

## TOWN OF BOXBOROUGH



## OFFICE OF THE TOWN CLERK

May 17, 2000

I, Virginia B. Richardson, Clerk of the Town of Boxborough, hereby do certify that the 20-day appeal period on Site Plan Decision - Towermarc Business Park - Cisco Systems, Decision #00-01, which was filed on April 26, 2000 has expired and no appeals have been filed in the Office of the Town Clerk. The property location is Map 3 & 4, Group 1, Parcels 168.1 to 168.3, 168.5 to 168.7, 169A, 171.2B, 171.9 to 171.13, 173.17B, 188.14, and 188.15.

Deed References -

18462- 476  
25659- 431  
26782- 41  
19615- 290  
18945- 120  
23461- 592, 601  
19981- 299

A true copy, attest:

*Virginia B. Richardson*  
VIRGINIA B. RICHARDSON  
Town Clerk of Boxborough

TOWN OF BOXBOROUGH



PLANNING BOARD  
29 Middle Road  
Boxborough, MA 01719

**PLANNING BOARD DECISION #00-01**

**SITE PLAN DECISION – Towermarc Business Park- Cisco Systems**

**OWNER:** The EqMarc Joint Venture  
c/o Towermarc Boxborough Limited Partnership  
260 Franklin Street  
Boston, MA 02110-3712

**APPLICANT:** CISCO Development Partners—NEDC, LLC  
11250 El Camino Real, Suite 250  
San Diego, CA 92130

**LOCATION:** MAPS: 3 & 4, GROUP: 1, PARCELS: 168.1 to 168.3, 168.5 to 168.7, 169A, 171.2B, 171.9 to 171.13, 173.17B, 188.14, and 188.15.

**ZONING DISTRICT:** Office Park

**APPLICATION:** Request under Section 5400 Site Plan Approval to construct seven new buildings to contain a total of 900,000 square feet on the site, which is currently vacant. Request under Section 3100 and Request under Section 1.4 of the Rules and Regulations for Site Plan Approval for waiver to allow all parking spaces to be 9' x 18'. Request under Section 3100 for common parking facilities, to reduce the number of paved parking spaces constructed to 3.3 per 1,000 square feet and to provide a reserve area to meet the 4 per 1,000 square feet requirement. Request under Section 3200 for approval of sign locations. Request under Town's Earth Removal Bylaw to remove excess material from the site.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Applicant, abutters and other parties of interest as required by law, the hearing was called to order on March 21, 2000 in the Upstairs Meeting Room at the Boxborough Town Hall. The hearing was closed on March 21, 2000.

Board members in attendance: Jennie Rawski, chairman; John Markiewicz, member; Michael Ashmore; member; and Karen Metheny, clerk.

Present for the Applicant: Scott Ross, for the Applicant and Owner, John Bensley, Beals and Thomas, Inc., for the Applicant, Wayne Koch, ADD, Inc., for the Applicant, and Joan Peyrebrune, Vanasse Hangen Brustlin, Inc., for the Applicant.

The following exhibits were submitted prior to the close of the public hearing:

- Exhibit A:** Legal Notice of Public Hearing
- Exhibit B:** Route 111 Improvements and Functional Design Report, prepared by Vanasse Hangen Brustlin, Inc., and dated January 2000
- Exhibit C:** Application for Site Plan Approval prepared by Beals and Thomas, Inc., and dated February 11, 2000.
- Exhibit D:** Site Plans prepared by Beals and Thomas, Inc., and dated February 11, 2000.
- Exhibit E:** Letter from Westcott Site Services, dated March 17, 2000.
- Exhibit F:** Letter from Kopelman and Paige, P.C., dated March 21, 2000.
- Exhibit G:** Letter from Boxborough Fire Chief, William E. Clayton, dated March 9, 2000
- Exhibit H:** Correspondence from the Tax Collector that there are no outstanding taxes owed on the subject property
- Exhibit I:** Draft Proposed Condition Regarding Swanson Road Improvements
- Exhibit J:** Exhibit A Swanson Road Summary of Proposed Improvements and Conceptual Improvement Costs
- Exhibit K:** Draft Proposed Condition Regarding Soccer Field Improvements
- Exhibit L:** Outline of Cisco Systems – Towermarc Business Park Open Space Commercial Development Lot Transfer Easements and Requirements
- Exhibit M:** Proposed 60-Acre Conservation Restriction
- Exhibit N:** Proposed 49-Acre Conservation Restriction
- Exhibit O:** Proposed Restrictive Covenant
- Exhibit P:** Proposed Easement Agreement

