



BOXBOROUGH PLANNING BOARD
29 Middle Road, Boxborough, Massachusetts 01719
Phone: (978) 264-1723 • Fax: (978) 264-3127
www.boxborough-ma.gov

Cindy Markowitz, Chair Mark White, Clerk Abby Reip Nancy Fillmore Rebecca Verner

Filed with the Town Clerk
August 19, 2019

APPROVAL DECISION
SITE PLAN APPROVAL & SPECIAL PERMIT FOR ALTERNATE ACCESS
BOXBOROUGH TOWN CENTER, LLC
700, 750, & 800 Massachusetts Avenue

DECISION of the Planning Board (the Board) on the application of Boxborough Town Center, LLC (the Applicant) for Site Plan Approval and a Special Permit for Alternate Access to construct a 50-unit elderly occupancy residential development on several contiguous parcels of land located at 700, 750, and 800 Massachusetts Avenue (the “Application”). The Application was filed with the Planning Board on February 6, 2019. An application for a Special Permit for Alternate Access was filed with the Town Clerk on March 5, 2019.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed as required by law, the Planning Board opened the public hearing on the application on June 17, 2019 and held continued sessions of the public hearing on July 8, 2019, July 22, 2019, August 5, 2019, and August 15, 2019 when it was closed. The Planning Board deliberated on the proceedings on August 15, 2019. The following members of the Planning Board were present throughout the proceedings: Cindy Markowitz, Abby Reip, Rebecca Verner and Mark White.

After due consideration of the application, the record of the proceedings, the exhibits, the Town Planner’s reports, and based upon the findings set forth herein, the Board voted 4 to 0 to **APPROVE WITH CONDITIONS** the Site Plan Approval and voted 4 to 0 to **APPROVE WITH CONDITIONS** Special Permit for Alternate Access on August 15, 2019 pursuant to the following findings:

The following were tendered as exhibits:

- a. Original Site Plan Approval Application Package 700, 750, & 800 Massachusetts Avenue Dec. 23, 2016.
- b. Remand Hearing Cover Letter from Attorney Paul Haverty from Blatman, Bobrowski & Haverty, LLC dated February 5, 2019 with a copy of the Order of Remanding Case to Boxborough Planning Board.
- c. Conceptual Site Plan, 50 Active Adult Homes, Minuteman Village by ESE

- Planning dated February 1, 2019 (6 sheets).
- d. Site Plan Enclave at Boxborough for Boxborough Town Center, LLC by Ducharme & Dillis dated July 15, 2019, stamped "Issued for Permit," Sheets C1 thru C8.7 and 1 of 7 thru 3 of 7(26 sheets total).
 - e. Stormwater Report, Enclave at Boxborough, Stow Road, Boxborough prepared for Boxborough Town Center LLC by Ducharme & Dillis, dated July 15, 2019 stamped by Greg Roy, P.E.
 - f. Landscape Plans Enclave at Boxborough for Boxborough Town Center, LLC by ESE Consultants, dated July 31, 2019 stamped by Emily E. Stewart, Registered Landscape Architect. (8 sheets).
 - g. Fire Department review comments from Captain Shawn Gray email dated February 8, 2019, April 30, 2019, and July 25, 2019 (2 emails).
 - h. Highway Department review comments from Ed Kukkula email dated February 8, 2019.
 - i. Pat Laverty, Littleton Electric Light and Water Departments, review comments emails dated February 20, 2019, April 25, 2019, and July 2, 2019.
 - j. Conservation Commission comments from Dennis Reip email dated February 23, 2019 and Order of Conditions 113-557 to be issued August 21, 2019.
 - k. Highway Department review comments from Ed Kukkula email dated April 22 and 23, 2019.
 - l. Police Department review comments from Chief Warren Ryder email dated April 23, 2019 and August 9, 2019.
 - m. Board of Health review comments from James Garreffo, Nashoba Associated Boards of Health emails dated May 2, 2019 and July 22, 2019.
 - n. Town of Boxborough Design Review Board comments dated February 13, 2019 and revised on May 10, 2019.
 - o. Preliminary Plan of Land for Boxborough Town Center, LLC by Ducharme & Dillis dated July 15, 2019.
 - p. Project Impact Analysis Minuteman Village prepared for Boxborough Town Center LLC by Ducharme & Dillis, dated May 2, 2019.
 - q. Traffic Impact and Access Study Enclave at Boxborough for Boxborough Town Center, LLC by Bayside Engineering, dated August 2, 2019.
 - r. Traffic Impact and Access Study Appendix Enclave at Boxborough prepared for Boxborough Town Center, LLC by Bayside Engineering, dated August 2, 2019.
 - s. Enclave at Boxborough Clubhouse Presentation Board by ESE Consultants, dated June 18, 2019.
 - t. Site Development Preconstruction Plan for Enclave at Boxborough by Richard J. Groll, Industrial Seismologist, dated June 14, 2019.
 - u. Enclave at Boxborough Building Renderings 4 sheets with a received stamp of May 8, 2019.
 - v. Project Description dated June 19, 2019 by Ducharme & Dillis with attached Revised Site Plan Approval Application received stamped June 24, 2019 and revised July 31, 2019,
 - w. Special Permit Application for Alternate Access Town Clerk Stamped Received March 5, 2019.
 - x. Atty. Paul Haverty Merger Doctrine Letter dated July 8, 2019.
 - y. Atty. Paul Haverty Master Deed Letter dated Aug. 5, 2019.
 - z. Places Associates, Inc. letter dated August 7, 2019 listing required plan revisions to be made prior to Planning Board endorsement.

