Sheet C22)	5.99	260,940
Open Space: Parcel A:	14.22	619,666
Parcel B:	0.75	32,753
Parcel C:	3.47	150,999
TOTAL OPEN SPACE: (Sheet C22)	18.44	803,418

% Wetlands in Open Space: 33%
(Sheet C5)

Length of Proposed Road: 1,777 feet
(measured along the centerline from the intersection with
Whetstone Street around the loop)

Width of Proposed Road: Varies from 24' at the beginning from the intersection with
Whetstone Street to 18' around the loop.

BASIC MAXIMUM NUMBER AND DENSITY BONUSES:

Based on the Yield Plan (Sheets C3 and C4) the Planning Board determined that an acceptable Basic Maximum Number for the Yield Plan, in compliance with Section 6.B.8., is 23 units. This density number is based on 20 lots, and a combination of one and two family units which totals 23 units. The Board voted unanimously on June 18, 2013, to accept the Basic Maximum Number.

Increases in Permissible Density have been granted under Section 6.B.13.a., Protected Open Space, and Section 6.B.13.b., Detached Single Family Cottage Units. A summary of the density bonuses granted is as follows:

Base Maximum Number of Units: 23

Protected Open Space:* 3 additional units
(15% additional Open Space, total 75%, provided)

Detached Single Family Cottage Units:** 4 additional units
(Four units shall be deed restricted to meet the
Requirements of the Zoning Bylaw.)

TOTAL 30 units

*Section 6.B.13.a. Protected Open Space: For each additional five percent (5%) of the site (over and above the required sixty percent (60%) set aside as open space,) a bonus of one (1) lot or unit may be awarded; provided, however, that this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number.

**Section 6.B.13.b. Detached Single Family Cottage Units: For every detached single family dwelling unit that has less than 1,500 SF in finished gross floor area with up to three-bedrooms, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed twenty percent (20%) of the Basic Maximum Number.

WAIVERS REQUESTED

As part of this Open Space Preservation Development, the following waivers are being requested to the Town of West Newbury Rules and Regulations Governing the Subdivision of Land:

4.2.4.4 The minimum centerline radii of a curved road shall be 200'. GRANTED

(Radii of loop road minimum 40' (as shown.))

- 4.2.6.3 To eliminate the requirement for a 2 foot' wide paved shoulder on minor local collector road. GRANTED
(Station 0+00 to 6+15 shall be 24 feet wide.)
(Station 6+15 to 9+00 shall transition from 24 feet wide to 22 feet wide.)
(Station 9+00 to 10+20 shall be 22 feet wide.)
(Station 10+20 to end shall be 18 feet wide.)
- 4.2.7.1 To allow the centerline grade of a local collector road to be greater than 6% (6.3% provided). GRANTED
- 4.2.8.2 To allow a dead end street greater than 800 feet GRANTED
(Road length = 987 feet to pocket park)
(Total road length = 1,777 feet)
(Road length measured along the centerline from the intersection with Whetstone Street around the loop)
- 4.3.1.2 To eliminate the grass plot and install sidewalk directly adjacent to roadway/curbing. GRANTED
5.4.1 & 5.6
- 4.4.9.1 To construct all stormwater pipe within roadway with hdpe corrugated plastic pipe (cpp) in lieu of class 5 reinforced concrete pipe. GRANTED
- 4.7.2, 5.10 To eliminate street lights. GRANTED
- 5.2.1 To eliminate the requirement that the roadway shall be constructed in accordance with the detail for a minor local collector road having a right of way width of 50 feet and provide the roadway layout as shown. GRANTED
- 5.2.3 To eliminate the required second course of pavement and construct pavement in two (2) courses being a 2 ½" binder course and 1 ½" top course for a final compacted pavement depth after rolling of four (4) inches. GRANTED

FINDINGS

Section 8.A.2.f. Planning Board Acting as Special Permit Granting Authority:

The Planning Board makes the following Findings under Section 8.A.2.f.:

1. The specific site is an appropriate location for the use.
2. The use developed will not adversely affect the neighborhood.
3. There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities have been provided to ensure the proper operation of the proposal.
4. The proposed use is in harmony with the general purpose of the West Newbury Zoning

Bylaw dated May, 2013.

5. The requested use will not overload any public water, drainage, or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the town will be unduly subjected to hazards affecting health, safety or the general welfare.

Section 6.B.12. Open Space Preservation Development:

The Planning Board makes the following Findings under Section 6.B.12.:

- a. That the OSPD achieves greater flexibility and creativity in the design of residential developments than a conventional development plan;
- b. That the OSPD promotes permanent preservation of open space, agricultural land forestry land, other natural resources including waterbodies and wetlands, and historical and archeological resources;
- c. That the OSPD promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional development plan;
- d. That the OSPD reduces the total amount of disturbance on the site compared to a conventional development plan;
- e. That the OSPD furthers the goals and policies of the Open Space Plan and/or the Comprehensive Plan;
- f. That the OSPD facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner;
- g. That the OSPD Plan and its supporting narrative documentation complies with all sections of this Zoning Bylaw.

