

NOTICE OF DECISION  
COMPREHENSIVE PERMIT  
SUDBURY STATION, LLC

SUDBURY, MA  
ZONING BOARD OF APPEALS CASE NUMBER 16-4  
SEPTEMBER 20, 2016

TOWN CLERK  
SUDBURY, MASS  
2016 SEP 21 AM 11:56

**I. BACKGROUND**

APPLICANT           Sudbury Station, LLC (the “Applicant”)

OWNER                JOL Trust, JRH Trust, 24 Hudson Road Trust, and Matthew and Molly Gilmartin (the “Owner”)

PROPERTY            The real property that is the subject of this Decision (the “Property”) consists of those certain parcels of real estate more further described in (i) that certain Purchase and Sale Agreement dated October 8, 2014 by and among Dorothy M. Bartlett, Lara B. Abrams (f/k/a Laura B. McCarthy), and Martha J. Keighley (f/k/a Martha J. Bartlett), as they are the Trustees of JOC Trust, Laura B. Abrams, Trustee of the 24 Hudson Road Trust, and Laura B. Abrams, Trustee of the JRH Trust and Christopher G. Claussen, and (ii) that certain Purchase and Sale Agreement dated January 9, 2015 by and among Matthew S. Gilmartin and Molly F. Gilmartin and Christopher G. Claussen.

ASSESSORS  
MAP/PARCEL         G09-0100, G09-0004, G09-0300 and H09-0068

AREA:                 40 acres shown on plans (approx.), 11 acres on development site (approx.)

ZONING:              Single Residence A and Residence C

THE DEVELOPMENT: The Applicant filed an application for approval of 250 rental apartment units in ten buildings (the “Development”). The Applicant also seeks the construction of a clubhouse, wastewater treatment facility, and maintenance building in connection with the Development.

PUBLIC HEARING: A public hearing by the Sudbury Zoning Board of Appeals (the “Board”), pursuant to notice duly published, posted and mailed to parties in interest in accordance with applicable law, was opened on February 22, 2016, and continued to March 21, 2016, April 25, 2016, May 23, 2016, June 20,

2016, July 25, 2016, and a final hearing on August 17, 2016, at which time the public hearings were closed.

**DECISION DATE** On September 20, 2016, it was moved and seconded, and the Board voted five in favor and zero opposed to approve the Application for Comprehensive Permit, with conditions. Accordingly, the Comprehensive Permit is approved, with conditions.

**PLANS OF RECORD**

This decision is based on the following plans submitted for the Board's consideration:

Drawn by Sullivan, Connors & Associates, and Sudbury, MA. Client: Sudbury Station LLC, Naples, FL  
Stamped by Vito Colonna, PE/MA

Original Plan Set: Jan. 25, 2016; Revised for Plan & Profile, March 11, 2016; Revised for Road Design, March 14/16; Revised for Stormwater engineering detail, March 18/16; Revised for Site Grades, April 22/16; Revised for Stormwater engineering details, April 29/16  
Revised for Further Stormwater and Snow Storage designation, June 10/16  
Revised for Responses to Peer Review Commentary, July 14/16  
Plan Drawings 1 through 9, plus additional sheet on stormwater design, 1 of 1

In addition to the above, the Applicant, the Board's consultants, Town officials and abutters and interested members of the public entered into evidence documents and other materials addressing matters and questions raised during the public hearing and a list of said materials is attached hereto as **Exhibit A**.

**II. THRESHOLD DETERMINATIONS**

**Jurisdictional/Eligibility Requirements:**

The Project Eligibility Letter issued by the Massachusetts Housing Partnership made the eligibility findings required under 760 CMR 56.04(1) (a)-(c) and (4) and those findings are required to be considered conclusive by the Board of the Applicant's eligibility under 760 CMR 56.04(6), unless there is an alleged failure of the Applicant to continue to fulfill the eligibility requirements. The Board has found no such failure by the Applicant to fulfill these eligibility requirements.

### III. PROCEDURAL HISTORY

The Board received an application for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20-23 (the "Act") and the regulations promulgated thereunder, as amended from time to time (the "Regulations"), from Sudbury Station, LLC on February 4, 2016 to construct the Development, consisting of multifamily rental apartment buildings and townhouses containing two hundred and fifty units on approximately 11 acres of developable land located at the Property, with adjoining land that is subject to an agricultural preservation restriction. Said Property is primarily within a Single Residence A zoning district, with a small portion in Residence C, and is identified as G09-0100, G09-0004, G09-0300 and H09-0068. The Property consists of land owned by JOL Trust, JRH Trust, 24 Hudson Road Trust and Matthew and Molly Gilmartin. The application was filed by the Applicant and notice as required by law was given to all entitled to receive such notice.

The Board convened the public hearing on this application on February 22, 2016. The public hearing was continued over several sessions on March 21, 2016, April 25, 2016, May 23, 2016, June 20, 2016, July 25, 2016 and August 17, 2016, when the public hearing was closed and the Board moved to deliberate on the application. Sitting as members of the Board and present throughout all hearings were Jonathan F.X. O'Brien, Chair, Jonathan G. Gossels, Jeffrey P. Klofft, Nancy G. Rubenstein and Nicholas B. Palmer. Nancy G. Rubenstein was absent at the February 22, 2016 session and, pursuant to G.L. c. 39, § 23D, has certified that she has examined all of the evidence received by the Board on this subject and is therefore eligible to vote on the subject application.

Over the course of the public hearings, the Board heard testimony and received written comments from its consultants, numerous Town boards and officials, the Applicant and its representatives, as well as abutters and members of the public. The Board retained the following outside firms for peer review, and received and evaluated their reports:

Vanasse and Associates, Inc. (traffic)  
New Seasons Development, LLC (fiscal impacts)  
Hancock Associates (civil engineering)  
Horsley Witten Group (stormwater management)  
Davis Square Architects.

The Board's decision is based upon the Plans, reports and information submitted to it prior to and during the public hearing. The list of Plans, reports and information submitted to the Board during the hearing is attached hereto as **Exhibit A**.

#### IV. FINDINGS OF FACT

After the public hearing closed, the Board met during open session at duly posted meetings and made the following findings of fact.

##### A. **Municipal and Regional Planning**

This site to be developed is a direct abutter to, and seeks to run two entry roads through an area known as the Sudbury Center Historic District (the "Historic District"). The Historic District was designated as such by the state in 1963 and with the Federal government in 1976. The Historic District encompasses Sudbury's historic civic center and residential areas along Concord Road, Hudson Road, Old Sudbury Road, Candy Hill Road, Goodman Hill Road, and Rice Road. The area was the location of the first Sudbury settlement by 1640. The state and Federal registrations note that the historic structures in the district that abut the development are examples of Greek Revival, Colonial, Federal, and Georgian architectural styles. The Historic District registrations also note the significance of the Historic District in its reflection of American political, religious, military, *community planning* (emphasis added), government, commercial and architectural traditions. The Town for many years has worked to preserve the Historic District which reflects and embodies key developments in the history of the Commonwealth and of the nation.<sup>1</sup> A diagram of the Historic District is attached at **Exhibit B**.

Due to its significance, the Historic District has been the subject of a number of survey, registration, and preservation efforts, including the establishment of the Historic District Commission, which has the authority to review new construction and alterations to properties within its limits. A number of the buildings in the District were surveyed by the Sudbury Historical Society and included in the Massachusetts Historical Commission Inventory in the late 1960s and early 1970s. In 1995, the Sudbury Historical Commission resurveyed the Historic District (MHC Area SUD.J) in order to formalize its boundaries and provide more current information about its contributing resources. The Town, therefore, has been actively protective of the Historic District's value to both the community and to the state, and the Board, acting as the issuer of a comprehensive permit under Chapter 40B, was eager to work with the Applicant in an effort to preserve and complement the qualities of the Historic District.

Of particular concern to the Board are the two proposed access drives to the Development. One access drive is located on Hudson Road, consisting of a 50 foot wide paved driveway. A second access drive is located on Peter's Way, currently an unimproved gravel path

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<sup>1</sup> The Historic District contains the core of Sudbury's most significant historic resources, including the Loring Parsonage, c. 1700, the First Parish Church, c. 1797, the site of Sudbury's second Meeting House and first Town Meeting, the 19th century Presbyterian Church, and the Grange Hall, erected in 1846. The Hosmer House, standing at the corner of Concord and Old Sudbury Roads is a typical residence of the early 1800s.

The focal point of the Historic District is the Town Common, where the Sudbury Militia and Minutemen mustered on the morning of April 19, 1775 before marching to Concord and Lexington in the opening of the Revolutionary War. Adjacent to the old Town Hall is the Revolutionary Cemetery and Monument which lie just east of the proposed Development. Further east from the Historic District is the Haynes Garrison site where the citizens of Sudbury defended their lives and frontier settlements against King Philip of Pokonoket in King Philip's War.

but which is proposed to be a graded, raised, and guard-railed three-lane driveway. Both access drives run directly over and through parcels designated as part of the Historic District. The Applicant proposes to erect signs at the edge of the property directing visitors to the Development, and to re-grade the land to allow for easier access and better sight lines for vehicular traffic. Vegetation will also be removed to further ease ingress and egress to the Development, within an area dominated by colonial houses with fieldstone basements and which, having been constructed over one hundred years ago, are on occasion within ten or twenty feet of the main roads. On numerous occasions the Board raised the fact that these features of the Development would permanently alter the Historic District, and that the proposed architectural and topographical plans for the Development did not appear to correspond to the long-held architectural vernacular and community planning efforts that permeate the Historic District.

The Board found further that the proposed wastewater treatment plant and the four-story tall Building no. 1 will be directly visible from Hudson Road. The Board made repeated entreaties to the Applicant to consult with members of the Sudbury Historical Commission to develop an architectural concept that would cohere more directly with the values embodied by the Historic District, but to no avail. Board members made repeated requests to the Applicant to design a more campus-like community, or a community with a more village-like feel. Despite the looming nature of proposed Building No.1, the wastewater plant, and Building No. 9 over the Historic District, as well as the fact that Building No. 9 and the wastewater plant are located directly upon the boundary of the Historic District, the Applicant informed the Board that the architectural designs were sufficient as originally presented and the Applicant’s architect wrote in response that the Board “declined to give any constructive comment other than that the project and its buildings are ‘too big’.” Further, when the Board requested that the Applicant work directly with members of the Town’s Historical Commission to collaborate on these issues, the Applicant agreed to do so, but refused to extend the 180-day period during which the hearings had to be held. With 30 days remaining in the hearing process, the Board found that it was clear this acknowledgement of the issue was too little, too late, and was not a meaningful commitment of time to accomplish tangible improvement.

The Board found that the Applicant, despite hearing the numerous entreaties of the Board throughout the hearing process to present a design that more accurately corresponded to the values of the Historic District, chose to ignore the Town’s stated desire for a Development that would, at a minimum, comport to the Town’s architectural and historic character.

Sudbury has a long history of supporting affordable housing. Since 2004 the Town has supported and approved the following Chapter 40B applications and denied none:

Constructed 40Bs

Carriage Lane (2004)	16 units	Boston Post Road
Sudbury Meadows (2006)	8 units	North Rd
Villages at Old County Road (2006)	37 units	Old County Road
Sudbury Housing Authority Duplex (2010)	9 units	Various addresses
Habitat for Humanity (2010)	2 units	Dutton/Pratts Mill Rd
278 Maynard Road (2012)	3 units	3 Marlboro Road

Landham Crossing (2012)	31 units	192 Boston Post Road
The Coolidge (2012)	64 units	189 Boston Post Road

Approved but not constructed 40Bs

Sudbury Village (2007)	73 units	Boston Post Road
Sudbury Commons (2008)	21 units	Hudson Road

In addition, the Town supported and approved other Chapter 40B developments prior to 2004. Most recently, the Town supported and this Board approved on July 18, 2016 a comprehensive permit for 250 rental units on Route 20.