FINDINGS OF FACT – GENERAL

1. As depicted on the Application, the land subject to this Site Plan Approval (subject land) consists of: 1) Assessor's Parcel #s 14-210-000 and 14-209-000, owned by the Applicant (the "BTC Parcel"); 2) Assessor's Parcel # 14-208-000, owned by Mane Realty Trust, John J. Lyons, Trustee (the "Mane Parcel"); and 3) an access easement to Stow Road across the land at 109-133 Stow Road, Assessor's Parcel #s 14-055-000 through 14-055-611, owned by the members of the Sheriff's Meadow Condominium Association, depicted as "Access Easement C" on the Site Plan (together, the "Project Site"). The Project Site does not include two parcels of land identified on the Site Plan as "Parcel B" and "Parcel C".
2. The subject land is located entirely within the Town Center Zoning District, and also within the Wetlands and Watershed Protection District.
3. The Applicant achieved a zoning freeze with respect to a substantial portion, but not all, of the subject land, by virtue of the filing of a preliminary subdivision plan on May 9, 2013, followed by the Board's endorsement of the subsequent definitive plan on April 28, 2014, which plan was recorded on April 24, 2015 with the Middlesex South Registry of Deeds as Plan No. 294 of 2015 (the "2014 Plan"). Neither Parcel A nor the land subject to the Access Easement was part of the land shown on the 2014 Plan, however, the Access Easement was appurtenant to the BTC Parcel as a matter of record when the freeze was obtained. For those portions of the subject land benefitted by the zoning freeze, the Planning Board applied the May 2012 version of the Zoning Bylaw to review this project for compliance.
4. The Applicant seeks Site Plan Approval under Section 8000 of the 2012 Zoning Bylaw and a Special Permit for Alternative Access under Section 4800 of the 2012 Zoning Bylaw to construct 25 two-family dwellings (50 units of housing) reserved exclusively for elderly occupancy with an associated clubhouse with amenities, signage, private driveways, parking, public water supply, wastewater treatment, drainage, and site grading on the Project Site.
5. The Project Site, depicted as Lot 1 on the Preliminary ANR dated June 11, 2019, contains approximately 1,070,347 square feet.
6. The subject properties contain significant wetlands and the proposed internal roadway would cross a portion of this wetland, which requires a filing with the Conservation Commission.
7. Since the proposed project is subject to the 2012 Zoning Bylaw, the proposed project is also subject to the regulations of the Wetlands and Watershed Protection District which requires a Special Permit filing with the Zoning Board of Appeals, as applicable.

8. The Project Engineer has indicated that the current project does not meet MEPA thresholds.
9. The proposed project requires a Massachusetts Department of Transportation (MassDOT) Permit to Access a State Highway (Route 111/Massachusetts Avenue) for the temporary construction access.

SITE PLAN APPROVAL – SECTION 8000 OF THE ZONING BYLAW

The Applicant has submitted plans consistent with Sections 8005 and 8006 of the Boxborough Zoning Bylaw and the Site Plan Approval Rules & Regulations. Pursuant to Section 8007 of the Zoning Bylaw, “site plan approval shall be granted upon determination by the Planning Board that new buildings or other site alterations have been designed in the following manner, after considering the qualities of the specific location, the proposed land use, the proposed building form, grading, egress points, and other aspects of the development.” Section 8007 sets forth nine criteria that a site plan must satisfy to merit approval. The Planning Board reviewed the Project for compliance with each of these criteria, and its findings with respect to such review are as follows:

Criterion 1. The proposal shall comply with the purpose and intent of the Zoning Bylaw and with existing local and regional plans.

Findings:

The Planning Board finds that the Application meets all of the zoning requirements of the 2012 Town of Boxborough Zoning Bylaw. These include:

Use:

Section 4003(1): Two-family dwellings reserved exclusively for elderly occupancy are allowed in the Town Center zoning district by right.

Density:

Section 5004(1): Two-family dwellings reserved exclusively for elderly occupancy may not exceed a density of 10 units per 80,000 square feet of land. The Application sites 50 such dwelling units on a single parcel containing 1,070,347 square feet of land. The density of the Application is 10 units per 214,069.4 square feet of land.