After reviewing the exhibits and record of proceedings, the Planning Board **finds and concludes** the following:

1. The Applicant proposes to construct a total of 900,000 square feet of predominantly office and research and development space within 7 principal buildings. The buildings have the following square footage:  
Building 1: 43,382 sq. ft.; Building 2: 99,096 sq. ft.; Building 3: 121,788 sq. ft.; Building 4: 152,853 sq. ft.; Building 5: 208,240 sq. ft.; Building 6: 152,853 sq. ft.; and Building 7: 121,788 sq. ft. According to the Site Plan Application there will be between 2,700 – 3,275 employees at full occupancy of the total development.
2. The project site consists of approximately 266 acres of land in Boxborough within the Office Park zoning district. The site is also within the following overlay districts: Aquifer Protection, Flood Plain, W-District and Lands Bordering the W-District. The site is the subject of an Open Space Commercial Development (“OSCD”) Special

Permit, Decision No. 97-01 issued January 29, 1997, which further defines dimensional requirements.

3. Access to six of the buildings (Buildings 2 through 7) will be provided from Beaver Brook Road, an approved subdivision roadway. Access to the seventh building (Building 1) will be provided from Whitcomb Road.
4. The Applicant has filed a Notice of Intent with the Conservation Commission for proposed work within 100 feet of the wetlands associated with proposed Building 1.
5. The Applicant has filed a request for a special permit for work within the W-District buffer to the Board of Appeals for work associated with proposed Building 1.
6. The Applicant intends to request a Driveway Approach Permit and a Street Opening Permit from the Board of Selectmen for work related to a curb cut and utility installations in Whitcomb Road.
7. No hazardous materials other than limited quantities generally found within office uses will be used or generated on site. In the event natural gas is not utilized as the fuel for emergency generators, then petroleum-based fuel may be stored on the project site near each emergency generator. All will be stored and used in accordance with applicable laws.
8. The site will be serviced by electrical, telephone, communication, cable and gas utilities which will be located underground within the boundaries of the project site. The buildings will be adequately serviced by an on-site waste water treatment facility with an associated soil absorption system, an on-site potable water supply, and an on-site fire protection system. The proposed buildings will have sprinkler systems. Therefore, adequate facilities are provided to service the proposed buildings.
9. The Site Plan has been designed to maximize the preservation of open space, and minimize disturbance to the previously undisturbed areas of the site by clustering buildings in the southern portion of the site. The 50-foot buffer area surrounding the project site will preserve community aesthetics and will adequately protect abutting properties.
10. The buildings will be architecturally compatible with each other. The buildings and associated parking areas will be appropriately landscaped.
11. The predominant proposed uses are office and research and development, which are allowed as of right in the Office Park district. A day care center primarily to serve the children of employees may also be developed, and is allowed as of right in the Office Park District. One or more Automatic Teller Machines ("ATM's") may be installed within the buildings, which is allowed as an accessory use. In addition, two or three cafeterias, two convenience stores, and one fitness center, which are allowed as accessory uses, may be developed to serve employees working at the project site.