**B. Health, Safety and Environment**

**1. Traffic impacts and vehicular and pedestrian safety.**

Because the Historic District is the traditional center of the Town where four main roads meet, stretching north to Concord, east to Boston, south to Framingham and west to Hudson and Maynard, it serves as one of the major traffic hubs in Sudbury. See **Exhibit C** for a map of the location. The intersection (the “Intersection”) is characterized by heavy traffic and long delays during peak hours, multiple times per day, with traffic collecting in long lines away from a traditional four-way traffic signal. The two proposed access drives to the Development are situated on two sides of the Intersection, with the Hudson Road access point being to the west, and the Peter’s Way access point being to the north, of the Intersection. The access points generated discussion regarding the safety issues at both driveways, which have poor sight lines, difficult access to the roads given the volume of traffic, heavy vegetation, slopes requiring re-grading, and mismatched entryways when viewed in conjunction with surrounding roads and driveways.

The Board found that the counts of peak hour commuter and school traffic at the Intersection, and the attendant queuing of vehicles at the traffic signal, make conflict with exiting and entering vehicles from the Development inevitable and worsen the safety conditions on Hudson Road and Concord Road, due to the fact that the proposed site drives are located in close proximity to the Intersection. Hudson Road, a two-lane road, runs in an east/west direction through rural-residential parts of Sudbury, and carries an average daily volume of 21,150 vehicles on a weekday, with peak commuter hour counts at the Intersection in the 1,500 to 1,700 vehicle per hour range. Morning queuing from the central traffic signal usually stretches for 1,000 to 1,300 feet during commuting hours, extending westward along Hudson Road. At its peak, traffic will back up on this two-lane past Bel El Synagogue, more than a half of a mile from the traffic signal. Evening peaks, whose average volumes tend to run a little higher than a.m. rush hour average, queue eastward along Old Sudbury Road for a typical length of 1,300 to 1,400 feet from the Intersection.

Concord Road, also a two-lane road that passes through several miles of rural-residential neighborhoods, runs in a north/south direction across the Intersection, connecting the Intersection with the Town of Concord to the north and Route 20, the Town's major commercial artery, approximately 1.5 miles to the south. Concord Road carries 9,260 vehicles per weekday through the Intersection, with hourly peaks in the 700 to 1,000 vehicle range. The other major contributor to volume at the Intersection is Peakham Road, a north/south local collector which intersects with Hudson Road on the other side across from the proposed site driveway, but misaligned with the site driveway approximately 80' westward. In addition, the existing driveway for Ti Sales, an industrial property with frequent 18-wheeler visits, is a traffic contributor due to its close alignment to the proposed site drive, which also directly abuts and parallels the proposed Bruce Freeman Rail Trail extension.

There is additional data pointing to the likelihood of significant traffic operations and safety problems with turn movements emanating from the Development. This is especially so with turns attempting to exit the main site drive onto Hudson Road, and vehicles trying to exit the Development via Peter's Way, at both a.m. and p.m. peaks. The Applicant's trip generation data projects 1,638 vehicle trips from the Development per average weekday, with 60% of the trips on Hudson Road (the majority eastbound) and 35% of the trips on Concord Road (60% southbound & 40% northbound), with the remainder at Peakham Road and Hudson Road. Total peak hour ingress and egress was projected by the Applicant at 126 to 155 vehicles per hour from the two site drives. Some have disputed these estimates as being low, but even applying the Applicant's numbers, they would indicate significant traffic issues at both site drives, given peak hour queuing on the public ways and turn movements emanating from the Development. In a study period from 2010 to 2013, 26 traffic accidents occurred at the Intersection, based on existing traffic volumes, without any new Development trips added. The Applicant further states that Level of Service D will exist at the Hudson Road side of the Intersection after construction of the Development, however traffic congestion is already a major problem, even prior to construction of the Development. The Board found that the proposed increase in traffic from the Development will directly impact an already serious congestion problem at the Intersection, contributing to a significant increase in the rate of accidents in the center of Town.

The Board notes in particular that sight distance problems at both access points create serious safety concerns for pedestrians, cyclists and vehicular traffic. At the Hudson Road exit from the Development, the fact the Applicant was unable to align the exit driveway with Peakham Road, the significant drop in grade from the Property to Hudson Road, and the complex nature of traffic patterns at the location creates a very real hazard to individuals seeking to cross Hudson Road from the Development. Because of the location, vehicles cannot observe each other, and vehicles and pedestrians (or cyclists) cannot observe each other from a safe distance. When the Board inquired into what methods could be employed to prevent accidents between vehicles, pedestrians and bicycles, the town's traffic peer reviewer opined that the Town's options were limited to a painted crosswalk with a yellow flashing crosswalk signal. In light of these precautions, the Board concluded the location presents an unacceptable level of risk to both occupants of the Development and the town residents and particularly schoolchildren. In the Board's view, crossing Hudson Road at the driveway to the proposed Development will produce regular incidents, which, on occasion, will likely be extremely serious or even fatal.

Further, at the Concord Road and Peter's Way intersection, road curvature and elevation changes create safety issues for exiting vehicles and a dangerous crosswalk for pedestrians situated approximately 20 feet from Peter's Way. The submittal of a detailed sight distance plan, with low signs, pavement markings, vegetation clearing, clear sight-line viewsheds and re-grading of the land at the end of the access roads, was discussed in the proceedings. The Board also explored the possibility that Peter's Way, which connects the Development to Hudson Road within the proposed housing and parking area, might become a cut-through for drivers seeking to avoid the traffic light at the Intersection, a potentially dangerous impact upon residents of the Development. In addition to this safety issue, and in spite of the proposed modifications to the terrain and vegetation trimming, the sight lines for vehicles exiting the Development remains exceptionally poor and conflicts with northbound traffic on Concord Road, which, like Hudson Road, is a two-way road. This conflict is due to traffic queuing on the southbound side of Concord Road, which would form a visual wall to any vehicle exiting into northbound traffic. This northbound traffic is typically moving at a high rate of speed (observed at 30 mph +) and through reviewing available video evidence, the Board found that vehicles exiting northwards from the Development would encounter a highly dangerous and dynamic situation which would persist at least twice daily for long periods of time. The same applies for residents of the Development seeking to cross Concord Road by foot at the crosswalk. In the Board's view, this second location will produce serious and regular accidents between residents of the Development and northbound vehicular traffic, which, as above, the traffic peer reviewer noted can only be mitigated by painted crosswalks and yellow crosswalk indicators. As above, the Board concluded the likelihood of major and potentially fatal accidents at this location could not be mitigated by the Applicant's proposed modifications circumstance. This, in the Board's view, was insufficient to ensure the risk created by the Development was fully resolved.

The Board found that this increase in traffic will also exacerbate the safety concerns for school children traveling by bicycle or by foot to the schools located in close proximity to the proposed Development. These include the Noyes Elementary School, located behind the Town buildings in the Historic District, which has an extended hours program until 6:00 pm; Nixon School, located north of the Development on Concord Road; Congregation Beth El on Hudson Road, which has Hebrew school in the afternoon; First Parish Church, located across from the Town Common, which operates a pre-school program during the day; Sunny Hill pre-school at the Sudbury United Methodist Church. The crosswalk system through the Intersection is one of the most used pedestrian areas in Sudbury, featuring children on foot and on bicycle, parents headed to and from the schools, and municipal workers, nearby employees and residents walking across Hudson and Concord Roads to reach the food establishments and businesses at the 29 Hudson Road center. Children living in the Development attending the Noyes elementary school will need to cross the streets in the Intersection three times to reach the school. In addition, the Bruce Freeman Rail Trail, now in the planning and design stages, will pass within a few feet of the proposed site drive on Hudson Road. Hudson Road only has a narrow bituminous walk located across the road from the proposed site drive. As above, the traffic peer reviewer noted that protective measures that the Board could contemplate include painted crosswalks and yellow crosswalk indicators. The Board found that the significant traffic increase in the center of Town directly impacts the safety of its younger citizens if they are unable to observe traffic in a safe



and obvious manner and the proposed solutions to the issue do not adequately address the increase in risk.

To further complicate matters, any ingress and/or egress to the site using Peter's Way will create significant new traffic along Candy Hill Road, situated diagonally across Concord Road from Peter's Way. Candy Hill Road is a secondary country road lined with stone walls and the occasional tree that the road has been paved around. The road serves as a route for the high school track teams and many other high school athletic teams and is frequented by hikers, runners and dog-walkers. Candy Hill Road and its users would be negatively impacted and an additional safety risk is created because (i) commuting patterns from the development favor the use of this road by eastbound travelers, (ii) construction vehicles accessing the rear of the site would likely use Candy Hill Road as a means of ingress and egress to and from the development, and (iii) traffic cutting through the development to avoid congestion at the center of town would then use the road to re-join Route 27 or Water Row to exit the town. The Board sought to establish design features, including one way and "left/right turn only" restrictions, to reduce this safety impact.

The Board explored making Peter's Way a one-way street to address these safety matters, but the town's Fire and Police Chiefs were reluctant to do so, as establishing a one-way route would endanger fire apparatus and other emergency vehicles having to ignore such prohibition in an emergency. The town's Fire and Police Chiefs also wanted to avoid an acutely-angled northbound left turn onto Concord Road. Different configurations for the intersection of Peter's Way and Concord Road were considered, including directional channeling, raised separator islands or textured surfacing to allow passage by emergency apparatus, but none proved satisfactory to address the public safety vehicle issues and the safety issue for vehicles exiting the Development at peak traffic queuing times.

During the hearings, the Applicant noted that the best result would be a "right turn only" restriction that would be effective during peak commuting hours. Enforcement would have to be by dedicating a patrol car to enforce any such restriction. The Board questioned whether such a restriction would be enforced in any effective way, despite the very real safety factor for vehicles exiting the development and for Concord Road travelers.

The Board finds that the traffic volume from the Development will worsen safety throughout the Intersection, and that the access points on Hudson Road and Concord Road present serious and evident flaws. The Board does not find that the design elements proposed by the Applicant or the Town's peer reviewer adequately resolve the safety situation, particularly for schoolchildren and young children that are frequent users of these pathways. After deliberation, the Board found that the Applicant's proposed large scale traffic mitigation on public ways, extra-wide curb cuts at the proposed driveways, increased signage, hardened crosswalk features, traffic complication, re-grading and removal of vegetation to allow for greater sight lines in and out of the Development, are insufficient to resolve an alarming safety risk for residents at the Development as well as residents of the Town.

## **2. Stormwater and wastewater impacts.**

Stormwater and on-site wastewater collection and treatment are linked by the common elements of soils characteristics, groundwater depth and flow, and topography. The lack of technical data documenting these intricate connections does not sufficiently allay the Board's concerns that adverse stormwater and wastewater impacts from the Development will be avoided.

The proposed buildings are located on a predominantly hilly section of the site, the pronounced topography has significant implications for the design and operation of both the stormwater and wastewater systems at the site, and the Development presents a significant engineering challenge. Within the relatively small Development parcel of 11 acres, where all of the housing as well as the wastewater plant and common facilities will be constructed, there is an existing elevation differential of 68' running from the southeast to the southwest corner of the triangular site. The problem is amplified by potentially sensitive receptors located on and near the west and south sides of the housing area, generally downgrade of the housing at the site. These include the proposed wastewater plant for the Development, Ti Sales (a business that sells supplies and materials for water and wastewater systems), and Parkinson Field, a town athletic practice facility.

The Board finds that major issues remain unresolved with regard to stormwater management on the site: these include potential flooding increases downgrade of the development parcel, and possible impacts of groundwater and stormwater on the design and operations of the wastewater plant and disposal system serving the Development, based on a 250-unit design.

The proposal for the Development would convert the aforementioned 11 acre tract of heavily wooded, hilly, rural land into an intensely developed, multi-family development containing 250 units arrayed in three buildings of 4 stories each, two buildings with 3 stories, and 36 two-story townhouses, with a total of 409 bedrooms. The housing envelope is located entirely on this 11 acre lot that sits immediately adjacent to the Historic District. There is a resulting density of the Development parcel at nearly 23 units per acre. The wastewater plant is included wholly within the Development parcel, making the impact even greater. More than 7 acres of the 11 developable acres will become impervious surface, 58% of which are the building footprints, 42% of which are parking, walkways and other features.