Dimensional Requirements:

Standard	Required	Provided
Minimum Lot Area	40,000 sq. ft.	1,070,347 sq. ft.
Minimum upland lot area	20,000 sq. ft.	778,137 sq. ft.
Minimum Lot Frontage	100 ft.	102 ft.
Minimum Lot Width	100 ft.	101+
Minimum Front Setback	75 ft. from Mass Ave., 50 ft. from Stow Rd	> than required from both roads
Minimum Side Setback from AR district	40 ft.	Approx. 67 ft.
Minimum Rear Setback	40 ft.	Approx. 45 ft.
Maximum Stories	3	2
Maximum Building Height	45 ft.	Less than 45 ft.
Maximum Lot Coverage by Buildings, Structures, and Impervious Surfaces	35%	23.7%
Minimum Open Space	65	76.3%

Criterion 2. The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties and community amenities. To the extent possible, building sites shall be designed to minimize the use of wetlands, steep slopes, floodplains, hilltops; minimize obstruction of scenic vistas from publicly accessible locations; preserve unique natural, scenic and historic features; minimize tree, soil and vegetation removal; and maximize open space retention.

Findings:

The main entrance to the development will be from an access easement through an already developed property off of Stow Road. Using this entrance limits the disturbance of the most environmentally sensitive portions of the subject parcel. Construction traffic will be routed through the wetland resource areas from Massachusetts Avenue (Route 111) southeast to the development site. However, this traffic is allowed only during the construction period and the environmentally sensitive land will be restored when the project is completed.

Criterion 3. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in the roof and wall lines, and other architectural techniques. Proposed buildings shall relate harmoniously to each other.

Criterion 9. Architectural Standards in the Town Center District Only. Materials shall be harmonious with existing buildings. In the interest of maintaining a sense of history, vertical siding shall be discouraged and synthetic siding shall imitate the character and dimensions of traditional clapboards. Masonry block buildings should be faced in an appropriate material, such

as horizontal wooden siding or brick of a traditional red color. Buildings shall fit in with existing architecture in terms of height, massing, roof shapes, and window proportions.

Findings:

The two-family, one-and-a-half story structures are generally compatible in scale and massing with the existing units located along the access easement road in the developments to the east.

Criterion 4. Adequate measures shall be proposed to prevent pollution of surface and ground water, to minimize erosion and sedimentation, to prevent changes in groundwater levels, to minimize potential for flooding, and to provide for stormwater drainage consistent with the functional equivalent of the Planning Board's Subdivision Rules & Regulations.

Findings:

The stormwater system is adequately as designed to serve 50 units of elderly-restricted housing and meets DEP stormwater requirements.

Criterion 5. Roadways and circulation system shall be designed to promote convenience and safety for both pedestrians and vehicles. Access roads by which the proposed development is reached shall be adequate in width, grade and construction to carry, without danger or congestion, the additional traffic that is generated from the development.

Findings:

1. The entrance/exit to the Project is from Stow Road through an access easement within the existing Sheriff's Meadow development. This access is safer, has less environmental impact, and is more direct than providing access off of Massachusetts Avenue (Route 111), which provides the legal street frontage for the project.
2. The Applicant submitted a traffic study entitled "Traffic Impact and Access Study, ENCLAVE AT BOXBOROUGH, Massachusetts Avenue, Boxborough, MA" prepared by Bayside Engineering and dated August 2, 2019. The study showed that with 50 units of elderly-restricted housing, there will be limited traffic impact on surrounding roadways. The authors of the report made several recommendations regarding mitigation measures to further limit traffic impacts. The Applicant has agreed to implement these recommendations including:
 - a. Installing a stop sign at driveway intersection with Stow Road;
 - b. Constructing a sidewalk along the west side of Stow Road from the driveway northerly to Massachusetts Avenue;
 - c. Installing signs on the Massachusetts Avenue approaches to the construction entrances and;
 - d. Ensuring that signage and/landscaping does not interfere with sight lines at all intersections.

3. The police chief has recommended rapid flashing LED signs at the pedestrian crossing signal at Massachusetts Ave where the proposed sidewalk connects to the existing sidewalk and crosswalk. The chief further indicated that a police detail will be necessary until the completion of the entrance to the construction access road.

Criterion 6. Adequate buffers shall be provided to protect abutting properties from lighting, sight, sound, dust, and vibration.

Findings:

1. The Applicant has agreed to use best construction practices to limit the impacts on abutting properties including:
 - a. Offering a pre-blast survey, as applicable.
 - b. Limiting construction hours to fewer than permitted by right by the Town of Boxborough's general bylaw, especially on Saturday.
 - c. Installing Dark Sky compliant lighting throughout the Project Site and Access Easement C.
 - d. Installing a silt fence to limit construction dust.
 - e. Installing an opaque landscape buffer.
 - f. Locating rock crushing operations in an area that provides maximum protection to abutting property owners to be reviewed and approved by the Applicant's consulting industrial seismologist.

Criterion 7. Adequate facilities shall be provided for water supply and for handling and disposal of waste and other production by-products.