CONDITIONS OF APPROVAL

I. Project

A. Private Way Status

Follinsbee Lane has been approved as a private way. The project has not been submitted nor has it been approved as a Definitive Subdivision.

CONDITIONS:

1. As a Private Way, the Town is not responsible for snow and ice control, snow removal, maintenance and/or repairs to the roadway or other infrastructure, including drainage facilities, or rubbish pick-up, in perpetuity.
2. Condition I.A.1. shall be noted in the Condominium Documents and in the Restrictive Covenants as in perpetuity.

B. Further Subdivision or Land Division

Sheet C22 of the Plan, Conservation Restriction Plan, indicates the Use Area and Open Space Areas which may not be altered.

CONDITIONS:

1. As an Open Space Preservation Development, the land included both in the Use Areas (UAs) of the project, and the designated Open Space parcels, may not be further divided, or changed in size or shape.
2. Condition I.B.1. shall be located noted in the Condominium Documents and in the Restrictive Covenants as in perpetuity.

II. Protected Open Space

A. Open Space Description and Conservation Restriction

Section 6.B.10.a. of the Town of West Newbury Zoning By-law requires that land be set aside as Open Space with a Conservation Restriction. The purpose of the Conservation Restriction is to assure that the designated Open Space will be maintained in its current condition in perpetuity and for conservation purposes, predominantly in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values.

Section 6.B.10.a. requires that a minimum of 60% of the tract shown on the plan shall be preserved as Open Space. The protected Open Space as proposed is 803,418 square feet, or 18.44 acres. In conformity with Section 6.B.10.b.iii., the Owner has elected to retain ownership of the Open Space through its Condominium Association.

Section 6.B.10.a.i. also requires that the percentage of protected Open Space that is wetlands shall not exceed the percentage of the tract which is wetlands at the time of application. The Board may allow a greater percentage of wetlands upon a demonstration that such inclusion promotes the purposes of this Bylaw. According to engineering data submitted, the wetlands (266,064 square feet) are 25% of the entire parcel (1,064,358 square feet), at the time of application, and 33% of the Open Space (Open Space is 803,418 square feet) consists of wetlands in the proposed Plan. The Board in its discretion has made a Finding that the 33% of wetlands in the Open Space promotes the purposes of the OSPD Bylaw.

CONDITIONS:

1. A Conservation Restriction, as defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law, shall be granted by the Owner to the Town of West Newbury acting by and through its Conservation Commission.
2. The Owner must file a Declaration of Restriction with the endorsed Plan at the Registry of Deeds. A note stating "See Declaration of Restriction recorded herewith" shall appear on the first page of the Plan.

3. It is the responsibility of the Owner to file the draft Conservation Restriction and all accompanying documents with the proper entities for approval and endorsement.
4. The Conservation Restriction must be recorded at the Southern Essex District Registry of Deeds ("Registry of Deeds") prior the release from the Covenant Not to Convey of the 25th (twenty-fifth) unit in the project.
5. The Conservation Restriction shall be noted in the Condominium Documents.

B. Uses Within the Open Space

Section 6.B.10.a.v. of the Town of West Newbury Zoning By-law states that wastewater and stormwater management systems serving the OSPD may be located within the protected open space; that surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required; and that wastewater and stormwater management systems serving the OSPD that offer a natural and aesthetic appearance and are constructed to be a natural feature such as a wetland or pond with ecological qualities and/or assets may qualify towards the minimum protected open space area.

See Sheet C22 of the Plan for the Conservation Restriction Plan.

The Owner has proposed to install certain infrastructure uses and other uses in the Open Space. The uses include drainage facilities, wastewater disposal system elements, utilities, a Community Garden and garden shed, a Pocket Park, and trails. The Planning Board has approved a fireplace, woodbox, and a 20 feet x 20 feet pergola within the area of the Pocket Park.

The Board in its discretion has made a Finding that the installation in the Open Space of this infrastructure promotes the purposes of the OSPD Bylaw.

The area within the loop of the cul-de-sac is included in the Open Space calculation. According to the Plan, the total Open Space area within the loop road is 32,753 square feet including the Pocket Park area and a rain garden. The total area of the park is 6,315 square feet. The actual hardscape/pervious paver area of the park is 3,285 square feet. The Pocket Park is approximately 80 feet by x 80 feet. The Community Garden is 64 feet by 88 feet. The shed is 12 feet x 12 feet. The area of the Pocket Park has not been included in drainage calculations as pervious area. The Planning Board has approved the Pocket Park and the Community Garden for use of unit owners of the project only.