To meet the needs of this relatively urban density on a rural site, the property must provide an extensive stormwater management infrastructure and an on-site wastewater treatment plant, as the Town relies on septic treatment for residents, and no public sewer system exists for the collection and treatment of wastewater. The substantial footprint of the Development also results in major site alteration that requires graded side slopes behind the two southernmost townhouse structures that in some spots would exceed a 50% gradient and necessitate construction of retaining walls. These site constraints increase the need to ensure the proper design and function of the stormwater and wastewater infrastructure on this densely packed 11 acre parcel.

More specifically, the Board further finds that the following issues remain unresolved:

B1. The stormwater plans, which have a relatively traditional closed system design with piping and detention, would have benefited from use of “Low Impact Development” techniques, to further attenuate the flow of stormwater, significantly reduce impervious surface, and beautify the site.

B2. The precipitation data applied by the Applicant’s engineer for the stormwater calculations appears to be low for 100 year storm events.

B3. There may be significant stormwater issues caused by the low elevation of the 2000-plus feet long, 12 foot diameter pipe denoted as Stormwater Detention System A, where a portion of the pipe appears to lie within the groundwater level. The Applicant has not shown that the crushed stone and underdrain envelope will avoid risk that the pipe may “float” under certain circumstances.

B4. The maintenance of the state-mandated 4 feet of separation between the wastewater disposal/leaching beds that are part of the wastewater treatment system, and seasonal high groundwater level, remains a major concern. The absence of a full mounding study and further soils testing necessary for both the primary and reserve soil absorption areas, prevents the Board from being able to determine the extent to which mounding might be necessary to maintain the requisite groundwater separation. The Applicant has stated that this would be done in the future, but in the absence of such analyses, the Board finds that a 250 unit density cannot be confidently supported from the viewpoint of wastewater disposal. There is also an unresolved issue of placing paved parking above the disposal beds.

B5. Groundwater characteristics are a major unknown factor, because they could significantly affect the depth of the disposal mounds. A groundwater modelling program with monitoring wells was not performed to establish hydraulic conductivity. The ultimate impact on abutters such as Ti Sales and Parkinson Field remained an unknown.

B6. The Board noted that the Applicant’s claim that the wastewater flow from the Development would generate only 48,000 gpd was not supported by any detailed calculation that would substantiate this estimate. The Town’s Board of Health noted that the Applicant needs to provide a complete accounting for wastewater design flow, and the Board notes that once the design flow tips over a 50,000 gpd limit, the Applicant would be required to provide for an individual groundwater discharge permit from the Department of Environmental Protection (DEP), requiring significant engineering reports, a hydrogeologic report, and a monitoring plan. The Board found that the absence of the hydrogeological report, a monitoring plan and documents identifying the operation and maintenance of the facility to be a significant omission, without which the Board is unable to determine the ultimate impact on abutters such as Ti-Sales, Parkinson Field, and the Development’s inhabitants themselves.

The inadequacy of the hydrogeological data, combined with the Applicant’s unwillingness to extend the statutory time frame for the process—which would have allowed additional time for engineering analysis-- has left a void in the areas of stormwater management and on-site wastewater discharge.

### C. Site and Building Design and Open Space

The Development is proposed to have 250 units, of which 25 units will contain three bedrooms, 109 units will contain two bedrooms, and 116 units will have one bedroom, for a total of 409 bedrooms. With a hypothetical occupancy of two persons per bedroom, as presumed by Title 5, there could be 818 persons living in the Development.

The site consists of three distinct parcels. The first is labeled Parcel C on the Plans, and contains approximately 26.4 acres. Parcel C is located off of Codman Drive to the north, and is also accessed by Peter's Way. The plan shows that Peter's Way will be extended over Parcel C to serve as an access/egress to the proposed Development.

Parcel C is subject to an agricultural preservation restriction (APR) and is zoned Single Residence C. No buildings, structures, or other aspects of the Development are proposed on this parcel, although the Applicant does propose to have a "community garden" for the residents on a portion of this parcel. This parcel is essentially cut off from the rest of the Development by Building No. 3, one of the large, four story buildings, which is to be constructed only a few feet from Parcel C. The APR, although recorded at the Middlesex South Registry of Deeds, was not signed by the Commissioner of Food and Agriculture. Accordingly, the Applicant has taken the position throughout the hearing that the APR is not enforceable in perpetuity, and that Parcel C could be developed in the future. The Town disputes this conclusion, and takes the position that the APR is enforceable in perpetuity and therefore Parcel C cannot be developed in the future. The Board found that the determination of this issue is beyond its jurisdiction. However, since Parcel C is included as part of the application, and is relied upon by the Applicant as the bulk of the open space for the Development, the Board notes the uncertainty surrounding whether Parcel C could be developed in the future, and that the current tenant's use of the land for farming purposes appears to be its exclusive right, meaning that Parcel C cannot be relied upon to be deemed to constitute open space so crucial for the well-being of the future residents of the site. Accordingly, the Board does not consider Parcel C as usable open space, leaving the Development as proposed by the applicant at 250 units with little to no open space for the proposed occupants of the units.

The 11 acre developable parcel will contain all 250 housing units (along with the wastewater treatment plant, parking, drives, clubhouse, stormwater management system, maintenance building, and leaching field) for a density of approximately 22.72 units per acre (the "Development Parcel"), a density far in excess of the Board's Guidelines for Comprehensive Permit Developments, which provides a goal of up to six units per acre, and other chapter 40B developments in the town. The Development Parcel is characterized by steep grades, sloping roughly from east to west, is currently covered by trees and natural vegetation, and contains a number of old stone walls. It is abutted to the east by the town's Mt. Pleasant Cemetery and the Old and New Town cemeteries, which historic cemeteries are still in active use. The Development plans show Buildings Nos. 12 and 13, and to a lesser extent, Building 11, consisting of town house units, will be placed along the cemetery side of the Development Parcel, less than 20 feet from the cemetery's edge. These buildings will be highly visible from

the cemetery, according to the Applicant's own architectural views, and the back yards and patios belonging to these buildings will be open to the cemetery land. The Board found that post-construction, there will be little or no backyard space for these buildings, and the activities and noise from the use of these buildings will carry onto the cemetery land.

The cemeteries are visually separated from the Town center by their location behind a hill and surrounding trees. This design promotes seclusion and contemplation for visitors. Little sound from the bustling center stretches to the back of the cemetery, which features benches, paths and open space. The setting is appropriate and intentional for a cemetery and the needs of the Town's inhabitants. The clear-cutting required to establish these three buildings as part of the Development will forever impact the integrity of the cemeteries. The Board finds that the location of these three buildings is inappropriate and unfairly seeks its own benefit over the burden it establishes on the long-standing and intentional peace and tranquility of the cemeteries. The Board finds that this peace is part of the community planning that has existed in the Historic District and its abutting properties for many decades.

The Development parcel is abutted on the west by an abandoned railroad right of way, the former Farmington and Lowell Railroad, proposed to be part of the Bruce Freeman Rail Trail, and beyond that, Ti-Sales (an industrial use), and Parkinson Field, a town owned athletic and recreation field. The plans show that Building 1 and particularly Building 2, which are two of the larger four story buildings in the Development, will loom over this existing recreation area and Ti-Sales. Due to the excessive density, another large retaining wall will need to be constructed along the western boundary of the site near the recreation field, with a height of up to 12.5 feet, further accentuating the visual impact on the field.

The third parcel is located on Hudson Road and is currently used for a single family home (the Gilmartin parcel). The plan shows that there will be an access/egress driveway located on this parcel, but that the existing single family home and garage will remain. In addition, a portion of Building No. 8, the wastewater treatment plant, is located on the Hudson Road parcel. The plan shows a "Permanent Right of Way and Utility Easement" over a portion of the Hudson Road parcel to accommodate the wastewater treatment plant and access drive. The applicant has not stated what is planned for the remainder of the Gilmartin parcel, and the ZBA expresses no opinion as to whether the use of a portion of the Gilmartin parcel for access to the proposed Development affects the current use of the property as a single family home. In any event, the Gilmartin parcel is a separate parcel, the fee of which is not included in the proposed Development plan, and is not available as open space or recreation area for the expected occupants of the Development.

The applicant clearly designed the Development to include the highest number of units (250) that it was allowed to propose under applicable regulations. When density drives design, the design suffers, and such is the case in this instance. The Development design is problematic both in terms of its impacts on surrounding properties and its internal inappropriateness.

Virtually the entire Development parcel is covered by buildings, drives, parking, stormwater infrastructure, leaching areas, and other utilities. Apart from one triangle of open space wedged between the massive buildings, the building area will be a sea of asphalt and

unattractive buildings. The Plans show that the only open space on this parcel is the area in front of Building No. 2, where a grassy area is planned to be built over the underground stormwater discharge area. There will be an approximate 16 foot change in grade across this space. There are no play or recreation areas for children on the proposed plans for the Development. There is no provision made for snow storage to accommodate the over 2000 feet of roadways and the large parking areas, which will require significant snow storage.

The Board also noted that the site is included in Sudbury's Open Space and Recreation Plan. It meets several criteria for preservation in a natural state, including the fact that there are no structures on the site, and the sensitivity of the site's surrounds.

The layout of the proposed Development, consisting of large buildings surrounding a series of drives and parking areas, does not provide a design conducive to neighborhood living. As noted by the Town's peer reviewer, the orientation of buildings to each other is incidental, due to the severe site constraints of attempting to fit so many units on a relatively small space. The large buildings, which are 210 to 250 feet long with "big box" appearances and little by way of modulating the footprints, and which contain "hotel style" central corridors with units on the outside, do not relate to existing housing styles in Sudbury, nor to any architectural aesthetic espoused by the Historic District. The proposed pool and clubhouse are located next to the wastewater treatment facility toward Hudson Road, some distance from most of the housing units, and again has no particular relationship to the other structures other than fitting into the available space.

#### **D. Conclusion**

In light of the safety impacts, storm and wastewater problems, open space issues, site and building design deficiencies, and community planning and development impacts inherent in the Development plans submitted to the Board, the Board finds that the imposition of the conditions imposed by this decision can mitigate the impacts. The Board determined that the only feasible solution to the traffic impacts that the Development would create is to impose a condition eliminating Peter's Way for access to and from the site. While the Hudson Road driveway also poses significant safety challenges, the Board finds that, as conditioned, the scaled down development using only the Hudson Road access will reduce safety risks and will minimize the impact on the Historic District, by requiring a much simpler and scaled-down entry and exit point. Such reduction complies with the town's effort to retain the traditional character of the Town Center and would not require large scale re-grading and vegetation removal on the land bordering Hudson Road. Elimination of Peter's Way also would dramatically reduce the use of Candy Hill Road would be used as a cut-through to Water Row and easterly destinations.

Eliminating Peter's Way as an access results in a Development that would have only one access point, and has as a consequence the reduction in size and scope of the number of units that may be accessed by a single entrance. In particular, the Institute of Transportation Engineers Neighborhood Street Design Guidelines (2010) recommend a limit of 30 dwelling units on dead end roads not to exceed 1,000 feet in length. The National Fire Protection Association regulations (NFPA1, 2015) leave the matter of requiring a second means of egress to duly authorized local officials, but at 250 dwelling units, the Development is judged by the Board to

generate a self-created circumstance, whereby Peter's Way becomes a necessity for the sole purpose of accommodating the high density of the Development.

The Board finds that, as conditioned, the scaled back Development fulfills the following local concerns:

- a simpler and scaled down access point on Hudson Road will reduce the frequency of accidents and increase the efficacy of any pedestrian signalization;
- the problems with the Development's storm and wastewater systems on both its residents and its neighbors will be minimized, and a conventional septic system could be envisaged for the Property, in alignment with the Town's wastewater discharge requirements;
- the Development's impact upon the Town cemeteries and the Historic District will be greatly reduced and the Development would be an enhancement to the Town's significant community planning efforts at the Intersection;
- Candy Hill Road could continue to be used by the Town's athletic programs and by walkers and its residents without becoming a cut-through road;
- Open space needs for residents of the Development would be met with both passive and active recreation areas within the site;
- Children living in the Development would have areas to play in other than a pool located next to a wastewater treatment plant;

## V. EXCEPTIONS

The applicant submitted an extensive list of requested waiver with the application. A revised list was submitted dated July 21, 2016. Neither list contained any specific explanation as to why each waiver was needed. Because the Board is granting the comprehensive permit for only thirty units, some of the waiver requests are no longer applicable. The Board grants the following waivers as consistent with local need, only to the extent necessary to construct the Development as conditioned. All other waiver requests are denied as unnecessary for the Development as conditioned by this decision, or as inconsistent with local needs.