Findings:

1. The Applicant has installed two public water supply wells in the northwest portion of the Project Site, immediately adjacent to the boundary separating the BTC Parcel and Parcel A, as depicted on the Site Plan. Although the Applicant has proposed an Approval Not Required Subdivision Plan that would place the underground wells on a lot separate from a lot containing the residences, permanent access to these wells for the Project will be preserved as matter of record at the Registry of Deeds and as required by state statute.
2. The Site Plan shows an adequately-sized waste water treatment facility for the development.

Criterion 8. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment.

Findings:

The Site Plan depicts appropriate access to the Fire Cisterns and the roadway widths are adequate to allow emergency vehicles to pass through the development. At the request of the Fire Department, there will be no parking on the street at any time to facilitate this movement. Adequate off-street visitor parking spaces have been provided in the clubhouse parking lot and in several smaller areas off of the main access road.

SPECIAL PERMIT FOR ALTERNATE ACCESS – SECTION 4800 OF THE ZONING BYLAW

1. Section 4800 of the Zoning Bylaw provides that a Special Permit must be obtained “in the case where an applicant requests to access a lot through a portion of the same lot which is not the legal frontage for said lot.”
2. The legal frontage for the Project Site is Route 111/Massachusetts Avenue. Actual access to the Project will be obtained through Access Easement C from Stow Road.
3. The Applicant has requested the requisite Special Permit as part of this application and as part of this Decision the Planning Board finds the following in approving this Special Permit:
 - a. The alternate access is along Access Easement C from Stow Road. Stow Road is a public way maintained by the Town of Boxborough that will provide adequate access for fire, police, and emergency vehicles.
 - b. The minimum width of the lot from the alternate access road to the nearest building is greater than 50 feet.
 - c. The proposed alternate access significantly minimizes impacts to wetland resource areas located on the site compared to access through the legal frontage on Massachusetts Avenue because the majority of the wetlands are located within or near the area required for access from Massachusetts Avenue.
 - d. The proposed driveway provides a safer alternative than a driveway through the legal frontage in that the layout of Massachusetts Avenue in the area of the project site includes changes in elevation and curves which make it difficult to improve sight lines and maintain appropriate sight distances. Temporary mitigation measures will be installed to facilitate construction access from the Massachusetts Avenue frontage, but long-term passenger car traffic is more appropriate and safer at the proposed entrance through Access Easement C and Stow Road.
 - e. Stow Road is a designated scenic road. The proposed alternate access will not disturb shade trees and stone walls along that road.
 - f. The issuance of a special permit will not allow the creation of more building lots than would be allowed without the special permit. The number of housing units proposed on the Project site is significantly fewer than would fit on the site if the access to the subject land were to be from the legal frontage at the northern end of the site along Massachusetts Avenue.

CONDITIONS:

General Conditions

1. Approval is based upon the following Plans and Documents as amended per the Places Associates, Inc. letter dated August 7, 2019 and endorsed by Planning Board or their designee upon the expiration of the appeal period:
 - a. Site Plan Enclave at Boxborough for Boxborough Town Center, LLC by Ducharme & Dillis dated July 15, 2019, stamped "Issued for Permit," Sheets C1 thru C8.7 and 1 of 7 thru 3 of 7 (26 sheets total).
 - b. Stormwater Report, Enclave at Boxborough, Stow Road, Boxborough prepared for Boxborough Town Center LLC by Ducharme & Dillis, dated July 15, 2019 stamped by Greg Roy, P.E.
 - c. Landscape Plans Enclave at Boxborough for Boxborough Town Center, LLC by ESE Consultants, dated July 31, 2019 stamped by Emily E. Stewart, Registered Landscape Architect (8 sheets).
 - d. Enclave at Boxborough Clubhouse Presentation Board by ESE Consultants, dated June 18, 2019.
 - e. Enclave at Boxborough Building Renderings 4 sheets with a received stamp of May 8, 2019.

2. The Applicant/Owner shall notify the Planning Board in writing within 24 hours after a Massachusetts Environmental Policy Act (MEPA) filing has been made with the Executive Office of Energy and Environmental Affairs (EEA). No site work shall commence until the Secretary has issued a Certificate for the project under MEPA or other official communications that the MEPA process is complete.

3. The site shall be in compliance with the Boxborough Board of Health's Stormwater Bylaws.

4. No odor, dust, or noise shall be generated from the site that would cause "a condition of air pollution," as defined by 310 CMR 7.00, Air Pollution Control regulations.

5. Irrigation wells for the project shall be in compliance with the Town of Boxborough Board of Health Well Regulations and the Nashoba Associated Boards of Health (NABOH) well regulations.

6. If installed, an irrigation system shall contain the appropriate backflow preventers and rain sensors for water conservation. The Applicant/Owner shall provide the irrigation system plan, including backflow devices, as part of the well application to the Board of Health with a copy to the Planning Board. Testing to ensure the backflow preventers and rain sensors are functioning appropriately shall be conducted annually by the system operator or other qualified professional with the results submitted to the Town Planner and Board of Health.