CONDITIONS:

1. The Pocket Park shall not be enlarged or changed in shape or dimensions.
2. The surface of the Pocket Park, and walkways to the Pocket Park within the loop area, shall be constructed only with pervious material, as indicated on Sheet L5.1 of the corresponding Landscape Plan.
3. Prior to resurfacing or renovating the Pocket Park, the Owner shall discuss the planned activity with the Planning Board and the Conservation Commission for their input and approvals. The results of any resurfacing shall remain pervious.

4. The Community Garden and the Garden Shed shall not deviate in area or shape from the approved Plan and details without prior approval of the Planning Board as Special Permit Granting Authority and the Conservation Commission, as holder of the Conservation Restriction.

III. Dwelling Units

A. Number of Units and Bedrooms

Number of Units: The OSPD Special Permit has been granted for thirty units of single-family cottage style housing. As "cottage style" housing, the units proposed consist of a mix of two and three bedrooms, and designated square foot areas.

Number of Bedrooms: A total of eighty-four bedrooms are proposed. The design of the Wastewater System requires a limit of eighty-four bedrooms in the project.

Acknowledging that technology may change in the future, the Conditions of this Special Permit have limited the number of bedrooms to eighty-four.

CONDITIONS:

1. The number of single-family cottage type housing units shall not exceed the approved number of thirty.
2. Units shall not be converted to two-family or multi-family units. Garages shall not be converted to living space.
3. The number of bedrooms allowed in this Special Permit is limited to eighty-four.
4. Conditions III.A.1., III.A.2., and III.A.3. shall be noted in the Condominium Documents and Restrictive Covenants as in perpetuity.

B. Cottage Types and Sizes

The Gross Finished Floor Area (See Sheet C21 of the Plan and the Architectural Drawings) of each unit is as follows:

Cottage Type	Gross Finished Floor Area* (in Square Feet)	Number of Stories	Number of Bedrooms
A	1488	2	2
B1	1692	2	3
B2	1692	2	3
C	1613	2	3
D	1747	2	3
E	1150	1	2

* Gross Finished Floor Area is defined as the floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or features. Excluded from Gross Finished Floor Area are basement and unfinished attic space, garages, and porches

CONDITIONS:

1. Units shall be built as shown on the Architectural Plans.
2. Unit E shall not be enlarged.
3. The "Outdoor Area" of Unit E shall not have a roof added, become enclosed, or be converted in any way.
4. Conditions III.B.1., III.B.2., and III.B.3. shall be noted in the Condominium Documents and Restrictive Covenants as in perpetuity.

C. Unit Production Plan and Phase Production Plan**CONDITIONS:**

1. In order to allow for a mix of units throughout the Development no more than two buildings of the same architectural styles shall be allowed next to each other throughout the Development.
2. Units shall be developed to include a minimum mix of unit styles as detailed in the Architectural Plans, and further detailed in the Unit Production Plan (Sheet C21):

Cottage Type	Minimum Number of Units Provided
A	4
B1 or B2	4
C	4
D	2
E	2

3. The Phase Production Plan for construction of individual units shall be as follows:

Phase	Number of Units Provided
I	11
II	7
III	12

D. Additions to or Enlargement of Units

The Planning Board has approved minimal expansion of units, due to the density of the project, consideration of drainage design and calculations, and the cottage-style concept proposed.

Units will initially be built with decks, and certain units will be provided with patios or decks. There are limitations to enclosing decks, or converting patios to enclosed areas, due to density, drainage and setback constraints.

Future owners may wish to enclose open decks. This shall be allowed for certain units, due to the design of the drainage system, which does not allow for increased impervious roof area for all unit locations. The drainage system calculations include the ability to allow for increased runoff from added roofs of specified units.

CONDITIONS:

1. In order to ensure that the footprint of any unit cannot be increased post development, once an Occupancy Permit is issued on a unit, no upward extension greater than the highest point of the existing structure or increase in building footprint is permitted.
2. Decks may not be increased in size, or deviate from those indicated on the Architectural Plans.
3. Units for which decks may be enclosed are (total 16 units): 1, 3, 5, 7, 9, 11, 13, 15, 21, 22, 23, 24, 25, 26, 31, and 32.
4. Newly enclosed rooms may not exceed the dimensions of the original deck as shown on the architectural plans, or encroach into the setbacks.
5. The units which may not create enclosed decks, due to drainage constraints are (total 14 units): 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 27, 28, 29, and 30.
6. Porches as identified on the Architectural Drawings may not be enclosed, enlarged, or expanded in any form.
7. A unit which has been built with a patio may convert the patio to a deck as long as the deck remains pervious, and it meets the setbacks required.
8. Any expansion as conditioned above, or addition of a deck, or enclosing of a deck, shall require a Building Permit. Approval of a Special Permit does not include Building Permit, or approval of, any other authorization or jurisdiction.
9. Conditions III.D.1. through III.D.8., inclusive, shall be noted in the Condominium Documents and Restrictive Covenants as in perpetuity.