Waivers are granted from the following local regulations to the extent necessary for the applicant to construct a development of not more than 30 units as conditioned by this decision:

Zoning By-law: Sections 1210; 1230; 2210; 2230; 2325 to the extent it requires a site plan review for the proposed swimming pool; 3300; 6300; all other requests for waivers under Zoning Bylaw denied either as unnecessary or as inconsistent with local needs.

General Bylaws: Article V (A), Removal of Earth: A waiver is granted from the requirement to obtain a Removal Permit from the Earth Removal Board, to the extent that the applicant may remove earth materials consistent with Section 4 of the Article V (A) as if the Development were a single family home.

Article VIII.B: Scenic Roads: Denied as no waiver necessary, the access from Concord Road has been eliminated.

Article XXVI: Public Way Access Permit: Upon submission of plans consistent with this decision, including revised plans for the Hudson Road access, the ZBA shall act upon any required Public Access Way Permit.

Waivers denied:

Article XXVII: In-Ground Irrigation Systems: No waiver appears to be needed; to the extent that any waivers are requested, the waivers are denied. The provisions of this bylaw serve to protect the public health and the environment, and Applicant has submitted no information to the contrary or justifying a waiver; the Board finds any waiver is inconsistent with local needs.

Sudbury Planning Board Decision and Covenant: Applicant had requested a waiver from a portion of condition no. 7 of the Planning Board decision "Definitive Subdivision Decision Peter's Way Extension" dated September 12, 2012, filed at the Middlesex South Registry of Deeds at Book 60688 page 151. The portion of the condition is: "Any modification to the location or specification of the driveway serving as access to Parcel 2A shall require the approval of the Planning Board." Since the ZBA has determined that access to the development shall be from Hudson Road, and Peter's Way shall not be used, this waiver is denied as unnecessary.

Any other requested waivers of General Bylaws and Board of Health regulations are denied as unnecessary or inconsistent with local needs. The ZBA carefully considered each waiver requested by the Applicant, evaluating all the evidence and argument presented by the Applicant, peer reviewers, town officials, and others. It is the intention of the ZBA to grant only those specific waivers granted above. Any additional waiver(s) that may be needed must be requested from the ZBA as a modification of this permit.

## **VI. REGIONAL NEED FOR AFFORDABLE HOUSING**

The ultimate issue for the Board is whether the local concerns outlined above outweigh the regional need for affordable housing. "Requirements and regulations shall be considered consistent with local needs if they are reasonable in view of the regional need for low and moderate income housing considered with the number of low income persons in the city or town affected and the need to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces. Requirements or regulations shall be consistent with local needs when imposed by a board of zoning appeals after comprehensive hearing in a city or town where (1) low or moderate income housing exists which is in excess of ten per cent of the housing units reported in the latest federal decennial census of the city or town....." G.L. c. 40B, §20. There exists a rebuttable presumption that the regional affordable housing need outweighs local concerns where the town's stock of low and moderate income housing is less than ten



percent; however, where, as is the case in the Town of Sudbury, low or moderate income housing exceeds ten percent, the Board's decision is not reviewable by the Housing Appeals Committee, and must be upheld against an appeal.

According to the most recent Subsidized Housing Inventory (dated 12/15/14), the Town of Sudbury has 5921 housing units, of which 354, or 6%, are deemed low and moderate income housing. On July 18, 2016, the Board granted a comprehensive permit to Avalon Sudbury, LLC, for 250 rental units on Route 20; the decision was filed with the Town Clerk on July 20, 2016. According to 760 CMR 56.03(2)(b), those units count towards the town's ten per cent goal as of the date the comprehensive permit decision is filed with the Town Clerk. As a result, the town currently has 604 units of low and moderate income housing, which exceeds the state requirement of 10%. Accordingly, there is no longer a rebuttable presumption that the regional need for affordable housing outweighs local concerns. In fact, there is an irrebuttable presumption that, having reached the ten per cent state requirement, the decision of the Board is consistent with local needs. *Eisai, Inc. v. Housing Appeals Committee*, 89 Mass. App. Ct. 604 (2016). Alternatively, the Board finds that the local concerns expressed above outweigh the regional need for affordable housing except as the Development is conditioned by this decision.

## **VII. DECISION**

Pursuant to G.L. c. 40B §§ 20-23, the Board, after the public hearing and findings of fact including, but not limited to the facts stated herein, determines (i) that the valid health, safety, building design, municipal and community planning, and open space concerns, collectively, do not outweigh the regional need for affordable housing with regard to the Development as conditioned by this decision and that (ii) that there is sufficient evidence to support the granting of a Comprehensive Permit (the "Permit") to enable the construction of thirty units of mixed income housing, subject to the following conditions. Accordingly, the application by Sudbury Station, LLC for a comprehensive permit is hereby granted for not more than thirty units, subject to the following terms and conditions all of which are binding upon the Applicant as conditions of this Permit.

**This Permit is granted subject to the following conditions:**

## **VIII. GENERAL CONDITIONS**

1. This Permit is granted to the Applicant and prior to substantial completion of the Development, this Permit may not be transferred or assigned to any party without the approval of the subsidizing agency and notice to the Board, as required by 760 CMR 56.05(12)(b). After substantial completion of the Development, this Permit shall be deemed to run with the land.
2. This Permit shall become void if the Applicant does not commence the Development as approved herein within the later of three years of the filing of this Permit with the Town Clerk or within three years of the expiration of all appeals related to the Development.

Commencement of the Development shall mean that the Applicant obtains a building permit for the construction of the Development and commences substantive construction work under the building permit. The Board may grant extensions for good cause, pursuant to the requirements of 760 CMR 56.05(12) (c).

3. All construction of the Development, including landscaping, shall be completed within three years from the date of issuance of the building permit, unless otherwise noted herein, or a request is filed with, and approved by, the Board extending such time for good cause.
4. This Permit approves the construction of the Development, containing a maximum total of thirty units of rental housing, with associated infrastructure, utilities and landscaping. A clubhouse and pool, of no greater size than shown on the Plans, may also be constructed. Units may be either townhouses or garden style apartments. The structures shall comply with all dimensional requirements of the Zoning Bylaw.
5. Revised plans reflecting all of the conditions of this Permit, including but not limited to, the maximum of thirty units and elimination of Peter's Way access, shall be prepared and submitted to the Board for review and approval. Such approval shall include all aspects of the Development within the Board's jurisdiction under chapter 40B. The plans shall reflect architectural design consistent with the Historic District architectural character. Building permits for the Development shall not be issued until the plans have been approved by the Board for consistency with the conditions of this Permit; final building plans have been submitted to the Building Inspector for review to confirm the consistency of such plans with the Massachusetts Building Code; and the Applicant receives Final Approval, pursuant to 760 CMR 56.04(7), from the Subsidizing Agency and submits evidence of same to the Board.
6. Exterior construction activities shall be confined to the hours between 7:00 am and 7:00 pm, Monday through Friday and between the hours of 8:00 am and 4:00 pm on Saturday. There shall be no construction on state and federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to or after the times stated herein. For this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities on the Property; removal of stumps and debris; and the erection of structures. Notwithstanding the above, the above restriction on the hours of construction activities shall not apply to any work undertaken off the Property that is normally or customarily conducted during hours other than the hours permitted for such work set forth above.
7. The Applicant shall be permitted to locate temporary enclosures or construction trailers on the Property for the duration of the construction. The enclosures/trailers shall be located in an area slated for disturbance, shall not require the need to remove any additional vegetation, shall be set back from Hudson Road at least 200 feet, shall not obstruct visibility of traffic flow on or adjacent to the Property, and shall be removed at the completion of construction.
8. No more than seventy-five surface and/or garage parking spaces shall be provided on site.

9. Appropriate measures shall be taken during construction to prevent the tracking of material onto any public way. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.
10. The Applicant shall repair in a timely manner any damage to public roads adjacent to the Development that results from the construction and/or maintenance of the Development.
11. The Applicant shall ensure that, to the extent permitted under applicable laws and regulations, the form of lease used for the rental of units within the Development contains a provision that prohibits dens or other spaces not designated as bedrooms from being used as a bedroom. The lease shall further specify that such use constitutes a violation of the terms of the lease. A copy of the form of the lease shall be provided to the Board for its file.
12. A temporary construction sign no greater than twenty square feet in size may be erected on the Property at the time of issuance of a building permit. Additionally, after the issuance of a building permit for the Development, the Applicant may display, on the Property, one temporary marketing or leasing sign stating appropriate marketing information, with such temporary sign being in accordance with the sign dimensional requirements of the Zoning Bylaw. Such signs if located in the Historic District shall be subject to all requirements of the District.
13. All fire lanes, emergency access driveways and parking areas shall be kept clear at all times, and all snow shall be removed from these areas to enable unrestricted access by fire trucks and other public safety vehicles. Fire lanes shall be posted as such, and all signage shall be maintained in good order.
14. Snowmelt runoff is to be directed towards catch basins on the Property. Snow storage areas shall be designed to direct the flow to the stormwater management facilities. In the event that the snow storage areas designated on the Plans are inadequate for a particular storm event or events, any excess snow must be removed from the Property.
15. Use of fertilizers and pesticides on the Property shall be applied sparingly to prevent wash off. Use of slow release nitrogen and low phosphorus fertilizers is encouraged.
16. Alternative deicers such as calcium chloride and magnesium chloride shall be used in lieu of sodium based deicers on all pavement and porous pavement areas.
17. No coal tar-based pavement sealants are to be used on the Property.
18. Prior to issuance of a building permit for the swimming pool, the Applicant shall submit plans, prepared by a licensed professional, to the Board of Health indicating compliance with all applicable codes for semi-public pools. Applicant shall provide the services of a properly Certified Pool Operator.

19. Prior to issuance of a building permit for the clubhouse, the Applicant shall submit information to the Board of Health indicating compliance with any applicable MA Department of Public Health regulations.
20. Prior to occupancy of any unit, the Applicant shall provide the Board of Health with a comprehensive list of rules and regulations for the Development, which shall include, but not be limited to, policies for resolving tenant/landlord disputes, pets, wildlife feeding, power outages, disposal of dog waste, smoking in units and noise.
21. Compliance with the limited dividend requirements under M.G.L. c. 40B shall be determined by the Subsidizing Agency in accordance with the rules of the applicable housing subsidy program. The Board shall have the right to review such determination for accuracy using the same standards as the subsidizing agency; provided, however that any enforcement of the limited dividend requirements shall be within the exclusive jurisdiction of the Subsidizing Agency.
22. The Applicant shall comply with all local regulations and bylaws, except for those which are waived in accordance with the Exceptions granted in Section V above or as otherwise expressly set forth in this Decision.
23. Copies of all plans or documents submitted to other Town departments or Boards as required by this Permit, including the Building Inspector and Director of Public Works/Town Engineer, shall be submitted to the Board for its file.
24. Where the Plans or documents submitted to support the application contain information in conflict with the wording of this Permit, the wording of the Permit shall prevail.
25. If any provision of this Permit or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of this Permit (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.
26. The terms, provisions and conditions of this Permit shall burden and benefit the successors and assigns of the Town and the Applicant with the same effect as if mentioned in each instance where the Town or the Applicant is named or referred to.
27. Access and egress shall be from Hudson Road via a driveway to be constructed in the access easement over the Gilmartin parcel as shown on the Plans; however, due to the decrease in the number of units, only one lane in and one lane out shall be provided. The paved width of the driveway shall not exceed 24 feet, subject to approval of the Fire Chief. The use of Peter's Way or Peter's Way extension for access to the development is prohibited, including during construction.
28. The Applicant shall design and provide funds to the Town to construct a pedestrian crosswalk with a blinking light near the Hudson Road site drive for crossing Hudson Road, subject to approval of the Town Department of Public Works and the Board of Selectmen.