7. There shall be no exterior trash and/or recycling storage anywhere within the project. Trash and/or recycling shall be removed regularly (at least once every two weeks) and shall only be placed outside during days when pickup is occurring and shall be the responsibility of the condominium/homeowners' association. Language indicating this shall be included in the Master Deed for the development.
8. On-street parking within the project is not permitted on the sides of the roadways. Following construction, appropriate signage restricting parking shall be provided if deemed necessary by the Zoning Enforcement Officer or public safety officials. Language indicating this shall be included in the Master Deed for the development.
9. All utilities for the project shall be located underground to the greatest extent feasible and at the discretion of the utility provider, only at the point of connection.
10. All utilities for the project, excluding public water supply, shall come from Stow Road using the existing conduit through the Sheriff's Meadow easement (Access Easement C) where feasible.
11. All exterior lighting shall be "Dark Sky" compliant and be confined to the subject property, cast light downward at least 15 degrees below horizontal, and shall not intrude, interfere, or spill onto neighboring properties. All outdoor lighting shall comply with Section 6204 of the 2012 Zoning Bylaw.
12. Applicant/Owner must construct a sidewalk, in accordance with the design standards in the Town of Boxborough Planning Board's Rules and Regulations Governing the Subdivision of Land, Section V.A. or to alternate construction standards that limit environmental impacts and are acceptable to the Planning Board, from the Project Site, along Access Easement C to Stow Road and then from the intersection of Access Easement C and Stow Road to Route 111/Massachusetts Avenue. The sidewalk design shall also include:
 - a. any improvements needed at the intersection of Stow Road and Massachusetts Avenue to comply with the standards of the American with Disabilities Act (ADA) and the Massachusetts Architectural Barriers Board (MABB) regulations and;
 - b. a rapid-flashing LED sign as requested by the Boxborough Chief of Police in his letter dated August 9, 2019 or any safety measure alternative otherwise approved by the Police Chief.

Nothing in this condition supersedes the requirements for any State and/or Local permits that may be necessary to construct this sidewalk.

13. All existing and proposed landscaping shown on the Landscaping Plan shall be maintained in a healthy state. The Building Inspector, Consulting Engineer/Landscape Architect or his or her designee, shall inspect the vegetation at the

development on an annual basis for a minimum of three years after the issuance of the final Certificate of Occupancy for the development. Vegetative screening and buffers found by the Building Inspector, Consulting Engineer/Landscape Architect, or his or her designee, to be diseased or dying shall be replaced by the condominium/homeowners' association during the next growing season.

14. All signage on the property must comply with Section 6308 of the 2012 Zoning Bylaw. Nothing in this Decision supersedes the requirement for a special permit from the Zoning Board of Appeals for any free-standing sign in the Town Center District regardless of whether the location and details of such a sign is depicted on the site plans approved in this decision. If the free-standing sign(s) at the corner of Stow Road and the access easement cannot be constructed for any reason, the development shall not be considered to be out of compliance with Condition #1.

15. Outside Consultants for the Planning Board:
 - a. The Applicant/Owner shall pay all outstanding fees incurred for the Planning Board's consultants including the Consulting Engineer/ Landscape Architect, and an Outside Consultant Building Inspector for the performance of any of the review and inspection services contemplated herein and including any such fees incurred prior to the date of this Decision.
 - b. An Outside Consultant Building Inspector may assist the Building Department with inspections, as needed, during the construction and initial occupancy process.
 - c. The Consulting Engineer shall act as the Construction Site Inspector for the entire project until the last Certificate of Occupancy is issued. Inspections shall be in accordance with those required in the Rules and Regulations Governing the Subdivision of Land, Section VI.C. Inspections (not including number 7 which does not apply to this Project.)
 - d. Prior to the commencement of any site work, the Applicant/Owner shall provide a deposit under MGL Chapter 44 Section 53G in an amount reasonable to be determined by the Planning Board.
 - e. Outstanding balances for all of the Planning Board's outside consultants shall be paid within 30 days of receipt of invoice and prior to each of the following before the next stage of work may begin:
 - i. Commencement of Site Work.
 - ii. Issuance of any Building Permits.
 - iii. Issuance of any Certificates of Occupancy.
 - iv. Issuance of the Final Certificate of Occupancy.

16. If the project will not be fully completed within four (4) years after the commencement of any site work, the Applicant/Owner must appear before the Planning Board, at least three (3) months before the four (4) years would have expired, to explain to the Board why it has not been completed. The Applicant/Owner should present reasonable evidence that the delay is a result of outside conditions beyond his or her control. The Applicant/Owner shall also present to the Planning Board a realistic time line to ensure

completion of the project beyond the original four (4) year timeframe. The Planning Board may then agree to a reasonable extension of the timeframe for the Applicant/Owner to complete the project.

