

Conditions Concerning Condominium Documents
June 29, 2015
DRAFT

1. The Applicant shall establish a condominium owners' association (the "Condominium Association") for the Project.
2. The Condominium Association shall either self-manage the Project or shall contract with a qualified management entity that shall be subject to the provisions of this Decision.
3. The following common facilities and services of the Project shall be maintained in perpetuity by the Applicant and/or the Condominium Association, as applicable, and further shall remain forever private, and the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:
 - a. Stormwater management system, including the maintenance of catch basins, detention basins and the like;
 - b. Drinking water system;
 - c. Wastewater System;
 - d. All roadways, walkways, driveways and parking areas;
 - e. Snow plowing and removal;
 - f. Landscaping and landscape maintenance;
 - g. Trash removal; and
 - h. Street lighting (if any).
4. In accordance with the foregoing, regardless of whether the Condominium Association self manages or contracts with a management entity, it shall at all times have a qualified contractor under agreement to conduct regular inspections and all necessary maintenance and repair of the Project's storm water management system, wastewater system and drinking water system, to maintain all common area landscaping, and to perform all street maintenance and snow removal.
5. The condominium documents shall include a realistic condominium fee budget based upon comparable developments that have been occupied for at least two (2) years, and shall include adequate provision for all inspection, maintenance, repair and replacement of the Project's significant infrastructure components, as discussed more specifically below.

Stormwater

6. The Condominium Association shall cause the inspection, maintenance and repair of the stormwater management infrastructure to be performed in strict accordance with the Operation and Maintenance plan set forth in Section 9.0 of the Final Stormwater Management Report for "The Birches" A 40B Residential Project Off Long Ridge Road, Carlisle, Massachusetts dated July 1, 2014 and last revised February 25, 2015 (the "O&M Manual"), a copy of which is on file with the Board, and the terms and conditions of which are incorporated herein by reference. Without limiting the foregoing, the recordkeeping requirements set forth in

subsection 9.3.2 (Record Keeping) and the best management practices discussed in subsection 9.3.7 (Permanent Best Management Practices) shall be deemed mandatory.

7. The Master Deed shall specifically reference the O&M Manual, and shall bind the Condominium Association to arrange for regular inspection, maintenance and repair of the stormwater management system to ensure its effectiveness for as long as the Project is in existence.

8. The Condominium Association shall include in its annual budget adequate funds to conduct all routine repair and maintenance of the stormwater management system in accordance with the O&M Manual, and shall provide for adequate annual funding to create a savings reserve so as to provide for the timely replacement of failed system components.

9. The Applicant and the Condominium Association, as may be applicable, shall submit an annual report to the Building Commissioner in which a qualified contractor certifies that it has timely performed all inspection, maintenance and repair called for by the O&M manual. Such report shall be filed no later than January 15 of each year.

Septic Systems

11. Pursuant to Section 15.290.3 of the Town of Carlisle's Supplementary Regulations for Sewage Disposal Systems, the Applicant shall be required to provide an insurance policy, bond, or other financial instrument to guarantee long term operation and maintenance of the system, which shall have a face value not less than the current replacement cost of the system as determined by a professional engineer, registered sanitarian or licensed installer, and which shall be submitted annually to the Board of Health along with the sewage disposal system report.

In accordance with the foregoing, unless an alternative form of security satisfactory to the Board of Health is provided, the Condominium Association shall establish and maintain a Working Capital Fund, separate and apart from other funds held by the Association, to pay all regular maintenance costs and costs for short-term replacement and/or repair of the septic systems, and a separate Reserve Fund to provide for the replacement of Septic Systems at the end of their useful life.

Prior to the commencement of operation of the septic systems, and annually thereafter, the Condominium Association shall determine the amount necessary to provide the sums needed to be paid over the next twelve month period to support the maintenance of the septic systems to be deposited in the Working Capital and Reserve Funds, and these assessments shall be made proportionately to the owner of each unit.

The number and types of such funds, and the schedule of sums to be deposited therein, shall be subject to the review and approval of the Board of Health as part of its review of the applications under Title 5 and the Town's Supplementary Regulations for Sewage Disposal Systems.

Drinking Water

12. The condominium documents shall provide that each set of unit owners served by a particular drinking water well shall have (1) exclusive ownership and control of said well and all associated infrastructure, (2) the legal right to operate, maintain and/or upgrade the well, and (3) permanent easements for all well equipment located outside a given unit's exclusive use area.

13. The condominium documents shall provide that each set of unit owners served by a particular well shall have, upon the failure of such well, the legal right to site a new drinking water well, associated infrastructure and appurtenances in such alternative locations within the Project as may be necessary to provide adequate drinking water to such individual units, and that upon the creation of a new well the relevant units owners will thereafter have (1) exclusive ownership and control of said well and all associated infrastructure, (2) the legal right to operate, maintain and/or upgrade the well, and (3) permanent easements for all well equipment that is located outside a given unit's exclusive use area. Notwithstanding the foregoing, any new well shall be subject to all applicable State and local regulations and permit requirements.