## **IX. CONSTRUCTION DETAILS**

1. Prior to the issuance of a building permit, the Applicant shall prepare a set of plans in conformance with the Massachusetts Building Code for review by the Building Inspector, including confirmation from the Engineer of Record that the final working drawings and specifications have been prepared in accordance with standard engineering practices and fully incorporate all requirements of this decision as set forth herein.
2. All utilities within the Property for the Development shall be installed underground.
3. A fire suppression system designed by a certified Fire Protection Engineer per the National Fire Protection Act (NFPA) 13 or NFPA 13-R, as required, and the Massachusetts State Building Code shall be installed in all residential buildings in the Development. The Fire Department connections will be located at an accessible location on the front or side of each such building, at a minimum of eighteen inches (18") above the finished grade and not more than forty-eight inches (48") in height from the finished grade, unless otherwise authorized by the Sudbury Fire Department. Each residential building shall have a designated fire sprinkler control room access by an outside door. All buildings shall be equipped with a monitored fire sprinkler zone control valve to allow for maintenance and repair of each building's fire control system. The Applicant acknowledges that a fire detail may be required during any post-occupancy sprinkler shutdown.
4. All buildings in the Development shall have a Fire Carbon Monoxide alarm system installed per NFPA 72 and the Massachusetts State Building Code. The applicant shall comply with all requirements of the Fire Department set forth in its letter of February 24, 2016 (except no. 10, which is not applicable to the Development as approved), and shall provide ladder truck access to the rear of all residential buildings.
5. The fire suppression system shall be monitored by a fire alarm system that reports directly to the Sudbury Fire Department via a Radio Box type system installed in each building in the Development as required by NFPA 13 or NFPA 13-R and the Massachusetts State Building Code.
6. The Applicant will maintain proper emergency radio communications in all buildings for use by the Town's public safety departments pursuant to the state Building Code.
7. Installation of water mains shall be under the direction of the Sudbury Water District and the Sudbury Fire Chief. No drinking water wells shall be permitted on the Property.
8. The Applicant shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.00 et. seq), except as such may be waived in accordance with applicable laws and regulations.
9. The Applicant's engineer shall arrange to have deep test pits dug prior to installation of the subsurface stormwater infiltration system. The Applicant shall provide documentation

verifying that the subsurface infiltration system has been sized and located properly.

10. Erosion control shall be employed on the Property as shown on the Plan to stop construction runoff and sedimentation from entering the abutting public ways and wetland resources. Erosion control shall be installed prior to the commencement of any site disturbance or construction. Once installed, the Planning and Community Development Department shall be called for an inspection.
11. The final construction plans shall include a plan view of the pipe connections and location of the weirs in the subsurface infiltration system.
12. Any proposed retaining walls greater than four feet high shall require design by a structural engineer and submittal of a stamped plan for approval by the Building Inspector prior to issuance of a building permit.

#### **X. LANDSCAPING/SCREENING/LIGHTING/SIGNS**

1. A landscaping plan shall be submitted to the Board for review and approval prior to issuance of a building permit. All landscaping shall be installed at the Property substantially in accordance with the Landscape Plan. The Plan shall include site identification and directional signage; all signage shall be approved by the Board.
2. Exterior lighting within the Development shall be residential in scale and nature, shall be designed to meet Dark Sky Initiative requirements, and shall be installed to prevent glare and light spilling over to neighboring properties or onto any public way in compliance with the Sudbury Zoning Bylaw. There shall be no building flood lighting. Pole mounted lamps shall not be greater than sixteen feet in height and shall be appropriately spaced for residential use.
3. Prior to issuance of an occupancy permit, the photometric plan for the Development shall undergo peer review by a consultant appointed by the Town, with all costs paid by the Applicant, in order to determine compliance with Condition X.2 above. Any items requiring modification in order to comply with Condition X.2 shall be completed prior to release of the performance bond.
4. The Applicant, or its successor in interest, shall maintain the landscaping on the Property and be responsible for such maintenance in perpetuity.
5. The installation of any irrigation well shall be in conformance with Article XXVII of the Sudbury Bylaws. To reduce water usage, any irrigation system installed for the Development shall include a rain sensor and moisture meter.
6. Irrigation shall not be sourced from the public water system supply unless otherwise authorized by the Sudbury Water District. In the event an irrigation connection to the public water supply system is sought by the Applicant, an evaluation of the fiscal feasibility of water reuse from building elements and any necessary adjustments to the landscape plans shall be filed with the Sudbury Water District for approval. The Applicant shall test irrigation

well water to avoid VOC-impacted groundwater, and shall treat such irrigation water using standard technologies if required by the Board of Health.

7. All landscaping required by this Permit shall be secured for a period of one year after issuance of the final occupancy permit for the Development by a performance bond in an amount allocated to landscaping not to exceed fifty thousand dollars (\$50,000.00). The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period.

## **XI. LEGAL REQUIREMENTS**

1. The following facilities and services of the Development, to the extent located on the Property, shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:
  - a) Stormwater management system;
  - b) Snow plowing;
  - c) Landscaping and landscape maintenance;
  - d) Exterior lighting;
  - e) Utilities;
  - f) Wastewater disposal system;
  - g) Water system for both domestic use and fire protection, including automatic fire sprinkler systems and hydrants; and
  - h) Trash removal and recycling.
2. A performance bond shall be submitted to ensure proper installation and functioning of the stormwater management system, roadways, landscaping, lighting, sidewalk construction, installation of erosion and sedimentation controls, repair of adjacent roadways (if necessary), and submittal of final as-built plans, as required by this Permit, that are not fully completed prior to issuance of the first occupancy permit for the Development. A cost estimate for the bond shall be determined by the Director of Public Works at the then current bonding rates established by the Town. The performance bond shall be submitted to the Board prior to the issuance of an occupancy permit for the Development. The type and form of such performance bond shall be submitted for review by Town Counsel prior to being accepted by the Board.
3. Evidence of Final Approval from the Subsidizing Agency shall be submitted to the Board prior to the issuance of a building permit.
4. This Permit shall be recorded at the Middlesex South District Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of records and existing mortgages which shall be discharged prior to issuance of a building permit. Recording information shall be submitted to the Board prior to the issuance of a building permit.

## **XII. AFFORDABILITY REQUIREMENTS**

1. The total number of units that may be constructed at the Premises shall be limited to 30 rental units, with a maximum of 63 bedrooms. The thirty units shall include a maximum of three 3-bedroom units, and the remainder shall be one bedroom and/or two bedroom units.
2. As a condition of any approval hereunder, at least twenty-five percent (25%) of the units shall be reserved in perpetuity for rental occupancy by low or moderate income households earning no more than eighty percent (80%) of the Area Median Income (AMI) for the Boston-Cambridge-Quincy, MA-NH HMFA (HUD Metro Fair Market Rent Area), as determined by the U.S. Department of Housing and Urban Development (HUD), as adjusted for household size, and as certified annually by the Monitoring Agent (the "Affordable Units"), or as otherwise required by the Subsidizing Agency. Each of the Affordable Units shall be rented for no more than the maximum rental price established in accordance with the Regulatory Agreement, as required by the Subsidizing Agency. In the event that the Subsidizing Agency or any lender forecloses on the Development, no less than twenty-five percent (25%) of the units shall remain affordable to households earning no more than 80% of the applicable AMI, for so long as the Development remains noncompliant with zoning
3. The Applicant shall notify the ZBA and the Town Manager when building permits are issued for Affordable Units and cooperate with the preparation of request forms to add the Affordable Units to the Town's SHI. The Applicant shall notify the ZBA and the Town Manager when occupancy permits are issued for the Affordable Units and cooperate with the preparation of request forms to add the units to the Town's SHI permanently. The Affordable Units shall permanently remain affordable units, for so long as the Development is not in compliance with the Town's Zoning By-law or other local regulations, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23. A springing affordable restriction and regulatory agreement may be signed with the Town and recorded at the Registry of Deeds as set forth below.
4. The Affordable Units shall be dispersed throughout the Development as designated by the Applicant by agreement with the subsidizing agency. The Affordable Units and the market rate units shall be constructed on substantially the same schedule. The Affordable Units shall not be readily identifiable as such and shall be equally distributed among the units. All units must have similar interior amenities. Affordable and market rate units shall be comparable in accordance with applicable requirements of the Subsidizing Agency.
5. If and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency, the Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Board and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Middlesex South Registry of Deeds against the Property and signed by all necessary parties, including all mortgagees and lien holders of record. The Town Regulatory Agreement: (i) shall require that the Development shall remain 25% affordable so long as the Development does not



conform to local zoning; (ii) shall require that at least twenty five percent of the dwellings in the Development shall be affordable to low and moderate income households as that term is defined in M.G.L. Chapter 40B, Sections 20-23; and (iii) shall restrict the number of allowed units to not more than 30 units, with not more than a maximum of 63 bedrooms as described in this Comprehensive Permit.

The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable units shall remain affordable units in perpetuity, meaning, specifically, for so long as the Development does not conform to the Town Zoning Bylaws.

6. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Monitoring Agent shall be responsible to monitor compliance with affordability requirements pursuant thereto; however, the Town may request and shall be provided by the Applicant with all information that is provided to the Subsidizing Agency.

7. If and when the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. Chapter 40B, Sections 20-23. However, this clause shall not be used or construed or otherwise exercised in conflict with the holdings in Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At any such time as the Town becomes responsible for monitoring the affordability requirements for the Development, the Applicant shall provide the Town with a reasonable monitoring fee.

8. A Regulatory Agreement and/or an Affordable Housing Restriction (the "Regulatory Agreement") shall be executed prior to the issuance of a building permit, in the form required by the Subsidizing Agency. To the extent an Acknowledgment is required, the Board shall not execute the Acknowledgment contained in the standard Regulatory Agreement unless such Regulatory Agreement sets forth that all units approved in this development shall remain affordable in perpetuity (as defined in Condition VII.7 above), the terms and agreements relative to the occupancy and lease of the Affordable Units in the Development, the determination and standards for rent and utility allowance, the length of the affordability restriction, Affirmative Fair Marketing, limited dividend requirements and cost certification, and annual compliance monitoring responsibilities. To the extent such Acknowledgment is required, or if the Town is a party to the Regulatory Agreement under the LIP program, the Regulatory Agreement shall be submitted for review by Town Counsel and prior to the execution of the Acknowledgment.

9. There shall be no amendments to provisions regarding or relating to the Affordable Units or conditions set forth in this Permit which are inconsistent with the provisions of this Permit or the Regulatory Agreement, without Board approval.

10. To the maximum extent permitted by law, and applicable regulation local preference for the

occupancy of seventy percent (70%) of the Affordable Units shall be given to residents of the Town of Sudbury satisfying all applicable eligibility requirements. For the purpose of this condition, and subject to any legal requirements, "residents of the Town of Sudbury" shall, to the extent not otherwise prohibited or limited by the provisions of relevant governing regulations or requirements, include, but not be limited to, the following: current Sudbury residents; employees of the Town of Sudbury, Sudbury Public Schools, Lincoln Sudbury Regional High School, Sudbury Housing Authority and Sudbury Water District; and members of the household of children attending the Sudbury Public Schools or the Lincoln Sudbury Regional High School. This Condition shall be enforceable only to the extent the local preference requirement set forth herein is approved by the Subsidizing Agency based on information that the Town shall be responsible to provide in accordance with the requirements of DHCD set forth in its Chapter 40B Guidelines.