17. If any portion of the Project Site and/or Access Easement C is left unfinished, it shall be returned as near as possible to its original condition or stabilized to the satisfaction of the Construction Site Inspector and Building Inspector at the expense of the Applicant/Owner. The Planning Board may enforce or draw upon any Performance Guarantee to complete the construction of the roadways or return portions of the project site as near as possible to their original condition if not completed within four (4) years or a written extension has not been requested by the Applicant/Owner.
18. Violation of any of the conditions of this Decision, as acknowledged by the permit holder or determined by a court of competent jurisdiction to have occurred, shall be grounds for enforcement of this Decision, or of any Building or Occupancy Permit granted hereunder. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.
19. All site work must be completed in accordance with the plans listed in Condition #1 of this Decision unless a change is requested in writing by the Applicant/Owner and is subsequently approved by the Planning Board. This includes ornamental landscaping throughout the Project Site and adequate landscaped screening along all of the property lines that abut other residential properties and along the internal roadway and Access Easement C.
20. Minor modifications resulting from scrivener's error or items not addressed in the approved plans or unforeseen field conditions, may be approved by the Building Inspector, upon consultation with the Planning Board's review Engineer, if they do not alter the nature, intensity or visual impact of the approved plans and conditions outlined in this Decision. Landscape substitutions may be allowed if healthy specified plant materials are not readily available only with the review and approval of the Planning Board's Consulting Landscape Architect. Any Modifications that are not deemed minor by the Building Inspector shall be presented to the Planning Board for their review and approval. The Planning Board shall determine whether the requested modification requires an amendment to this Approval.
21. In areas of gravel soils, any fill shall be of similar gravel soils to maintain the drainage characteristics of the underlying soils.
22. Mining of soils beneath the stormwater basins is prohibited. If the basin is over-excavated, it should be returned to the proposed grade using material meeting the same sieve analysis (or better) as the material removed.

During Construction Conditions

23. Site work and construction involving the operation of heavy construction equipment at the subject property shall only occur Monday through Friday between the hours of 7:00 AM and 5:00 PM, and 8:00 AM and 4:00 PM on Saturdays. No site work or construction is permitted on Sundays and legal state holidays. Hours of construction shall be posted on site.
24. All construction-related traffic traveling to and from the subject properties during the construction process, shall only be from Route 111/Massachusetts Avenue via the construction access roadway. Only a single lane of traffic will be allowed at the wetland crossing. Signage should be installed to reflect this condition and construction traffic must use turnouts along the route on each side of the wetland crossing.
25. All catch basins and detention basins shall be maintained during construction and cleaned at the end of construction. Catch basins shall be functional at the binder pavement and shall be raised to the finish elevation no more than one (1) month before final paving. Evidence of cleaning shall be provided to the Consulting Engineer in writing.
26. On site construction trailers shall comply with Section 7602 of the 2012 Zoning Bylaw.
27. Applicant/Owner shall comply with all requirements of the Earth Removal Bylaw.
28. Any work conducted within the Sheriff's Meadow residential development (109-133 Stow Road) must be completed within three (3) months excluding utility connections, final restoration and landscaping. If work cannot be completed within this timeframe, the Applicant/Owner must obtain an extension from the Planning Board.
29. Any hazardous materials/wastes shall be handled in accordance with all Local, State, and Federal laws.
30. Wood waste (stumps/slash) generated from the development project shall be handled in accordance with the Massachusetts Department of Environmental Protection's (MassDEP) Wood Waste Policy and Site Assignment regulations and shall not be disposed of on-site, with the exception of stump grindings for soil stabilization.
31. During the construction of the project on-street parking will be allowed for contractors and construction crews during permitted construction hours only on one side of the roadway at a time. Adequate emergency access shall be maintained at all times and if work is being conducted in the roadway, provision must be made to allow emergency vehicles to access the site.

32. Intermediary erosion control measures shall be implemented to control the erosion potential of the site during construction. As units are completed, permanent stabilization is required within three (3) weeks of the completion of the grading and exterior, unless an extension is expressly authorized by the Construction Site Inspector or Building Inspector. Temporary measures may be utilized if outside of the growing season. Applicant is encouraged to complete blocks of units rather than a checkerboard manner to allow for meaningful permanent stabilization. While the entire site will be cleared, the contractor is encouraged to grub the sites of the individual units as construction on the foundations progresses to facilitate the erosion control.
33. Prior to the commencement of any blasting, the Applicant/Owner shall:
 - a. Comply with 527 CMR 65.9.15 and offer a free Pre-blast Inspection Survey to all abutters within 250 feet of the project site, with the Pre-blast Inspection Surveys conducted as outlined in the law.
 - b. Provide written proof to the Planning Board that abutters within 250 feet of the project site were offered a Pre-blast Inspection Survey.
 - c. Submit to the Fire Department for review and approval the proposed use of and methods for blasting of the site, if any such blasting is proposed. Any conditions imposed on the project as part of the Fire Department Blasting Permit shall be strictly followed and enforced. The use of blasting materials containing perchlorate is prohibited.
34. Blasting, rock hammering/stone crushing at the Project Site shall only be permitted Monday through Friday between the hours of 8:00 AM and 4:00 PM. Blasting is not permitted on weekends or holidays.
35. If required by the Fire Chief, the Applicant/Owner shall pay for Consulting Engineers and/or Blast Monitors to be present during blasting. Electronic recording devices such as vibration meters and blasting seismographs shall be used and information provided to the permitting authority post blast. A minimum of four (4) devices shall be used and be placed between the blast and the closest adjacent structure and arranged around the blast site.
36. All fill brought to the site must be clean. The Applicant/Owner shall provide certification that the fill does not contain any demolition debris or hazardous materials.