E. Density Bonus for Cottage-Style Units

A density bonus has been granted under Section 6.B.13. of the Zoning By-law for four cottage-style units, which requires a Deed Restriction for the designated units. These units have been identified as Unit Types A and E. The Owner has designated Units 2, 6, 14 and 18 as units which will serve partially to fulfill this requirement.

CONDITIONS:

1. The Deed-Restricted Units may not be enlarged to a size greater than 1499 square feet Gross Finished Floor Area, nor more than three bedrooms, since the Density Bonus has been based on the unit size and number of bedrooms.
2. Units 2, 6, 14 and 18 shall be Deed Restricted under this Condition in perpetuity.
3. The Deed Restriction shall be in force in perpetuity, and shall be noted in the

Condominium Documents and in the Restrictive Covenants.

4. The Deed Restriction shall be included in every deed upon conveyance of these units, and in all subsequent deeds.

F. Setbacks

Section 6.B.11.iii)b) requires a buffer area of twenty feet from the perimeter of the property and along certain resource areas, including the Open Space land. The Planning Board has established this as a setback from the Open Space and abutting properties. The Plan Sheets C19 and C20 of the Plan indicate a "building envelope" for each unit, within which a dwelling unit, decks, stairways, and bulkheads shall be located.

CONDITIONS:

1. A minimum setback of twenty feet shall be maintained from the structural foundation and the property lines, and from the line delineating the Use Areas and Open Space as shown on Sheet C5.
2. Due to their proximity to Trails, Units 7, 9, and 15 are excepted from this requirement where they abut a Trail.
3. There shall be a minimum distance of twenty feet between units.

G. Uses Prohibited in the Use Area

Due to the density of the project, and limited size of the Use Area, some uses have been prohibited.

CONDITIONS:

1. Individual outdoor amenities such as in ground or above ground pools, sheds, or any other type of above or in-ground structure; and parking of boats, camper trailers, recreational vehicles, and unregistered vehicles either in the driveways, the yards or on the street, are prohibited.
2. Condition III.G.1. shall be noted in the Condominium Documents and in the Restrictive Covenants as in perpetuity.

H. Exclusive Use Areas

The Owner may establish an Exclusive Use Area for each unit, which is not designated on the plan, and is not subject to Planning Board approval.

CONDITION:

As Exclusive Use Areas are determined by the Owner and noted on the Deeds, the Planning Board shall be notified of such designations.

I. Lighting

The Owner has been granted a Waiver from the requirements of Street Lights.

CONDITIONS:

1. Only outdoor lights on the individual units are authorized. Street lighting and outside light posts are not authorized under this Special Permit.
2. Condition III.I.1. shall be noted in the Condominium Documents and in the Restrictive Covenants as in perpetuity.

J. Affordable Housing

Section 5.F., Inclusionary Housing Requirements, of the Zoning By-law applies to the Special Permit. Three units of Affordable Housing shall be provided in compliance. The Owner has designated Units 6, (Type A, Phase I) 18, (Type E, Phase II), and 30 (Type C, Phase III) as affordable units. The Planning Board has approved the location and unit type of these units.

CONDITIONS:

1. The Owner shall prepare a Local Action Application (or other form as required by the Department of Housing and Community Development) in order to deed restrict the units, and, for the Town, to ensure the ability to add the units to the Subsidized Housing Inventory. The term of affordability for these units shall be in perpetuity.
2. The Regulatory Agreement, and any and all other documents relating to the affordable units, which shall be in the form recommended by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD), are subject to review and approval by the Planning Board and its designee prior to final endorsement. Initial purchase prices shall be established by DHCD in accordance with their regulations.
3. The Regulatory Agreement shall be properly endorsed and recorded at the Registry of Deeds prior to the release from the Covenant Not to Convey of the first unit within the project. It is the responsibility of the Owner to follow all documents through to final endorsement and recording.
4. The Regulatory Agreement shall be referenced in the Condominium Documents by Book and Page Number, and the designated affordable units shall be listed.
5. Units 6, (Type A, Phase I) 18, (Type E, Phase II), and 30 (Type C, Phase III) shall be designated as the affordable units.
6. Schedule for Completion of Affordable Units: The Affordable Units shall be completed in accordance with the following schedule:

Units Constructed	Number of Affordable Units Provided
First ten (10)	1
Second ten (10)	1
Next five (5)	1

7. All Affordable Units shall be completed prior to the construction of the last five units, and by the end of each scheduled completion phase noted above.
8. "Completed" is defined as having an Occupancy Permit issued, and available for sale.
9. Completed affordable units shall be actively marketed to the satisfaction of the Planning Board. The Owner may be required to show proof of marketing attempts and activity in order to demonstrate intent to sell the units in a timely manner.