11. A lottery shall be held to solicit interest for the occupancy of the affordable units. The lottery must conform to the lottery procedures of the Subsidizing Agency then in effect, and an Affirmative Fair Housing Marketing Plan, ("Marketing Plan") shall be submitted for review by the Planning and Community Development Department prior to issuance of an occupancy permit, which shall include a description of the eligibility requirements, the lottery and resident selection procedures and a clear description of the preference system being used for initial and on-going tenant selection. Notwithstanding anything to the contrary contained in this Condition, to the extent there is any inconsistency between the provisions of this Condition, and the rules, requirements or procedures of the Subsidizing Agency, the rules, requirements or procedures of the Subsidizing Agency shall control. The Marketing Plan shall include, but not be limited to, the following minimum information, but only to extent that the Subsidizing Agency approves the inclusion of such information in the Marketing Plan and in compliance with applicable law:

- a) The information session and the lottery shall take place in Sudbury;
- b) The Lottery Agent shall appropriately advertise to all Local Preference categories and those on the Planning and Community Development Department's 'interest' list;
- c) Only qualified eligible applicants will enter the lottery, with the requirement for preliminary income verification prior to the lottery;
- d) During the application period, the Lottery Agent will periodically provide information on the total number of applications received, and how many of those are eligible, are from local preference and are from minorities. Reasons for ineligibility shall be included;
- e) Prior to the lottery the Lottery Agent will provide information to the Planning and Community Development Department on the final applicant pool, including: category of local preference status, minority declaration, number of persons in household, ages of dependents, number of adults, number of bedrooms needed, %AMI, town currently living in;
- f) Unless DHCD's procedures differ, the lottery shall be advertised twice in a newspaper of local circulation in the Town of Sudbury for at least 3 weeks prior to the deadline to submit applications for the lottery, and all governmental and school employees noted above shall receive notice of the lottery and the availability of Affordable Units;
- g) The Marketing Plan shall comply with all Fair Housing laws; shall contain, to the

extent legally allowable, a strategy for marketing units under the “local preference” described above; shall give preference for the 2 and 3 bedroom units to households demonstrating that need; shall adequately describe the ‘waiting list’ process, including what preferences and priorities are used to lease vacant units; shall adequately describe the recertification process and timeline; and shall include the requirement to notice tenants of pending rent increases.

12. Availability for initial occupancy of the Affordable Units shall be approximately proportional to the availability of the market rate units.

13. The Applicant shall submit to the Department of Planning and Community Development an Annual Certification Report from the Monitoring Agent on the compliance requirements as set forth in the Regulatory Agreement, including annual rent recalculations, tenant income recertification, waiting list compliance and applicable utility allowance.

### **XIII. MAINTENANCE/INSPECTIONS**

1. Enforcement of the conditions of this decision shall be by the Building Inspector or the Board to the extent permitted pursuant to the terms of M.G.L. c.40B, §§20-23 and 760 CMR 56.
2. A construction schedule shall be submitted to the Board, Planning and Community Development Department, Town Engineer and Building Inspector prior to the issuance of a building permit in order to facilitate inspections. Such schedule shall be revised quarterly to reflect work completed and changes in construction timing.
3. The Applicant shall notify the relevant town departments of installation of utilities and infrastructure for inspections prior to backfilling.
4. All infrastructure, roadways, lighting, and utilities within the Development shall be constructed, operated, and privately maintained by the Applicant at its sole expense. The Town shall have no responsibility for such improvements unless otherwise specifically agreed upon.
5. The Applicant shall operate, maintain, monitor and repair the stormwater system in accordance with the operations and maintenance program (“O&M Program”) submitted for the Development. The on-site retention basin and stormwater infrastructure within the Development shall be inspected and maintained pursuant to the O&M Program. A Stormwater Construction Site Inspection Report shall be generated by the Applicant or its representative, at a minimum, after every major storm event during construction. All reports shall be available for review by the Town at its request.
6. An Environmental Monitor hired by and reporting to the Town through the Planning Department, but paid for by the developer, shall perform inspections of the Property

pertaining to Stormwater Management throughout the construction phases of the Development. This work shall be coordinated by the Planning Department. At a minimum, the following work shall be performed:

- a) A Pre-Construction Inspection shall be performed prior to the commencement of any construction in the Development.
- b) Erosion and Sediment Control Inspections shall be performed periodically to ensure erosion control practices during and after construction are in accordance with the approved Stormwater Management Plan.
- c) Construction Inspections shall be performed prior to backfilling of any underground drainage or stormwater conveyance structures.
- d) A final Inspection of the stormwater management system shall be performed before any occupancy permit for any building has been issued. The final Inspection shall ensure that the system is functioning as designed and approved.
- e) Reports shall be prepared and submitted to the Planning Board and the Sudbury Water District after each inspection, with copies provided to the Applicant.

#### **XIV. BUILDING PERMITS**

No building permit for the Development shall be issued until the following conditions have been complied with, as well as any other conditions listed above which require action prior to the issuance of any building permit:

1. Receipt of evidence of recording of this Comprehensive Permit with the Middlesex South District Registry of Deeds. See condition XII.4.
2. Plans incorporating the conditions imposed by this Permit are prepared by applicant, submitted to the Board, and are endorsed by the Board and all required signatures received.
3. Building Plans are submitted, reviewed and approved by the Building Inspector for consistency with this decision, and confirmation from the Engineer of Record that the Building Plans and specifications have been prepared in accordance with standard engineering practices, comply substantially with the Plans and fully incorporate all requirements of this decision.
4. Soil tests have been performed and stormwater details have been verified as required in condition IX.9.
5. A current construction schedule as required by condition XIII.2 is submitted.
6. Evidence of Final Approval from the Subsidizing Agency has been submitted to the Board as required by condition XI.3.
7. The Regulatory Agreement has been executed as required by Section XII.8.
8. For the swimming pool building permit only, requirements regarding the swimming pool have been submitted to the Board of Health as required by condition VIII.18.
9. For the clubhouse building permit only, requirements regarding the clubhouse have been submitted to the Board of Health as required by condition VIII.19.

10. Structural plans of any retaining walls have been submitted, if applicable, as required in condition IX.12.

## **XV. OCCUPANCY**

Occupancy Permits for any the units in this Development shall not occur until the following conditions of this approval have been complied with, as well as any other conditions listed above which require action prior to the issuance of any occupancy permit:

1. Lottery Plan, the proposed rental prices for the Affordable Units and the Fair Housing Marketing Plan have been submitted as required by condition XII.11.
2. Receipt of all recorded documents, including but not limited to the Permit, Regulatory Agreement, and any easements recorded to date.
3. A performance bond as detailed in condition XI.2 has been submitted to and accepted by the Board, if required.
4. The form of lease as described in conditions VIII.11 has been received.
5. Requirements regarding tenant rules have been submitted to the Board of Health as required by condition VIII.20.
6. The photometric plan for the Development has been reviewed for compliance as required in condition X.3.
7. The final stormwater inspection has been performed for the applicable portion of the Development as required in condition XIII.6.

## **XV. RELEASE OF THE PERFORMANCE BOND**

No request to reduce funds from the Performance Bond below fifty thousand dollars (\$50,000.00) shall be granted until the following conditions have been met:

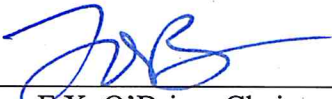
1. As-built plans demonstrating the roadways, buildings, stormwater management structures, sewer lines, walkways and infrastructure have been constructed and installed in general conformance with the approved Plans are submitted to and approved by the Town Engineer.
2. Landscaping has been installed and maintained as described in condition X.1.
3. Any damage to public roads caused by this Development shall be repaired as required in condition VII.14.
4. Receipt of all annual Certification Reports on the affordable unit occupancy received prior to the date of request for release of the performance bond, as required by condition XII.6 and XII.15.

VOTED:

To approve the application of Sudbury Station, LLC for a comprehensive permit under the provisions of General Laws Chapter 40B, Sections 20-23, inclusive, for construction of thirty apartment units, of which at least 8 units shall be affordable housing units, subject to the modifications and conditions included herein, on certain land owned by JOL Trust, 24 Hudson Road Trust, JRH Trust, and Matthew and Molly Gilmartin consisting of approximately 40 acres of land, Town Assessor's Map G09-0100, G09-0004, G09-0300 and H09-0068 (as described above).

Date: 9/20/16

Voting in Favor:



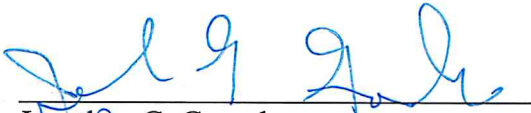
Jonathan F.X. O'Brien, Chair



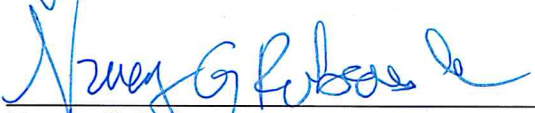
Nicholas B. Palmer



Jeffrey P. Klofft



Jonathan G. Gossels



Nancy G. Rubenstein

TOWN CLERK  
SUDBURY, MASS  
2016 SEP 21 AM 11:57

#564264

**EXHIBIT A**  
**CORRESPONDENCE LIST**

The Village at Sudbury Station  
Peters Way and Peters Way Extension  
Materials received as of 8/17/16

The Board of Appeals is in receipt of the following:

1. Comprehensive Permit Application under M.G.L. Chapter 40B, Sections 20-23 (received January 29, 2016) that includes:
  - Project and development team summary
  - Applicant Qualifications
  - Project Eligibility Letter
  - Evidence of Site Control
  - Preliminary Site Plans for The Village at Sudbury Station, prepared by Sullivan, Connors and Associates, dated January 18, 2016, consisting of 3 sheets (unstamped).
  - Landscape Plan prepared by The Cecil Group, dated January 22, 2016 (unstamped)
  - Narrative and Plans on Existing Conditions
  - Existing Conditions Plan of Peters Way & Peters Way Ext., prepared by Sullivan, Connors and Associated, dated July 8, 2015, last revised October 26, 2015, consisting of 4 sheets (unstamped)
  - Preliminary Architectural Drawings prepared by Cube 3, dated January 20, 2016 and January 31, 2016, consisting of floor plans and parking plans dated January 20, 2016, and building elevations
  - Waivers and Exceptions Requested
  - Certified List of Abutters
  - DHCD'S Subsidized Housing Inventory of Sudbury
  - Traffic Report Summary
  - Endangered Species Act correspondence
  - Traffic Impact and Access Study prepared by MDM Transportation Consultants, Inc., dated December 2015.
2. Comments from Town Engineer/DPW Director, William Place, dated February 9, 2016.
3. Email from William Hench to Town Manager regarding Peer Reviewers, dated February 4, 2016
4. Memo from Jody Kablack, Director of Planning and Community Development, dated February 17, 2016.
5. Email from resident David Hornstein, dated February 17, 2016.
6. Conflict of Interest disclosure from Jonathan F.X. O'Brien, dated February 18, 2016.
7. Memo from Mark Herweck, Building Inspector, dated February 18, 2016.
8. Full sized, stamped Landscape Plans prepared by The Cecil Group, dated January 22, 2016, submitted on Feb. 22, 2016.
9. Email from Melissa Rodrigues, in regards to a call from a resident, Mr. Robert Noyes, opposing this project; dated February 22, 2016.

**Items received since Public Hearing on February 22, 2016**

10. Full sized, stamped Preliminary Site Plans prepared by Sullivan, Connors and Associates, dated January 21, 2016, submitted on Feb. 22, 2016.
11. Memorandum from William C. Henchy; dated February 22, 2016, 4 pages.
12. Email from William Henchy, Ref: Sudbury Station-peer review follow up; dated February 23, 2016.
13. Letter from John Whalen, Sudbury Fire Department; dated February 24, 2016.
14. Letter from MHP approving the 40B Technical Assistance Grant.
15. Form 11- Soil Suitability Assessment for On-Site Sewage Disposal. Received on 2/29/16 from William Henchy via email. 17 pages.