12. The proposed lots as shown on the Site Plan meet: 1.) the front, rear and side setback requirements, as modified by the OSCD Special Permit, Decision 97-01; and 2.) the building lot area, lot frontage, maximum coverage and FAR requirements, as modified by the OSCD Special Permit, Decision 97-01. The buildings meet the building height and number of building stories requirements, as modified by the OSCD Special Permit, Decision #97-01. The Site Plan meets the Aquifer Protection 20% maximum impervious coverage requirement, as modified by the Board of Appeals Special Permit, Decision #96-16.
13. The Site Plan is subject to an OSCD Special Permit, Decision #97-01, which modifies the zoning requirements in order to permit clustered development and the preservation of open space or recreational area. After review of the Site Plans, the Planning Board finds that the proposed development complies with and is consistent with the OSCD Special Permit, Decision #97-01.
14. Because the proposed development is an Open Space Commercial Development, at least 50% (or 133.28 acres) of the land included in the development will be protected as open space as required by Section 4743 of the Zoning Bylaw. The proposed development incorporates 154 acres of open space as referenced in the OSCD Special Permit. This provides an additional 20.72 acres of open space.

Under the conditions set forth in the OSCD Special Permit, the open space area must be permanently protected, and the residents of Boxborough must have "reasonable access to areas of the property designated by the owner for passive recreational uses such as hiking, jogging and cross country skiing." The Applicant intends to satisfy those conditions by recording the following documents (collectively, the "Open Space Documents"), drafts of which have been reviewed and approved by the Planning Board and Town Counsel:

- (A) A Conservation Restriction on 60± acres of land, a copy of which is entered as Exhibit M. The restriction on these 60± acres of land are required in connection with the Conservation Permit issued for the project pursuant to the Massachusetts Natural Heritage and Endangered Species Program.
- (B) A Conservation Restriction on 49± acres of land, a copy of which is entered as Exhibit N. The restriction on these 49± acres of land are required in connection with the Conservation Permit issued for the project pursuant to the Massachusetts Natural Heritage and Endangered Species Program.
- (C) A Restrictive Covenant on the remaining 45± acres of land, a copy of which is entered as Exhibit O.

In confirmation of the Board's January 12, 2000 finding, the Board finds that the Open Space Documents, including the restrictions required by the Massachusetts Natural Heritage and Endangered Species Program, are consistent with the intent of the OSCD

Bylaw and OSCD Special Permit and satisfy the conditions with respect to providing open space as required therein.

In addition to the conditions mentioned above, the Applicant is also required, as a condition of the OSCD Special Permit, to grant a public pedestrian easement to the Town of Boxborough which provides for access from Beaver Brook Road to the Town-owned Pettingel Park (the "Easement Agreement"). A draft of the Easement Agreement has been reviewed and approved by the Planning Board and Town Counsel and a copy is attached hereto as Exhibit P. The 30 foot wide easement to Pettingel Park as described in the Easement Agreement is located on the Site Plan and complies with the OSCD Special Permit condition.

15. The OSCD Special Permit allows the Applicant to restrict the open space area in 20% increments, in accordance with a formula set forth in the OSCD Special Permit. Although not required, the Applicant intends to restrict 109 acres of the open space area prior to construction of the first building by recording the Conservation Restrictions required by the Massachusetts Natural Heritage and Endangered Species Program. The remaining 45 acres will be restricted by recording the Restrictive Covenant in compliance with the terms of the OSCD Special Permit.
16. Each proposed lot meets the 70% maximum lot coverage requirement, (buildings, structures and impervious surfaces), as modified by the OSCD Special Permit. The remaining portion of each proposed lot will be landscaped or returned to a natural state.
17. Although the number of parking spaces proposed to be constructed is 3.5 spaces per 1,000 square feet of development on each lot, the Planning Board finds that a minimum of 3.3 spaces per 1,000 square feet of development on each proposed lot is sufficient based on the actual number of employees. A reserve area will be provided on each lot of sufficient size to permit construction of additional parking of up to 4.0 spaces per 1,000 square feet of development, as required by the Zoning Bylaw. However, all dimensional requirements as modified by the OSCD Special Permit have been met using the 4 parking spaces per 1,000 square feet requirement.
18. The configuration of the proposed parking lots and circulation patterns is appropriate for a common parking facility serving Buildings 2 and 3, and a common parking facility serving Buildings 4, 5 and 6. Because the Applicant intends to use all buildings as part of its integrated office campus, it is unlikely that principal uses will change in kind or extent so as to substantially increase the parking requirement of the common facilities.
19. The Site Plan includes a convenient parking and circulation pattern. Adequate access is provided to each building for emergency and service equipment, and convenient pedestrian access between adjacent buildings is provided.