IV. Site Work

A. Water Line and Requirements

The Owner has proposed to replace the water line from Main Street, under Whetstone Street, to the site of the roadway. An Easement for Water Line Access and Maintenance has been proposed. It is noted that the Board of Water Commissioners has the authority to accept the Easements without further Town Meeting vote, and their vote shall be certified by the Town Clerk as documentation of such vote. The Water Commissioners voted to accept the Easement on February 11, 2014.

In a letter dated April 15, 2014, written by Michael E. Gootee, Water Superintendent to Howard Hall of Cottage Advisors, it was stated that the Water Commissioners are requiring that a new 8 inch water main from Main Street to the proposed new hydrant located at the entrance of the development on Whetstone Street must be installed and in service before starting to build any units in Phase I of the development.

CONDITIONS:

1. The Owner shall replace the water line from Main Street, under Whetstone Street, to the site of the roadway. The proposed replacement and the new water line and installation to service the project, and the proposed loop to River Meadow Road, shall meet all of the specifications of the Water Department and Sheets C13 and C14 of the Plan.
2. The installation of the water line shall be coordinated with the improvements to Whetstone Street. See Section IV.D. of this Certificate of Vote.
3. Building Permits shall not be issued until the water line to the proposed new hydrant on Whetstone Street has been installed and is in service to the satisfaction of the Water Commissioners.
4. A Water Line and Access Easement shall be granted from the Owner to the Town of West Newbury Water Commission for access, installation and maintenance of the water system within the Owner's property and on a 486 square foot parcel of land owned by the Sullivan family on Assessors Map R-11, Lot 18, to a stub located as shown on the Plan on Town-owned property off of River Meadow Court, Assessors Map Parcel R-11, Lot 68A, abutting the northwesterly corner of this parcel.
5. The Easement shall be recorded with the Plan, and the following notation shall be placed on the Title Page of the Plan:

“See Water Line and Access Easement from Cottage Advisors, LLC, granted to the Town of West Newbury Board of Water Commissioners, recorded herewith.”

6. During construction, the Water Department shall monitor and inspect installation of all water system elements prior to backfilling of trenches. The Owner shall contact the Water Department Superintendent at least forty-eight hours prior to requested inspection. The number of hours prior does not include Saturdays, Sundays, or holidays when the Town Office Building is closed. For the purposes of this requirement, holidays are: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Patriots Day, Memorial Day, Independence Day (July 4), Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas.

B. Trails and Trail Easements

Trails and Trail Easements for public use have been provided on the plans. Trails for use of residents of the project only have also been provided. See Sheet L2.0 of the corresponding Landscape Plans for designated trails.

CONDITIONS:

1. It is the responsibility of the Owner to build the trails to the property line. Any trails connecting and built from the property line shall be the responsibility of others.
2. A Trail Easement shall be granted from the Owner to the Town of West Newbury by and through the Conservation Commission for trails within the Owner’s property and on the Trail on a 486 square foot parcel of land owned by the Sullivan family on Assessors Map R-11, Lot 18, to a parcel of Town-owned land off of River Meadow Court, Assessors Map Parcel R-11, Lot 68A, abutting the northwesterly corner of this parcel, located as shown on the Plan.
3. The Easement is subject to review and approval by the Planning Board, its designee, and the Conservation Commission.
4. The Easement shall be recorded with the Plan, and the following notations shall be placed on the Title Page of the Plan:

“See Trail Easement from Cottage Advisors, LLC, granted to the Town of West Newbury Conservation Commission, recorded herewith.”
5. The Public Access Trails shall be constructed and open to the public prior to the release from the Covenant Not to Convey of the twenty-fifth unit.

C. Improvements to Whetstone Street

The Owner has proposed improvements to Whetstone Street. Whetstone Street is a public way, and is under the jurisdiction of the Board of Selectmen. The Owner met with the Board of Selectmen on July 29 and September 9, 2013. On August 1, 2013, the Planning Board received the following memo from the Board of Selectmen:

“At their meeting on Monday, July 29, the Board of Selectmen voted to support the 22’ asphalt surface on Whetstone Street, with Tail Gate berms and a reduction in the grade where possible.”

The Owner has proposed to apply for and pay costs for moving a utility pole which exists within the right of way of Route 113, (Main Street) and is in the intersection of Whetstone Street and Route 113.

Sheets C11 and C17 of the Plan outline work to be performed on Whetstone Street.