16. Traffic Engineering Peer Review, Vanasse & Associates, dated March 3, 2016.
17. Email from resident Sherry Weiland, dated March 5, 2016.
18. Memorandum from Conservation Commission, Charles Russo; dated March 18, 2016.
19. Letter from the Board of Selectmen to ZBA, dated March 8, 2016.
20. Email from Jody Kablack to applicants, requesting Steve Cecil's Cross sections presentation of the development that are not in our files; dated March 8, 2016.
21. Hancock Associates Contract for Peer Review Services; dated March 9, 2016.
22. Revised Preliminary Site Plans by Sullivan, Connors and Associates (7 pages); dated January 25, 2016, last modified March 14, 2016.
23. MDM Transportation Consultants Memorandum, Response to Peer Review Comments; dated March 15, 2016. (14 pages)
24. MDM Transportation Consultants Memorandum, response to Peer Review Comments; dated March 15, 2016. (Full Report-Spiral bound book)
25. Email from Jody Kablack to Sullivan Connors and Associates; dated March 15, 2016, requesting cover memo detailing changes made to the plan since previous submittal date.
26. Email from William Henchy; dated March 16, 2016, Transportation Peer Review Responses.
27. Email from Chris Claussen; dated March 16, 2016, with a list of site plan revisions.
28. Email from Fire Chief William Miles; dated March 17, 2016, in regards to raised cross walks.
29. Memorandum from William Henchy; dated March 21, 2016 summarizing progress since the last hearing date.
30. Nancy Rubenstein's signed certification form for missed hearing February 22, 2016; dated March 21, 2016.
31. Supplemental Traffic Engineering Peer Review Report from Vanasse & Associates; dated March 21, 2016.
32. Memo from Jody Kablack, Director of Planning and Community Development dated March 21, 2016.

**Items received since Public Hearing on March 21, 2016**

33. William Ray's signed certification form for missed hearing February 22, 2016; dated February 26, 2016.
34. Memo from Jody Kablack, Director of Planning and Community Development dated April 15, 2016, with attachments.
35. Letter from Sudbury Historical Commission to Mass Historical Commission; dated March 4, 2016.
36. Memo from Jody Kablack, Director of Planning and Community Development; April 20, 2016.
37. Letter from William Henchy, RE: Fiscal Impact Report; dated April 20, 2016.
38. Fiscal Impact Report, prepared by John W. Connery, Connery Associate, dated January 23, 2016, received April 20, 2016.
39. Letter from William Henchy, dated April 19, 2016, received April 20, 2016.
40. Sudbury Station revised Architectural Plans, containing 16 pages; dated April 18 2016. Received April 19, 2016.
41. Visual Impact Analysis from The Cecil Group, consisting of 14 pages including cover letter; received April 19, 2016.
42. Letter from Leonard Simon dated April 25, 2016.
43. Email from William Henchy, replying to Leonard Simon letter; dated April 25, 2016.
44. Revised Preliminary Plans from Sullivan, Connors & Associates; last revised April 22, 2016; received April 25, 2016.
45. Memorandum from Barbara Saint Andre, Response to Attorney Henchy's Memorandum; dated April 25, 2016.
46. Email from David Hornstein, Grading and Excavation-Layout; dated April 21, 2016.
47. Email from resident Larry Robiner, 56 Crescent Lane; dated March 22, 2016.

48. Email from resident Leslee Halleran; dated March 22, 2016.
49. Email from resident Robyn Lewis, 10 Birchwood Ave; dated March 22, 2016.
50. Email from resident Colin Anderson, 63 Walke Robin Road; dated March 22, 2016.
51. Email from resident Amber Fairbanks, 34 Goodmans Hill Road; dated March 22, 2016.
52. Email from resident David Hornstein, dated March 23, 2016.
53. Email from Maura Carty, 15 Stonebrook Rd; dated March 29, 2016.
54. Email from Jemimah Milburn, 103 Water Row; dated March 29, 2016.
55. Email from Qi Jin, 2 Meachen Rd; dated March 29, 2016.
56. Email from Kristin Schenider, 30 Rice Road; dated March 29, 2016.
57. Email from Christian and Darlene Tupta; dated March 29, 2016.
58. Email from Andrea Jewett, resident; dated March 29, 2016.
59. Email from Leah Ciappenelli, 268 Old Sudbury Rd.; dated March 29, 2016.
60. Email from Teresia LaFleur, 80 Moore Road; dated March 29, 2016.
61. Email from Christy Webster, 18 Suffolk Road; dated March 29, 2016.
62. Email from Colleen Mazin, 56 Butler Road; dated March 29,2016.
63. Email from Susan Kennedy, 40 Bowditch Road; dated March 29, 2016.
64. Email from Chris Caliri, 48 Newbridge Road; dated March 29, 2016.
65. Email from Robert Lee, 38 Candy Hill Road; dated March 29, 2016.
66. Email from Mary Sadri, resident; dated March 29,2016.
67. Email from Marlin Griffin, 25 Clark Road; March 30, 2016.
68. Email from Jenn Sneath, 279 Old Sudbury Road; March 30, 2016.
69. Email from Laurie Caliri, resident; April 1, 2016.
70. Email from Casey Boardman, 260 Peakham Road, April 4, 2016.
71. Email from Scott Sawin, 52 Puffer Lane; April 5, 2016.
72. Email from Taryn Trexler, 253 Concord Road; April 7, 2016.
73. Email from Ed Chao, 365 Hudson Road; April 9, 2016.
74. Email from Christina Weeks, 272 Concord Road; April 10, 2016.
75. Email from Kristin Grill, 40 Clark Road; April 12, 2016.
76. Email from Jill Falvey; April 12, 2016.
77. Email from Dana Judge, 60 Willis Road April 13, 2016
78. Email from Linda Dubois, 18 Lafayette Drive; April 13, 2016
79. Email from Gerry Connors, 7 Brookdale Road; April 13, 2016
80. Email and video from David Hornstein; April 14, 2016.
81. Email from Glenn Merrill, 18 Allen Place; April 14, 2016.
82. Email from Joyce and Pierre Fricke, 39 Candy Hill Road; April 15, 2016.
83. Email from Lisa Vitale\_286 Old Lancaster Road; April 15, 2016.
84. Email from Shirley Huettig, 54 Wake Robin Rd.;April 15, 2016.
85. Email from Tiffani Bonk, 49 Willis Road; April 15, 2016.
86. Email from Sharon Schmidt-Gross, 298 Maynard Road; April 15, 2016.
87. Email from Christine Barrett, 151 Peakham Road; April 15, 2016.
88. Email from Pierre Fricke, 39 Candy Hill Road; April 15,2016
89. Email from Mary-Michael Merhige; April 15, 2016.
90. Email from John Parker, 14 Deacon Lane; April 15, 2016.
91. Email from Valerie Friedholm, 59 Shadow Oak Dr.; April 15, 2016.
92. Email from Jenn Munroe, 36 Thunder Road; April 15, 2016.
93. Email from Kristin Dolan; April 15, 2016.
94. Email from Tracey Cacciatore, 165 Marlboro Road; April 15, 2016.
95. Email from Alison Thompson, 6 Old County Road #31; April 15, 2016.
96. Email from Steve Logan, 33 Virginia Ridge Road; April 15, 2016.
97. Email from Lisa West, 42 Hawes Road.; April 15, 2016.
98. Email from Sarah Troiano, 342 Lincoln Road; April 15, 2016.

99. Email from Christine Barret, 151 Peakham Road; April 15, 2016.
100. Email from Sharon and Ray Schmidt-Gross, 298 Maynard Road.; April 15, 2016.
101. Email from Tiffany Bonk, 49 Willis Road; April 15, 2016.
102. Email from Shirley Huettig, 54 Wake Robin Road; April 15, 2016.
103. Email from Mark Waiting, April 16, 2016.
104. Email from Laurel MacKinnon; April 16, 2016.
105. Email from Leah Ciappenelli; 268 Old Sudbury Road; April 16, 2016.
106. Email from Dan Velonis, 3 Basswood Ave; April 16, 2016.
107. Email from Tracy and Rick Billig, 79 Robert Best Road; April 16, 2016.
108. Email from Emily Reith; April 16, 2016.
109. Email from Maria Iglesias, 230 Peakham Road; April 17, 2016.
110. Email from Erin Channel, 16 Stock Farm Road; April 18, 2016.
111. Email from Richard Granfield, 20 Read Road, April 18, 2016.
112. Email from Craig Gruber, April 18, 2016.
113. Email from Jim, Sue, Derek and Kristin Richards, Codman Dive, April 20, 2016.
114. Email from Ray Liberatore, 41 Codman Drive;
115. Email from The Ewings, 23 Codman Drive; April 20, 2016.
116. Email from Lisa Mudrick, 9 Codman Drive; April 20, 2016.
117. Email from Emma Wang, 22 Codman Drive; April 20, 2016.
118. Email from Daniel Petitt, 66 Robins Road; April 20, 2016.
119. Email from Vivian Yee, April 20, 2016.
120. Email from Nathan Goldstein, 32 Beechwood Ave; April 20, 2016.
121. Email from Christina Wusnow, April 20, 2016.
122. Email from Skyhorse Chen, 71 Brimstone Lane; April 20, 2016.
123. Email from Shaoli Fu, 39 Great Lake Drive; April 20, 2016.
124. Email from Chris Wu, 23 Pinewood Ave; April 20, 2016.
125. Email from Jackie Wu, 62 Phillips Road; April 20, 2016.
126. Email from Claudia Libertore, 41 Codman Drive; April 20, 2016.
127. Email from Robert Ewing, 23 Codman Drive; April 21, 2016.
128. Email from Helen Huang, 15 Hollow Oak; April 21, 2016.
129. Email from Jean Guan, April 21, 2016.
130. Email from Sherry Shy, 135 Morse Road; April 21, 2016.
131. Email from Judith Harris; April 21, 2016.
132. Email from Mara Huston; April 22, 2016.
133. Email from Jason Bernard; April 22, 2016.
134. Email from David Hornstein; April 25, 2016.
135. Email from Jennifer and Barry Murphy; April 25, 2016.
136. Email from Chris Cox; April 25, 2016.

**Items received since Public Hearing on April 25, 2016**

137. Frank Riepe comments, dated April 26, 2016 and received May 17, 2016.
138. Email from Chris Claussen, Traffic; dated May 17, 2016.
139. Email from Jody Kablack, future meeting dates; dated May 17, 2016.
140. Board of Health, Memorandum; dated May 18, 2016.
141. Provencher Engineering, LLC. Summary of Wastewater Treatment & Effluent Disposal Design; dated May 18, 2016.
142. CUBE3 Studio 3D perspectives of the proposed typical 3-Story, 4Story and Townhouse Buildings; received May 19, 2016.
143. CUBE3 Architecture and Exterior Materials Narrative; received May 19, 2016.
144. CUBE3 LEED and Environment Narrative; received May 19, 2016.

145. CUBE3 Exterior Light Example; received May 19, 2016
146. The Cecil Group 3-D model screenshots; dated May 18, 2016; received May 19, 2016.
147. Sudbury Water District letter; received May 20, 2016.
148. Email from Nicholas Tritos, 46 Hudson Road; April 25, 2016.
149. Email from Christina Granahan, 95 Shadow Oak Drive; April 25, 2016
150. Email from Taryn Trexler, Concord Road; April 25, 2016
151. Email from David Hornstein; 22 Candy Hill Road; April 26, 2016.
152. Email from Sue Abrams; 24 Hudson Road; April 29, 2016.
153. Email from William LoVerme, 295 Concord Road; April 30, 2016.
154. Email from Betty Mecler, 7 Pennymeadow Road; May 2, 2016.
155. Email from David Hornstein; 22 Candy hill Road; May 4, 2016.
156. Email from Linda and Kermit Dubois, 18 Lafayette Drive; May 9, 2016.
157. Email from Don Stein, 17 Oakridge Road; May 9, 2016.
158. Email from Samantha Karustis; May 12, 2016
159. Email from Laurie Roberts, 411 Concord Road; May 13, 2016
160. Email from Alex Smith. 90 Pelham Island Road; May 16, 2016.
161. Email from William Mack, 51 Hudson Road; May 18, 2016.
162. Email from Roberta Glass; dated May 19, 2016.
163. Email from Rebecca Chizzo, 21 Whitetale Lane; dated May 19, 2016
164. Email from Jamie Simeone, 200 Mossman Rd; dated May 23, 2016.
165. Email from Oppose Sudbury Station Steering Committee; dated May 23, 2016.