20. The Planning Board has reviewed the proposed driveway locations off of Beaver Brook Road, an approved subdivision roadway. The Board finds that the location and design of the driveways are adequate for the proposed project, and both safe and convenient. Each proposed lot is served by its own driveway(s).
21. The proposed project will use the stormwater management system that was master planned for the development as part of previous Definitive Plan approval and Notice of Intent processes. The design of the system incorporates Best Management Practices to treat the stormwater prior to its discharge to the wetlands. The system for the Business Park as a whole complies with the DEP Stormwater Management Policy (SWMP).
22. The traffic analysis concludes that the majority of the site-generated traffic will utilize Interstate 495. Roadway improvements include the widening and signalization of the Swanson Road/Codman Hill Road/Route 111 intersection and the improvements to the Interstate 495/Route 111 ramps. In addition, a Transportation Demand Management Plan will be implemented, including preferential parking for carpools and vanpools, shuttle services to public transportation stops; a ridesharing program, alternative work programs, and on-site employee services.
23. Lighting has been designed to ensure sufficient illumination for public safety purposes and with shielding to reduce ambient light and glare.
24. The Applicant estimates that approximately 30,000 cubic yards (cy) of excess earth will result from the construction activities, and has stated that there is an existing 90,000 cy earth pile located on the project Site. Although the Applicant anticipates that all or most of the excess materials will be relocated within the limits of the site, significant earth removal may be required. In addition, it is expected that some earth materials, such as top soil or structural fill, will be brought to the site. The proposed earth removal is consistent with the Earth Removal Bylaw.
25. The Applicant has proposed free-standing primary and secondary signs, at locations marked on the Site Plans. The entrance sign may be located where marked in the Site Plans, or alternatively shifted to the east side of the entrance road. The sign locations are appropriate.
26. This Site Plan Approval for Cisco Development Partners-NEDC, LLC - Towermarc Business Park supersedes prior site plan approval granted for this site in the Planning Board Special Permit Site Plan Approval Decision No. 88-24.
27. The Definitive Plan for Towermarc Business Park was submitted to the Planning Board on December 30, 1997, and was endorsed on December 21, 1999. Accordingly, the Planning Board has determined that the land shown on the Definitive Plan for Towermarc Business Park shall be governed by the applicable provisions of the zoning bylaw in effect on December 30, 1997 until December 21, 2007, which period is extended by operation of law during the period any appeal is pending.

28. The Definitive Plan for Beaver Brook Park was submitted to the Planning Board on September 16, 1991, and was endorsed on June 15, 1993. Accordingly, the Planning Board has determined that the land shown on the Definitive Plan for Beaver Brook Park shall be governed by the applicable provisions of the zoning bylaw in effect on September 16, 1991 until June 15, 2001, which period is extended by operation of law during the period any appeal is pending.

Therefore, the Planning Board votes to **GRANT** the requested Site Plan Approval Permit, the requested sign locations, the requested waiver permitting all parking spaces to be of a reduced parking space size, the requested reduced paved parking, and the requested common parking facilities, and **GRANT** the requested Earth Removal Permit subject to the following conditions, modifications and limitations:

**CONDITIONS:**

1. The access along Beaver Brook Road and to each building site will be constructed to gravel base prior to each building's construction. This will allow emergency vehicle access to the site and the buildings during their construction. A Construction Period Emergency Vehicle Access Plan for each building, indicating the access to be provided to the construction site, shall be provided to the Fire Department for its review and approval prior to construction.
2. Certain buildings (Buildings 2 and 3 and Buildings 4, 5, and 6) rely on each other for access and vehicular circulation. It is anticipated that these buildings will be constructed and occupied simultaneously. If this schedule changes, the Applicant shall provide the Planning Board with an alternative vehicular circulation and emergency vehicle access plan describing access and circulation via paved surfaces.
3. Prior to transfer of any individual building lot included in the development, instrument(s) will be recorded, after review and approval by the Planning Board, which will serve to (i) grant the owner of the lot to be transferred all easements and other appurtenant rights necessary for the lot to maintain operational and zoning compliance independently of the other lots in the development; (ii) establish the lot owners' rights, responsibilities and obligations with respect to maintenance, services and shared utilities which are most appropriately and efficiently delivered to the development as a whole; and (iii) establish an equitable means of sharing the costs of management, operation and maintenance of the development. The provisions to be included in such instrument(s) are outlined in Exhibit L attached hereto.
4. In order to allow the architects some flexibility in the final design of the buildings, the Board concludes that minor shifts in the building footprints and parking layout within the limits of the setback requirements do not require further approval and are consistent with this Site Plan Approval decision.



5. Under the Earth Removal Permit granted by this decision, no more than 90,000 cy of soil will be removed from the project site. A Soils/Stockpile Management Plan shall be submitted to the Board and its consultant for review and approval prior to construction.
6. All construction activity shall be limited to the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday; and prohibited during Sundays and legal holidays, as specified in the Construction Site Activity Bylaw. Earth removal from the site shall also comply with the Construction Site Activity Bylaw hours of operation.
7. The Applicant shall ensure that the construction contract for development of the site shall provide that construction vehicles and equipment shall not use Sherry Road as a means of access to and egress from the site.
8. The Applicant's use of Swanson Road shall not cause an unsafe, unclean or impassable condition while the proposed buildings and roadway are under construction. The Applicant shall ensure that such conditions are maintained at the Applicant's expense.
9. If in the future the Planning Board determines that additional parking spaces are needed on the site, the Board shall notify the owner and it shall be the responsibility of the owner to construct up to 4.0 spaces per 1,000 square feet of building area in the reserve parking areas shown on the Site Plans.
10. The Applicant shall record the Open Space Documents and the Easement Agreement, which are described in Findings #14 and #15 of this decision, in accordance with the terms of the OSCD Special Permit, although any of these documents may be recorded earlier than required under the OSCD Special Permit.
11. All traffic improvements, including the implementation of the Transportation Demand Management Plan, specified in the Functional Design Report for Route 111 (Massachusetts Avenue) shall be completed in accordance with the schedule specified in the Massachusetts Highway Department Section 61 Finding issued on November 10, 1999, or sooner.
12. There is a youth hostel located at the intersection of Littleton County Road and Beaver Brook Road. The owners of the youth hostel are concerned that headlight beams from cars leaving the development after dark will shine directly into their living areas, and have requested that a landscaping plan be implemented to minimize this problem. The Applicant shall work together with the owners of the youth hostel to develop and implement such a plan prior to building occupancy.
13. The Applicant shall work together with the owners of the Shepherd's Veterinary Clinic to review the Route 111 Road Improvements and discuss alternatives regarding landscaping, screening, and stonewall relocation.

14. The Applicant and the Applicant's traffic consultant, Vanesse Hangen Brustlin, Inc. ("VHB"), have met with members of the community to evaluate traffic and pedestrian safety concerns on Swanson Road. At the Applicant's request, VHB has prepared a list of roadway safety improvements, attached hereto as Exhibit J, which address these concerns (the "Swanson Road Improvements"). As set forth in Exhibit J, VHB estimates that the cost to design, engineer, permit and construct the Swanson Road Improvements will not exceed \$300,000. Accordingly, the Site Plan Approval granted herein shall be subject to the following conditions:

- (A) That the Applicant and its traffic consultants continue to work with the community and the Town to design the Swanson Road Improvements and any modifications or alterations which may be necessary in connection therewith. The design of the Swanson Road Improvements shall be subject to the approval of the Town Selectmen, with input from the Planning Board, the Department of Public Works ("DPW"), members of the community and the Applicant. Construction of the Swanson Road Improvements shall be subject to the Applicant obtaining all requisite permits and approvals, and will not commence until such permits and approvals have been obtained.
- (B) Subject to the provisions of paragraph (C) of this Condition, the Applicant shall undertake, and shall expend up to \$300,000 toward the cost of design, engineering, permitting and construction of the Swanson Road Improvements. The Applicant will provide the Town with reasonable documentation of the expenditures it has made to satisfy the conditions set forth in this Condition.
- (C) If notwithstanding the Applicant's good faith efforts, the Applicant is unable to commence construction of the Swanson Road Improvements by the date that the certificate of occupancy for the first building in the development has been issued, either because the design of the Swanson Road Improvements has not been agreed upon, or the Selectmen have not approved the agreed upon design, or all of the requisite permits and approvals to construct the improvements have not been obtained, or the Applicant has been unable to reach agreement with the Town and other owners of land on which the work shall occur regarding access and liability, or for any other reason which is not the fault of the Applicant, this Condition may be satisfied by the Applicant making a donation of \$300,000, less any amounts which the Applicant may have already spent in satisfaction of the requirements set forth in this Condition, but in no case shall the amount to be conveyed to the Town be less than \$258,500, under the provisions of M.G.L. ch. 44, § 53A. In such event, the Town shall use the funds contributed by the Applicant to undertake the construction of the Swanson Road Improvements.
- (D) The Applicant shall require, in the construction contract for the Swanson Road Improvements, that the general contractor comply with all (i) applicable DPW standards for roadway improvements; and (ii) permit conditions.

- (E) Results of the site drive monitoring requirement specified in the Massachusetts Highway Section 61 Finding issued on November 10, 1999, shall also be provided to the Planning Board. The Applicant shall also monitor the delays on existing site drives along Swanson Road once per year for five years following the opening of Beaver Brook Road for public traffic to determine the adequacy of the Swanson Road improvements. The Applicant agrees to work with the Planning Board to determine if, due to impacts caused by the proposed development, the waiting times to enter onto Swanson Road or turn into the existing site drives are excessive based on ITE or other accepted traffic engineering standards, and to determine if additional road improvements, including police officer control at any of the Swanson Road site drives, may be necessary.
15. At full build out of the project, the Applicant shall make a donation of \$20,000 to the Town under the provisions of M.G.L. ch.44, § 53A for the express purpose of conducting traffic studies.
  16. The Applicant shall construct a multi-purpose playing field having a minimum dimension of 200 feet by 300 feet, and a gravel parking area for no less than 20 parking spaces (collectively, the Playing Field Improvements). Commencement of construction of the Playing Field Improvements shall be subject to the Applicant obtaining all requisite permits and approvals for construction of the playing field. If notwithstanding the Applicant's good faith efforts, the Applicant is unable to commence construction of the playing field by the date that the certificate of occupancy for the first building in the development has been issued, either because all of the requisite permits and approvals for such construction have not been granted, or for any other reason which is not the fault of the Applicant, then this Condition may be satisfied by the Applicant making a donation of \$50,000 to the Town under the provisions of M.G.L. ch.44, § 53A. In such event, the Town shall use the funds contributed by the Applicant to undertake the Playing Field Improvements in Boxborough. Once constructed, the Applicant may limit access to the playing fields to the Littleton County Road access during the construction phase of the development.
  17. All outdoor lighting shall conform to Section 3340 of the Zoning Bylaw. Should any outdoor lighting be erected that does not comply with the Bylaw requirements, the Applicant shall be responsible for correcting the lighting at his/her expense.
  18. The well and Waste Water Treatment Facility (WWTF) shall be fully operational prior to the first building occupancy.
  19. The construction sequencing plan required in the Conservation Commission's Order of Conditions shall also be submitted to the Planning Board, and their consulting engineer prior to any construction.
  20. The Applicant shall maintain an up-to-date hazardous material plan for this site on file with the Fire Chief. Such plan shall include a listing of all hazardous materials in use or storage at the site, and for each material shall list probable maximum monthly use,