CONDITIONS:

1. The general sequence of construction shall be as follows:
 - a) The Owner shall install the new water main, which will require excavation of Whetstone Street, at the beginning of the construction of the project.
 - b) At that time, Whetstone Street will be improved as indicated on Sheets C11 and C17.
 - c) The binder coat of pavement shall be applied. Work shall be completed to the satisfaction of the Board of Selectmen and its designee.
 - d) The top coat will be applied when the top coat is applied to Follinsbee Lane.
2. Work shall be in conformance with the details and specifications of the Plan. Minor modifications may be made in the field with the approval of the Board of Selectmen or its designee.
3. Any agreements, contracts, performance guarantees or other documents such as As-Built Drawings related to work to be performed on Whetstone Street shall be executed between the Board of Selectmen and the Owner, and are not within the purview of the Planning Board.
4. Any work proposed within the right of way of Route 113, a state highway, is subject to appropriate state review and approval.
5. The Board of Selectmen may choose to have construction on Whetstone Street inspected by the Planning Board at the Owner's expense.
6. Prior to the release from the Covenant Not to Convey of the first unit, work on Whetstone Street shall be completed as noted in Section IV.C.1. above, and completed to the satisfaction of the Board of Selectmen.
7. The Owner shall make diligent efforts to have the utility pole moved. All correspondence of contact, applications to the utility, etc., shall be furnished to the Planning Board upon request.

D. Performance Guarantee

Section II.F. of the West Newbury Planning Board Regulations outlines the procedure to be followed for determining Performance Guarantee amounts. The Planning Board has sole discretion in accepting a form of security for the project.

The Owner has proposed construction of the infrastructure in two phases, as shown on Sheet C23, Construction Phasing Plan. The Planning Board shall not release any units

from the Covenant Not to Convey until a Construction Phase has been completed to the satisfaction of the Board.

Construction Phase I includes the following units: Unit 1 through Unit 10, and Unit 12.

Construction Phase II includes the following units: Unit 11 through Unit 32.

CONDITIONS:

1. The Owner shall endorse and record with the Plan a completed Covenant Not to Convey.
2. A Notation shall be placed on the first page of the Plan: "See Covenant Not to Convey recorded herewith."
3. Units within a phase may not be released from the Covenant Not to Convey until utilities, first coat, and drainage for that phase of the Construction Phasing Plan have been installed to the satisfaction of the Planning Board, and all other requirements of this Certificate of Vote have been met.
4. Following installation of the above listed improvements, the Owner may propose a form of security acceptable to the Planning Board for items remaining to be completed.

E. Construction

CONDITIONS:

1. Pre-Construction Conference, to be held prior to the start of any construction.
 - a. The Owner shall submit a Construction Schedule to the Planning Board for review as a pre-requisite for scheduling a Pre-Construction Conference. The Schedule shall be submitted at least fourteen days prior to the requested date for final review. Review by the Planning Board Agent shall be at the Owner's expense.
 - b. The Planning Board shall distribute the proposed Construction Schedule to the departments listed in IV.E.1.e. below for review and comment.
 - c. The Owner shall request that the Planning Board schedule a Pre-Construction Conference at least 14 days prior to the requested date.
 - d. The Planning Board Administrator shall contact the people listed below to arrange a mutually convenient date and time.
 - e. The following shall be notified and requested to attend the conference: Conservation Administrator, DPW Director, Fire Chief, Health Agent, Planning Board Agent, Police Chief, Water Department Supervisor, to discuss the Construction Schedule, which has been previously submitted and approved by the Planning Board, and the Conditions of Approval.
 - f. At that Conference, the Owner shall submit to all present a list of contact information for the Owner, Contractor, Engineer, Surveyor, including 24 hour

emergency contact numbers.

2. The project shall be built in accordance with the Plans as approved, except where stated otherwise within this Certificate of Vote. Minor changes or deviations may be authorized by the Planning Board or its designee, without formal refile, as minor field changes, if the Planning Board determines that such changes are warranted to meet field conditions or to improve site conditions.
3. Hours of Construction: Project construction shall be limited to the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, and on Saturday from 8:00 a.m. to 5:00 p.m. Construction during other hours, and on Sundays and on all holidays, is expressly prohibited. Holidays are: New Year's Day, President's Day, Memorial Day, Independence Day (July 4), Labor Day, Thanksgiving, and Christmas.
4. Control of Dust and Debris: The Owner shall provide appropriate measures to limit construction debris, dust, and materials on the site. In the event that debris is carried onto any public way, the Owner and his assigns shall be responsible for all cleanup of the roadway. All cleanups shall occur within twenty-four hours after first written notification to the Owner by the Board or its designee. Failure to perform such cleanup may result in the project being shut down until said public way is clear, Town cleanup at the Owner's expense, or other measures deemed appropriate in the reasonable judgment of the Town.
5. Temporary Turn-Around: Prior to release from the Covenant Not to Convey of the first unit, a permanent or temporary turn-around shall be provided for turning of emergency and construction vehicles, and for all occupants of units. The configuration and dimensions of the turn-around shall permit fire apparatus vehicles to turn around (WB-12 of AASHTO, *A Policy on Geometric Design of Highways and Streets*, 2011, 6th ed.). Any temporary turn-around and any access to it shall be constructed with a minimum of eight inches compacted gravel placed on a stable sub-base.
6. Project Construction Inspections: The Board's Consultant Engineer shall inspect all roadway, infrastructure and drainage improvements required by the Plan, at the expense of the Owner. The Owner shall establish an Escrow Account with the Town, and maintain a balance of \$5,000 in the account at all times until utilities, first coat, and drainage have been completed to the satisfaction of the Board. Thereafter, the Board may reduce this minimum balance, but is not obligated to do so. Inspections shall follow the Form L, Inspection Form, found in the Town of West Newbury Subdivision Regulations. The Inspector shall be contacted at least forty-eight hours prior to requested inspections. The number of hours prior does not include Saturdays, Sundays, or holidays when the Town Office Building is closed. For the purposes of this requirement, holidays are: New Year's Day, Martin Luther King Jr. Day, President's Day, Patriots Day, Memorial Day, Independence Day (July 4), Labor Day, Columbus Day, Veterans Day, Thanksgiving, and Christmas.