Prior to the commencement of any site work:

37. Prior to the commencement of any site work, the Applicant/Owner shall:
 - a. Record this Decision with the Middlesex South Registry of Deeds and provide verification of recording to the Town Planner.
 - b. File an Approval Not Required (ANR) Plan Application with the Planning Board for review and endorsement. If this ANR Plan places the wells and the

- housing development on separate parcels, it shall be accompanied with legal proof that the Applicant/Owner and/or Condominium/Homeowners' Association will maintain control over, and record rights of access to, the wells and the associated buffer zone, per Massachusetts Department of Environmental Protection regulations, which will supply the development with public water supply. Once endorsed, the Applicant/Owner shall record this ANR Plan and such instruments as are necessary to establish record rights of access to the designated public water supply, with the Middlesex South Registry of Deeds and provide verification of recording to the Planning Board.
- c. Receive an Order of Conditions, or Superseding Order of Conditions, issued under the Wetlands Protection Act and be subject to any conditions placed on the project and provide a copy of a recorded Order of Conditions, or Superseding Order of Conditions to the Building Inspector.
 - d. Install any erosion control barriers and other erosion control measures as shown on the Erosion Control and Sedimentation Control Plan, Sheet C3.1. The installation of these erosion control measures, and the clearing and grubbing necessary for such installation, shall not be considered "site work" for purposes of this Decision.
 - e. Formulate a Construction Management Plan that is acceptable to MassDOT, the Boxborough Police and Fire Departments and the Planning Board and that will ensure safe conditions at the intersection of the construction access road and Massachusetts Ave/Route 111. All costs incurred for the development and implementation of this plan, including Police detail, as necessary, shall be paid by the Applicant/Owner.
 - f. Provide the Town Planner with the name, address, and telephone number of two 24-hour contact people who will be primarily responsible for all construction activities on the site.
 - g. Flag the areas of vegetation to be preserved to be verified by Town staff or their designee, such as a Massachusetts Licensed Arborist, to ensure healthy trees and viable areas will remain. After the completion of clearing operations, all tree lines to remain shall be reviewed by a Massachusetts Licensed Arborist and the recommendations of the Arborist shall be implemented. Any tree scheduled to remain that is removed or significantly damaged shall be replaced at a 2:1 ratio (minimum 3-inch caliper).
 - h. Submit a copy of the Stormwater Pollution Prevention Plan (SWPPP) and the National Pollution Discharge Elimination Systems (NPDES) permit number to the Town Planner. An electronic copy of all required reports (inspections, remedial action, etc.) shall be forwarded to the Town Planner.
 - i. Provide evidence to the Planning Board that MassDOT access permit has been approved for construction access from Route 111/Massachusetts Avenue.
38. An Approval Not Required Plan (ANR) shall be submitted for the Planning Board's endorsement creating Lot 1 containing 24.6 acres of land as shown on the Preliminary Plan of Land submitted with the plans identified in Condition #1. This plan shall show all easements including those related to the well (access, utility, protective radius), fire pond and drainage.

39. Applicant shall provide a Construction Sequencing Plan to be reviewed by the Planning Board and the Consulting Engineer. It shall indicate which features will be constructed in conjunction with the access road through Sheriff's Meadow, temporary structures for construction and sales, temporary signage and other temporary appurtenances. It shall include as a minimum:
- a. Location of temporary building being used for sales and related parking, construction trailer and associated storage, port-a-john etc.
 - b. Any required drainage structures, utilities to be completed prior to binder pavement. Provisions to minimize impacts to Sheriff's Meadow residents including screening, dust control and signage
 - c. Target dates for Construction and bond releases (non-binding).

Prior to the issuance of any Building Permit

40. The fire Cistern shall be installed, tested, fully operational and approved by the Fire Department. The Access Easement C must be constructed to adequately allow the Fire Department access to the Cistern. Once operational clear access shall be maintained.
41. Prior to the issuance of any Building Permit, the Applicant/Owner shall submit:
- a. Written confirmation from the Tax Collector that all taxes, including any roll back taxes, have been paid in full for the properties.
 - b. Draft condominium documents, including the Master Deed, to the Planning Board and Town Counsel for review and approval, which once approved shall be recorded at the Middlesex South Registry of Deeds and which shall include the following provisions:
 - i. The occupancy of each dwelling unit within the project shall be restricted to any person 55 years of age or older, and his or her spouse and/or live-in aid.
 - ii. Building additions, including porches and decks and privacy fences, are limited to exclusive use areas as defined by the Owner/Applicant except as otherwise prohibited. Patios and other allowed structures shall incorporate pervious materials.
 - iii. Lighting additions will be limited to specifications provided by the Owner/Applicant in Lighting Specifications Plan
 - iv. Accessory buildings and structures are prohibited.
 - c. An Operations and Maintenance Plan to the Planning Board and the Town's Consulting Engineer for review and approval, detailing the on-going operations and maintenance and financial responsibility of all the following as required by this Decision:

- i. Roadways, including but not limited to, repair, paving, snow removal, landscaping and drainage, of the internal roadway and within Access Easement C. The Plan shall address maintenance and snow removal on the private roadway connecting Access Easement C to Stow Road.
 - ii. Infrastructure, including, but not limited to, stormwater, wastewater, and water supply system, open space and common areas, as required by this Decision. In particular, a Landscape Maintenance Guide shall be included and shall require the use of fertilizers using water insoluble nitrogen (WIN) and incorporate an Integrated Pest Management (IPM) Plan.
 - iii. Vegetative buffers to abutting properties, and/or landscaped buffers located on the adjacent properties as mutually agreed to between the private parties and approved by the Planning Board in lieu of buffering on the project site.
 - iv. Project signage including all no parking and visitor's parking signage.
 - d. This Operation and Maintenance Plan shall also make clear that the cost to operate and/or maintain all of these items shall be the sole responsibility of the Applicant/Owner and/or condominium/homeowners association in perpetuity.
42. The swimming pool will be considered a semi-public pool and as such requires Board of Health approval before construction. The Board of Health submittal shall include documentation for review and approval as to how the wastewater from the pool will be managed, treated and discharged. Wastewater from the pool shall not be placed in the wastewater treatment system intended for the rest of the development.

Prior to the issuance of Certificates of Occupancy

43. Prior to the issuance of the first Certificate Occupancy for the Project:
 - a. The main access road from Stow Road, including Access Easement C, and all internal roadways must be completed to the binder course per the Plans listed in Condition #1. This includes the installation of drainage measures. Lighting and landscaping along the internal roadways shall be completed up to the Clubhouse area. If there is a reason that the final landscaping and lighting cannot be installed at that time, the Applicant/Owner must request a waiver of this condition from the Planning Board.
 - b. Underground utilities routed from Stow Road must be installed.
 - c. The Applicant/Owner shall secure and provide to the Planning Board a Performance Guarantee in a form and amount satisfactory to the Planning Board, which amount the Planning Board may adjust from time to time, which may be a bond, agreement with a lender, or deposit of money, covering all the finish paving and landscaping for the benefit of residents of the development

and abutting property owners.

44. Prior to the issuance of the Certificate of Occupancy for the 10th unit the Applicant/Owner shall have completed the construction of the sidewalk described in Condition #12 and any other required off-site improvements.
45. Prior to the issuance of the final Certificate of Occupancy, the Applicant/Owner shall provide to the Building Inspector final As-Built plans showing the location of all buildings and structures, edges of pavement, driveways, utilities, including the septic system, leaching area, underground piping, and drainage facilities. Such As-Built plans shall be accompanied by a Certificate of Construction signed by the design engineer (Registered Professional Engineer of Record). This certificate shall include a statement and verification that the drainage system as-built, will function as designed.
46. Prior to the issuance of the final Certificate of Occupancy, the Town Planner or his or her designee, shall conduct a site visit to ensure that the project has been constructed in strict accordance with the plans listed in Condition #1, or are consistent with any changes to these plans approved by the Planning Board and/or the Building Inspector in coordination with the Consulting Engineer per Conditions #19 and 20 of this Decision during the course of construction. A report shall be filed with the Building Inspector confirming this compliance.
47. This Site Plan Approval anticipates construction of two single-family dwelling units off of Priest Lane that will not provide through access to this development. It also anticipates that any development on the northern part of the lot described as 800 Mass. Ave, Map: 14, Parcel 209 on the plan titled "Title Sheet, 700-800 Massachusetts Avenue, Boxborough, Massachusetts" signed and stamped by Gregory S. Roy, Registered Professional Engineer and hand dated 6/19/19 will be accessed from Route 111/Massachusetts Avenue and may not share use of access or facilities required for the subject Project without amendment of this Site Plan Approval.

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing of the above referenced Decision with the Town Clerk.

Witness our hands this 19th day of August, 2019:

BOXBOROUGH PLANNING BOARD:

Cindy Markowitz
Cindy Markowitz

Abby Reip

Rebecca Verner

Mark White

Received:

Elizabeth A. Markiewicz
Elizabeth A. Markiewicz, Town Clerk

August 19, 2019
Date Filed

TO WHOM IT MAY CONCERN

I, Elizabeth A. Markiewicz, hereby certify the 20-day appeal period on this Decision has expired, and no appeals have been filed with this office.

Elizabeth A. Markiewicz, Town Clerk

Date