the probable maximum amount stored at the site and method and location of storage, the manner of delivery or generation of such materials, the method of disposal of such materials, and the plan of action to be followed in the event of a spill, discharge, or other disposal of such material not in accord with the planned method of disposal. Hazardous materials shall not be stored underground. Such plans must specify that the financial burden and responsibility for any clean-up required of such hazardous materials shall be jointly and severally the responsibility of the Applicant and tenants (if different). If the Fire Chief notifies the Applicant within 60 days of receiving a new or modified hazardous materials plan that the plan for specified materials is unacceptable, then the Applicant and tenants shall not use or store such specified materials, except as approved in the Hazardous Materials Plan, at the site until a new plan is accepted in writing by the Fire Chief. The Applicant shall include clauses in the lease of any and every non-Cisco tenant sufficient to assure compliance with all parts of this condition, and all hazardous materials plans must be signed by both the Applicant and the tenants. A copy of any such lease shall be submitted to the Planning Board.

- a. The owner, tenant or occupant, if different, shall inform the Board of Health and the Fire Chief as soon as possible but not later than 24 hours after the discovery of any accidental discharge or spillage of hazardous material.
- b. In all areas where hazardous materials are stored or handled, the owner shall prominently post a notice that references the hazardous material plan, indicating where within the facility copies can be obtained and stating that employees must transport, handle, and dispose of hazardous materials in accordance with such plan.
- c. A hazardous material is any substance or combination of substances which because of quantity, concentration, or physical, chemical, or infectious characteristics poses, in the Board of Health's judgement, a substantial present or potential hazard to human health, safety, or welfare, or to the environment, when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, but are not limited to, all substances controlled by 40 CFR Parts 117 and 302, as authorized by the Federal Comprehensive Environmental Response and Liability Act of 1980 (42 USC 9601 et seq.). Note: Many common cleaning products contain hazardous materials by this definition.
- d. The total quantity of any hazardous material stored, used, generated, and otherwise present at any storage area at any time shall not exceed the reportable quantity for such substance (that is, the minimum quantity for the release of which into the environment must be reported) as set forth in 40 CFR Parts 117 and 302. Except as specified in the approved Hazardous Materials Plan.

**Groundwater Monitoring:** The Applicant shall install and maintain in a working condition monitoring wells for the purpose of monitoring groundwater quality. The number and location of wells shall be determined by the Board of Health, consistent with the Open Space documents. Water samples from all monitoring wells shall be collected and tested

prior to occupancy, at approximately 80 percent of full occupancy, and twice a year thereafter. The Town will arrange for such sampling and testing, and the owner shall reimburse Littleton Light and Water or any other laboratory approved by the Board of Health for such costs. If any tests identify prohibited substances or excessive levels of hazardous materials, then the owner shall reimburse the Town for the cost of follow up sampling and testing. Monitoring wells shall be constructed as directed by the Board of Health.

All groundwater samples shall be tested for the substances listed below:  
Analysis of Monitoring Well Samples (Test Parameters and Substances):

pH	Negative Ions	Heavy Metals
Conductivity	-Alkalinity	-Arsenic
Positive Ions	-Chloride	-Cadmium
-Magnesium	-Sulfate	-Lead
-Calcium		-Chromium
-Iron		-Mercury
-Manganese		-Barium
-Sodium		-Selenium
-Potassium		-Silver

Total Nitrate and Nitrite Nitrogen  
/Ammonium Nitrogen

Halogenated and aromatic hydrocarbon pollutants as specified by  
EPA Method 624 (38 chemicals).