14. The condominium documents shall provide that for each set of unit owners served by a particular drinking water well, there shall be established a Working Capital Fund, separate and apart from any other funds held by the Trustees, to pay all regular maintenance and short term repair costs for the well, and a separate Reserve Fund to provide for the replacement of the well at the end of its useful life. Prior to the commencement of the operation of any drinking water well, and annually thereafter, the Condominium Association shall determine the amount necessary to provide the sums needed to be paid over the next twelve month period to support the maintenance and repair of the particular water supply system to be deposited in the Working Capital and Reserve Funds, and these assessments shall be made proportionately to each unit owner. The number and types of such funds, and the schedule of sums to be deposited therein shall be subject to the review and approval of the Board of Health as part of its review of the applications under the Town's Well Regulations.

Other

15. The condominium documents shall provide for the maintenance and repair of the roadway in a safe and passable condition, including sufficient access for fire, police, and emergency vehicles during all seasons and weather conditions, including the removal of snow and ice and the clearing of brush and foliage.

16. The condominium documents shall provide for the maintenance and repair of the irrigation and fire cistern wells by the Condominium Association.

17. Irrigation of common area landscaping elements shall be provided exclusively by the irrigation well shown on the Approved Plans. The irrigation well shall be

subject to approval by the Board of Health and shall be operated in accordance with the applicable Board of Health regulations and policies; provided, however, that:

- a. The Condominium Association shall collect and maintain pumping data from the irrigation well through a flow meter and from an hour meter and submit such data, and a statement as to the effectiveness of the irrigation well, to the Board of Health on a quarterly basis. Such records shall disclose the amount of water pumped from the irrigation well by month, and the pumping rate (*e.g.*, average 15 gallons per minute); and
- b. The Board of Health shall have the authority to declare a local water emergency and may order the irrigation well shut off for such time as it determines to be necessary to protect the potable water supply of the Project and its abutters. The irrigation well shall also be shut off upon a declaration of a drought level of "Watch" or higher by the Mass. Drought Management Task Force and shall remain shut off until the drought level is returned to "Advisory" or "Normal." After commencement of operation of the irrigation well, the Board of Health may order the irrigation well shut off if a Project well or a private well of an abutter to the Project fails to provide water at generally acceptable rates or flow and pressure, and the Board determines that such failure probably would not have occurred but for the operation of the irrigation well. The Board of Health may further order that the irrigation well not be turned back on until the failure has been cured to its satisfaction.

18. The following covenants shall be included in the Master Deed and in the individual unit deeds:

- a. For each individual unit, all structures and impervious surfaces shall be contained within the footprint shown on the Approved Plans. Sheds and other accessory structures associated with the individual units are prohibited.
- b. There shall be no conversion of interior space into additional bedrooms (as compared to the floor plans attached hereto as Exhibit A).
- c. Disposal of yard or landscaping waste within the wooded portion of the Project is prohibited.
- d. Resident parking in the guest spaces within the Project for extended and continuous periods shall be prohibited.
- e. Spillage of light onto neighboring properties is prohibited.
- f. The use of garbage grinders is prohibited.
- g. Storage of flammable, combustible or explosive materials, other than lighting and cleaning fluids customary for residential use, within any unit is prohibited.

19. The condominium documents for the Project 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 ZBA approval.
 - b. The affordable units shall remain affordable in perpetuity.
 - c. The Master Deed shall reference the Deed Rider and the Regulatory Agreement.
 - d. All votes shall be one unit one vote except where the condominium statute requires percentage interest votes.
 - e. To the extent permitted by law, upon turnover of the Condo Association by the Applicant to the Unit Owners, at least 25% of the trustees of the Condominium Association shall be owners of the Affordable Units unless a sufficient percentage of such Unit Owners are unwilling to be trustees.
 - f. The Master Deed shall provide that in the event of condemnation or casualty of any Affordable Unit(s), any insurance proceeds above the resale price of said Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town to be used for affordable housing.
20. The condominium documents shall provide that each unit is to be used for residential purposes.
21. The condominium documents shall establish procedures for design review by the Condominium Trust or its designee of all additions, alterations, and improvements of individual units. This procedure shall ensure that the architectural integrity of each unit shall not be modified without the approval of the Board of Trustees and that no unit may be altered in any manner that is not consistent with the terms and restrictions set forth in this Decision.
22. The condominium documents shall provide that no space within any unit shall be modified or improved so as to serve as an additional bedroom (relative to the floor plans attached as Exhibit __), and the Condominium Association shall require certification of the same as part of its design review process for any proposed modifications and improvements.
23. Prior to the issuance of any building permit for the Project, the Applicant shall submit to the ZBA the condominium documents (Master Deed, Declaration of Trust, Bylaws, Rules and Regulations) for review and approval by Town Counsel and for verification that such documents are consistent with this Decision. At the time that the documents are provided to Town Counsel, the Applicant shall certify that such documents are in compliance with M.G.L. c.183A.
24. The Project will be constructed in two phases, with the scope of each phase being substantially as shown on the Approved Plans. The Applicant shall ensure that construction of Phase 2 does not unreasonably affect the use and enjoyment of the residents of Phase 1.