F. Soil Removal

CONDITION:

Removal of soil from the site shall comply with the requirements of the Town of West Newbury Bylaws, Section V, Soil Removal Bylaw.

G. As-Built Plan

CONDITIONS:

1. Interim As-Built Phasing Plans shall be submitted to the Planning Board at the completion of each phase.
2. A final As-Built Phasing Plan in .pdf and .dwg format shall be submitted to the Planning Board when the project is completed.
3. A printed and a digital copy in .pdf and .dwg format of all As-Built Plans submitted to the Water Department, Board of Health, and other Town entities shall also be submitted to the Planning Board.

H. Landscaping

CONDITIONS:

1. The landscaping as shown on the corresponding Landscape Plans shall be maintained in perpetuity by the Unit Owners Association. Any dead vegetation shall be removed promptly and replaced in accordance with the specifications outlined on the plans.
2. Plantings in the form of low shrubs and evergreens shall be placed to buffer from view wastewater system components that are protruding or visible in the Open Space and in the Use Areas.
3. Plantings proposed around the individual units are not subject to inspection or approval of the Planning Board and if the Owner fails to plant according to the Landscaping Plans, this shall be considered a private matter between the individual purchasers and the Owner.

I. Stormwater Management Operation and Maintenance

CONDITIONS:

1. A Stormwater Operation and Maintenance Plan (O&M Plan) shall be submitted to boards and commissions with relevant jurisdiction for approval at least forty-five days prior to the requested date of approval.
2. The Planning Board may request technical review of the O&M Plan at the expense of the Owner prior to approval.
3. The O&M Plan must be approved prior to the release of the first unit from the Covenant Not to Convey.
4. The O&M Plan and the requirements for annual maintenance shall be referenced in the Condominium Documents and the Restrictive Covenants, and the obligations of the Plan shall be in perpetuity.

5. The Owner and Owners and then their Successors and/or Assigns, including, but not by way of limitation, the Organization of Unit Owners established pursuant to General Laws c. 183A, §10 (for purposes of this paragraph and the following paragraph collectively the "Owner" or "Owners"), shall be responsible for the proper operation and maintenance of all components of the stormwater management and drainage system and shall maintain said system as described in the Stormwater Operation & Maintenance Plan.
6. No alterations or modifications to the drainage system, shall be made without the prior approval of the Planning Board and the Board of Selectmen. This obligation shall extend to all elements of the drainage system, whether placed on or under the Use Areas, on or under any common area, or on or under any way. The obligation to maintain and repair all elements of the drainage system shall never become the obligation of the Town of West Newbury.
7. Condition IV.I.5. shall be included in the Condominium Documents and the Restrictive Covenants as in perpetuity.

V. General

A. Hold Harmless and Indemnification

CONDITIONS:

1. In the event the Town must perform any service, maintenance and/or repair in an emergency situation, the Town shall not be held responsible for any damage to any person or property.
2. In such a circumstance, Owners shall indemnify and hold harmless the Town of West Newbury, its agents, servants and employees from liability for claims for personal injury or property damage and shall fully reimburse the Town for any work performed.

B. Town's Right to Perform Work

CONDITIONS:

1. If at any time the Owner or Owners fail, upon written request from the Board of Selectmen of the Town of West Newbury, to maintain or repair any part of any way, or drainage system (including all related pumps and equipment) to the reasonable satisfaction of the Board of Selectmen of the Town of West Newbury, then the Town shall have the right, but not the obligation, to enter upon any and all of said Use Areas, the common areas, and any way to do perform such maintenance or affect such repairs as it deems appropriate and to charge the current Owner or Owners the full cost, including actual costs or imputed value of any labor involved, incurred by the Town in so doing.
2. The Town shall have a cause of action in damages for such sum against said Owner or Owners and in such action shall be entitled to recover the reasonable value of its attorney's time and any expenses or costs incurred therein. In addition, any such

costs or expenses as aforesaid may be taxed as a Betterment Assessment pursuant to the provisions of M.G.L. c. 81, § 1.