21. Before the issuance of any occupancy permit, the Applicant shall obtain approval for the fire protection/detection plan.
22. The Applicant shall obtain approval for the Whitcomb Road driveway opening under "The Driveway Approach Bylaw," prior to driveway construction.
23. All site work and landscaping shall be complete prior to the issuance of an occupancy permit, unless the Applicant submits to the Planning Board a bond covering the cost of such work prior to the issuance of an occupancy permit.
24. All site landscaping shall be maintained in a healthful condition, plants that die or become unhealthy shall be replaced during the next growing season.
25. The Planning Board shall be notified in writing 30 days prior to any change in occupancy, ownership or use of the premises.
26. The Applicant shall submit verification that all plan review fees have been paid before the issuance of a building permit.

**Violation of Conditions.** In case of any material violation of the continuing obligations of this permit, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation and to enforce the conditions of this permit. However, if the Applicant has commenced cure of the violation and diligently prosecutes such cure to completion, the thirty-day period shall be extended for such period of time as may be necessary for the Applicant to complete such cure. The Town may enforce compliance with the conditions of this permit by any remedy permitted under applicable law, including the imposition of penalties and/or by seeking an action of injunctive relief before any court of competent jurisdiction.

The authority granted to the Applicant by this permit is limited as follows:

**APPLICABILITY OF PERMIT:** This permit applies only to the site which is the subject of this application. All construction to be conducted on the site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.

**OTHER PERMITS OR APPROVALS:** This decision applies only to the requested Site Plan Permit and Earth Removal Bylaw Permit. Other permits or approvals required by the Boxborough Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.

**BYLAW COMPLIANCE:** The foregoing conditions are stated for the purpose of emphasizing their importance but are not intended to be all inclusive or to negate the remainder of the Boxborough Zoning Bylaw.

**AMENDMENT OF PERMIT:** The Board hereby reserves its powers to modify or amend the terms and conditions of this permit upon its own motion with consent from the owner, or on the application of the owner. The Board further reserves its powers to amend this permit without a new public hearing provided that the Board finds that such amendment is not significant to the public interest and that such amendment is not inconsistent with the purpose and intent of the Bylaw or with the terms of this permit.

**LAPSE OF PERMIT:** This permit shall lapse on April 25, 2002, if a substantial use thereof has not sooner commenced except for good cause or if any construction has not begun by said date except for good cause. Any request for an extension of the time limitation set forth herein shall be made in writing to the Board at least 30 days prior to April 25, 2002, and the Board reserves its rights and powers to grant or deny such request without a public hearing. The Board, however, shall not grant any extension herein provided unless it finds that for good cause the use of the property in question or construction on the site has not begun.

The Applicant by acceptance of this permit and recording thereof acknowledges the binding effect of the conditions of this permit. Proof of recording shall be submitted to the Planning Board prior to the issuance of a building permit.

As Built Plans certified by a registered surveyor or professional engineer setting forth the status of construction and noting compliance with the approved site plan addressed herein including the location of all pavement, buildings, and utilities above and below grade; and the location, area and depth of buried stumps, debris or boulders shall be submitted to and approved by the Planning Board before an Occupancy Permit may be issued by the Inspector of Buildings.

APPEALS: Any person aggrieved by this decision may appeal pursuant to the Massachusetts General Laws, within 20 days after the filing of this Decision with the Boxborough Town Clerk.

WITNESS our hand this 25<sup>th</sup> day of April 2000

BOXBOROUGH PLANNING BOARD:

Jennie Rawski  
Jennie Rawski, Chairman

Michael Ashmore  
Michael Ashmore, Member

John Markiewicz  
John Markiewicz, Member

Karen B. Metheny  
Karen Metheny, Clerk

Virginia B. Richardson  
VIRGINIA B. RICHARDSON  
Town Clerk.

April 26, 2000  
Date filed with the Town Clerk

Copy sent to:  
Petitioner - Certified Mail #  
Board of Selectmen  
Inspector of Buildings  
Board of Health  
Conservation Commission  
Board of Appeals  
Director of Public Works  
Fire Chief  
Police Chief  
Littleton Water Dept.

Notice of Decision sent to:  
Town of Acton  
Town of Littleton  
Town of Harvard  
Town of Stow  
Abutters