3. The provisions of Condition V.A. and V.B. shall be included in Condominium Documents and the Restrictive Covenants as in perpetuity.

C. Condominium Documents

It is anticipated that the Owner shall have prepared a Master Deed to the Condominium, A Unit Owners Association of Trust, (Declaration of Trust), Bylaw of the Condominium, and Rules and Regulations of the Condominium. These documents will be referred to in the following Conditions as "the Documents".

CONDITIONS:

1. Prior to the release of the first unit from the Covenant Not to Convey, the Owner shall have prepared and submitted to the Planning Board the Documents listed above. The Documents shall be reviewed by the Board and its designee to be in conformance with this Decision prior to the execution thereof. The Board and its designee shall approve such document as to form after determining that the document is consistent with this Decision. Approval shall not be unreasonably withheld.
2. The documents shall be submitted to the Planning Board at least thirty days prior to the requested date of approval.
3. Membership in said Unit Owners Association shall be required by the Master Deed in accordance with MGL Chapter 183A, Section 5.
4. Upon approval, the Condominium Documents shall be recorded at the Registry of Deeds.
5. The documents shall include reference to the recorded Plan, Certificate of Vote, Restrictive Covenants, and all Easements by Book and Page number, and all of the elements listed in this Certificate of Vote to be incorporated into the Condominium Documents.

D. Administration

CONDITIONS:

1. Any outstanding invoices must be paid in full prior to endorsement of the Plan.
2. Following recording, the Owner shall submit a full set of all Plans printed in color, and a digital copy of the entire plan submittal, as recorded, to the Planning Board. Additional recorded copies may be required.
3. All applicable laws, bylaws, rules, regulations, and codes of state law, federal law, and the Town of West Newbury shall be complied with, and the Owner shall obtain all necessary permits, licenses, and variances, as applicable.
4. In accordance with Section 8.A.2.h. of the Town of West Newbury Zoning Bylaw, this approval which has been granted by the Planning Board shall lapse within two years from the date of Planning Board filing with the Town Clerk, or on May 12,

2016, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.

5. No further amendment, alteration, waiver or other change in the Permit shall occur other than by filing, approval, and recording of a modification to the Special Permit. In compliance with the provisions of Section 8.A.2.g.4) the Planning Board shall determine if a modification is a Major or a Minor Modification, and act accordingly.
6. The action of the Planning Board does not waive or alter any other permit or approval requirements, including, but not limited to, those of the Board of Health, the Inspection Department, and the Conservation Commission.
7. The Conditions of this Special Permit shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. The Unit Owners Association and purchasers of all units shall be forever bound by all applicable conditions and restrictions contained in this Decision.
8. In the event of a conflict between the condominium documents and this Decision, and the Plans and this Decision, the terms of this Decision shall govern.
9. The Owner shall make a notation on the title sheet of the Plans, in addition to notes as stated above, as follows:

“See Certificate of Vote dated May 12, 2014, recorded at the Registry of Deeds”
with reference to Book and Page Number.
10. This Decision and related plans and documents must be recorded at the Southern Essex District Registry of Deeds. It is the responsibility of the Owner to record a certified copy of any Certificate of Vote of the Planning Board granting a Special Permit and related plans stating that the appeal period has lapsed and that there have been no appeals or that if any appeal has been filed that it has been dismissed or denied. Proof of recording of the Decision and all other documents must be provided to the Planning Board before the Decision becomes effective.

APPEALS: Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the filing of this Notice of Certificate of Vote in the Office of the Town Clerk of the Town of West Newbury.

At a meeting of the Planning Board held on March 11, 2014, Board Members voted to Approve the Applications for Open Space Preservation Development and Site Plan Review for Follinsbee Lane, the Cottages at River Hill, subject to the Conditions of this Certificate of Vote, and subject to the following:

Final Certificate of Vote and Conditions, as approved by the Board.

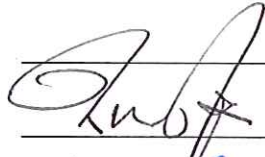
Final Plans, which include civil, landscaping, and architectural plans, as approved by the Board.

All Easements and Restrictive Covenants as approved by the Board, which are to be recorded with the final approved Plans,

Any other documents deemed to be necessary.

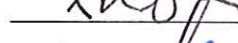
The Vote was as follows:

Ann E. Bardeen



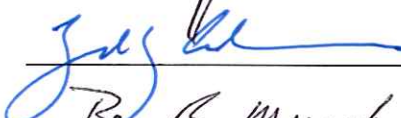
Opposed

Richard W. Bridges



In Favor

Raymond A. Cook



In Favor

Brian R. Murphey



In Favor

John Todd Sarkis



In Favor