**Items received since Public Hearing May 23, 2016**

166. Email from Michael O'Malley, 177 Plympton Road, June 2, 2016.
167. Emails from David Hornstein, June 3, 2016 and June 17, 2016.
168. Email from Jacqui Steele-Gratzer, June 8, 2016.
169. Letter from Historic Districts Commission to ZBA, June 7, 2016.
170. Email from Craig Gruber, June 9, 2016
171. MDM Memorandum, Supplemental Transportation Responses, dated May 31, 2016
172. Construction Management Plan and Logistics Plan, dated June 10, 2016
173. Letter from Attorney William Henchy, RE: Village at Sudbury Station Stormwater Management Plan, June 13, 2016.
174. Hydrologic & Hydraulic Analysis prepared by Sullivan Connors & Associates, dated June 10, 2016
175. Preliminary Site Plan for The Village at Sudbury Station, and Off-Site Drainage Areas, Revised: June 10, 2016.
176. Vanasse and Associates Supplemental Traffic Engineering Peer Review, June 14, 2016.
177. Letter from the Sudbury Conservation Commission dated June 15, 2016.
178. Letter from Attorney William Henchy, RE: Village at Sudbury Station; Workshop Meetings and Alternate Plans, June, 16, 2016.
179. Public Archaeology Laboratory, Historic Property Effects Assessment, June 16, 2016.
180. MDM Transportation Consultants, Second Response to Peer Review Comments, June 16, 2016.
181. Letter from Kopelman and Paige, Jonathan Silverstein, June 17, 2016.
182. Letter from Attorney William Henchy, RE: Village at Sudbury Station; MassDOT, June 17, 2016.
183. Email from David Hornstein dated June 17, 2016
184. Letter from Attorney Jason Talerma dated June 20, 2016.
185. Letter from Taryn Trexler on behalf of The Oppose Sudbury Station Steering Committee, June 20, 2016.
186. Architectural Peer Review, Davis Square Associates, report dated June 18, 2016.
187. Vanasse and Associates Supplemental Traffic Engineering Peer Review, June 20, 2016

188. Memo from Jody Kablack, Planning and Community Development Director, dated June 20, 2016

**Items received since Public Hearing on June 20, 2016**

189. Email from Frank Riepe, June 21, 2016
190. Letter from Sudbury Housing Authority, June 27, 2016
191. Hancock Associates Stormwater Peer Review, June 29, 2016.
192. Pro-Forma for Sudbury Station, July 5, 2016.
193. Comments from the Planning Board, July 5, 2016.
194. Email from Taryn Trexler, July 6, 2016.
195. Letter from Jason Talerma, Ti-Sales representative, July 11, 2016.
196. Letter from Hosley Witten with a proposal to conduct Stormwater Peer Review, July 11, 2016.
197. Email from William Henchy, July 12, 2016.
198. Form 11- Soil Suitability Assessment for On-Site Sewage Disposal, from Board of Health, Bill Murphy, July 13, 2016.
199. Sullivan, Connors & Associates, Response to Peer Review, Stormwater Management Plan, July 14, 2016.
200. Sullivan, Connors & Associates Revised Preliminary Site Plan, nine pages, revised July 14, 2016
201. Sullivan, Connors & Associates Revised Hydrologic & Hydraulic Analysis, July 14, 2016
202. The Cecil Group, Lighting Plan and Signage, July 18, 2016
203. Sudbury Housing Authority, Developer Request letter, June 27, 2016, received July 15, 2016.
204. Bristol Engineering Advisors, Water system Impact Review, July 15, 2016.
205. Division of Fisheries & Wildlife, letter dated October 29, 2015, received July 15, 2016.
206. Department of Environmental Protection, Superseding Determination of Applicability-Negative, dated April 20, 2016, received July 15, 2016.
207. WPA Form 4B – Order of Resource Area Delineation, received July 15, 2016.
208. Sudbury Police and Fire Department, Safety Concerns, June 30, 2016, received July 18, 2016.
209. Email from Debbie Dineen, July 18, 2016.
210. Sudbury Station Pro-Forma from New Seasons's Wendy Cohen, July 19, 2016.
211. Email from Oppose Sudbury Station, July 19, 2016.
212. Email from Vanasse, Jeffrey Dirk with comments about Peter's Way, July 20, 2016.
213. Sullivan, Connors and Associates, Access Drive Profiles, July 20, 2016
214. Hancock Associates Second Stormwater Management Plan Peer Review, July 21, 2016.
215. William Henchy's Memorandum to ZBA, July 21, 2016.
216. Email from Laurie Eliason from 411 Concord Road, July 21, 2016
217. MDM Transportations, Driveway Design Options, July 21, 2016
218. Sudbury Water District Comments, July 22, 2016.
219. Building Setback Summary, July 21, 2016
220. List of Waivers Requested as modified July 21, 2016.
221. Horsley Witten, Ground water levels Peer Review, July 22, 2016
222. Memo from Glenn Garber, Interim Town Planner, July 22, 2016.
223. Summary Matrix from Glenn Garber, July 22, 2016.
224. Email from Taryn Trexler, July 24, 2016
225. Email from Katie Kobus Willson, 15 Old Forge Lane, July 25, 2016.
226. Vanasse and Associates, Supplemental Traffic Review, July 25, 2016.
227. Oppose Sudbury Station, Traffic Safety Analysis, July 25, 2016.
228. Historic Districts Commission letter, July 25, 2016.
229. Memo from William Henchy, Ref. Horsley & Witten, July 25, 2016.
230. Sullivan & Connors Retaining Wall Memo, July 25, 2016.
231. Letter from Jonathan Silverstein, July 25, 2016.
232. Oppose Sudbury Station, July 25, 2016.

- 233. Design and Review Board Comments, July 25, 2016.
- 234. Email from David Hornstein, July 25, 2016.

**Items received since Public Hearing on July 25, 2016**

- 235. Steven Cecil Memorandum, August 4, 2016.
- 236. CUBE3, Peer Review Report, August 5, 2016.
- 237. Email from resident, Ann & Bruce Sadowsky, August 10, 2016.
- 238. Email from residents Linda and Kermit Dubois, August 10, 2016.
- 239. Email from Amber Fairbanks, August 10, 2016.
- 240. Email from Ann & Bruce Sadowsky, August 10, 2016.
- 241. Email from resident, Greg Bertoni, August 10, 2016.
- 242. Sudbury Water District, August 11, 2016.
- 243. Letter from Jonathan Silverstein, August 12, 2016.
- 244. Email from resident, Elin Neiterman, August 12, 2016.
- 245. Email from resident, Lisa West, August 12, 2016.
- 246. Email from resident, Doug Eliason, August 12, 2016.
- 247. Email from resident, Jennifer Roberts, August 12, 2016.
- 248. Email from resident, Jennifer Fortunato, August 13, 2016.
- 249. Email from residents Sally and Alan Barret, August 13, 2016.
- 250. Email from resident Janie Dretler, August 14, 2016.
- 251. Letter from William Henchy, Sudbury Water District Comments, August 16, 2016.
- 252. Letter from Jason Talerma, TiSales, August 16, 2016.
- 253. Email from resident, Leah Ciappenelli, 268 Old Sudbury Road, August 16, 2016.
- 254. Email from David Hornstein, August 17, 2016.
- 255. William Henchy letter to Jason Talerma, Ti-Sales, August 16, 2016.
- 256. Memorandum from Glen Garber, August 16, 2016.
- 257. Notes on Memos, B. Suedmeyer, August 16, 2016.
- 258. Preliminary Site Plans, 9 pages, July 14, 2016.
- 259. Email from Oppose Sudbury Station, August 17, 2016.
- 260. Letter from William Henchy, August 17, 2016.
- 261. Email from David Hornstein, Candi hill Road not suitable for trucks, August 17, 2016.
- 262. Email from resident, Jim Gish, 35 Rolling Ln. August 17, 2016.
- 263. Email from David Hornstein, August 17, 2016.
- 264. John Riordan's signed certification form for missed hearing August 17, 2016; dated September 9, 2016.

**EXHIBIT B**

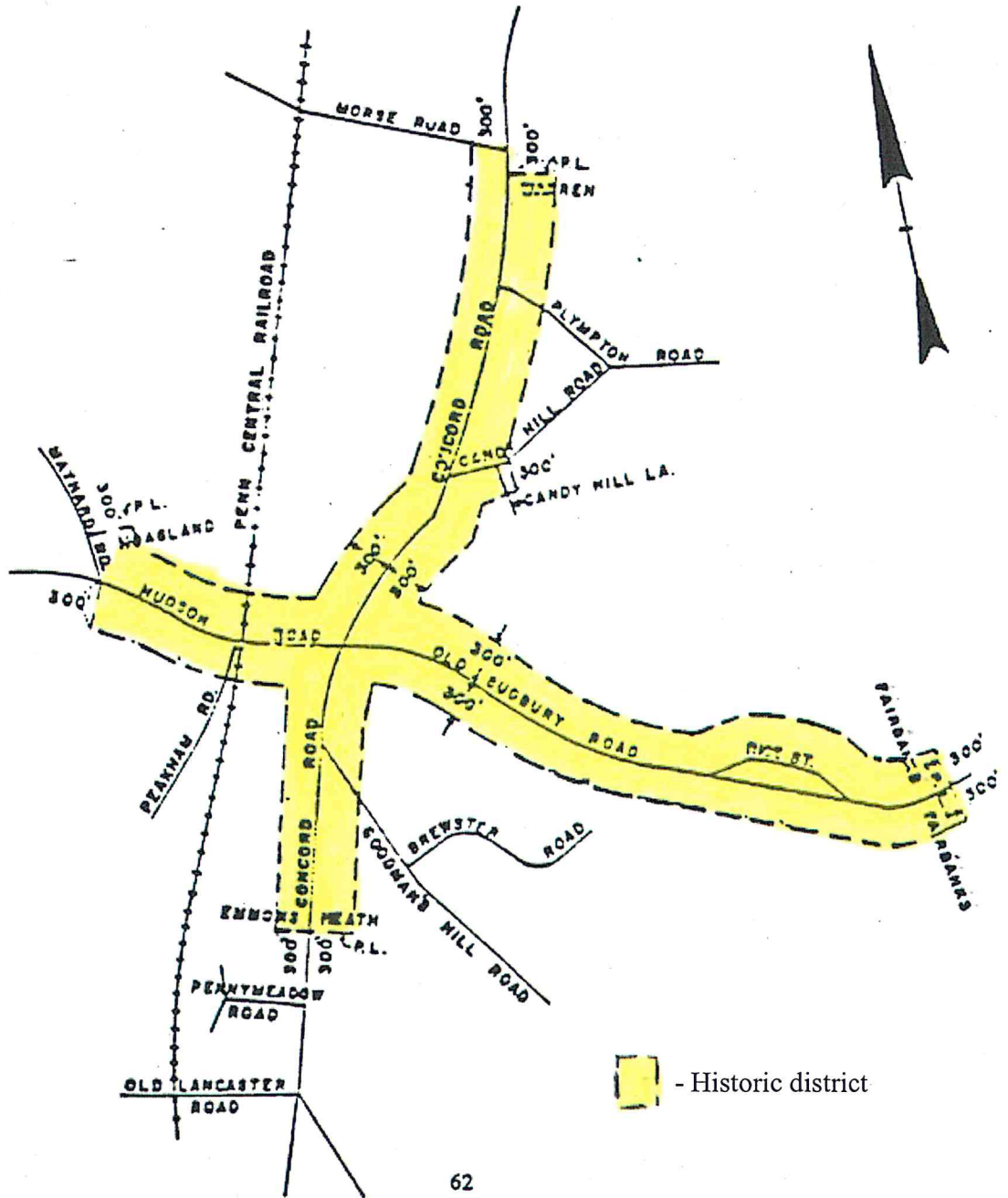
**OLD SUDBURY HISTORIC DISTRICT**

EXHIBIT B

HISTORIC DISTRICT

HISTORIC DISTRICTS

OLD SUDBURY & HUDSON ROAD DISTRICTS



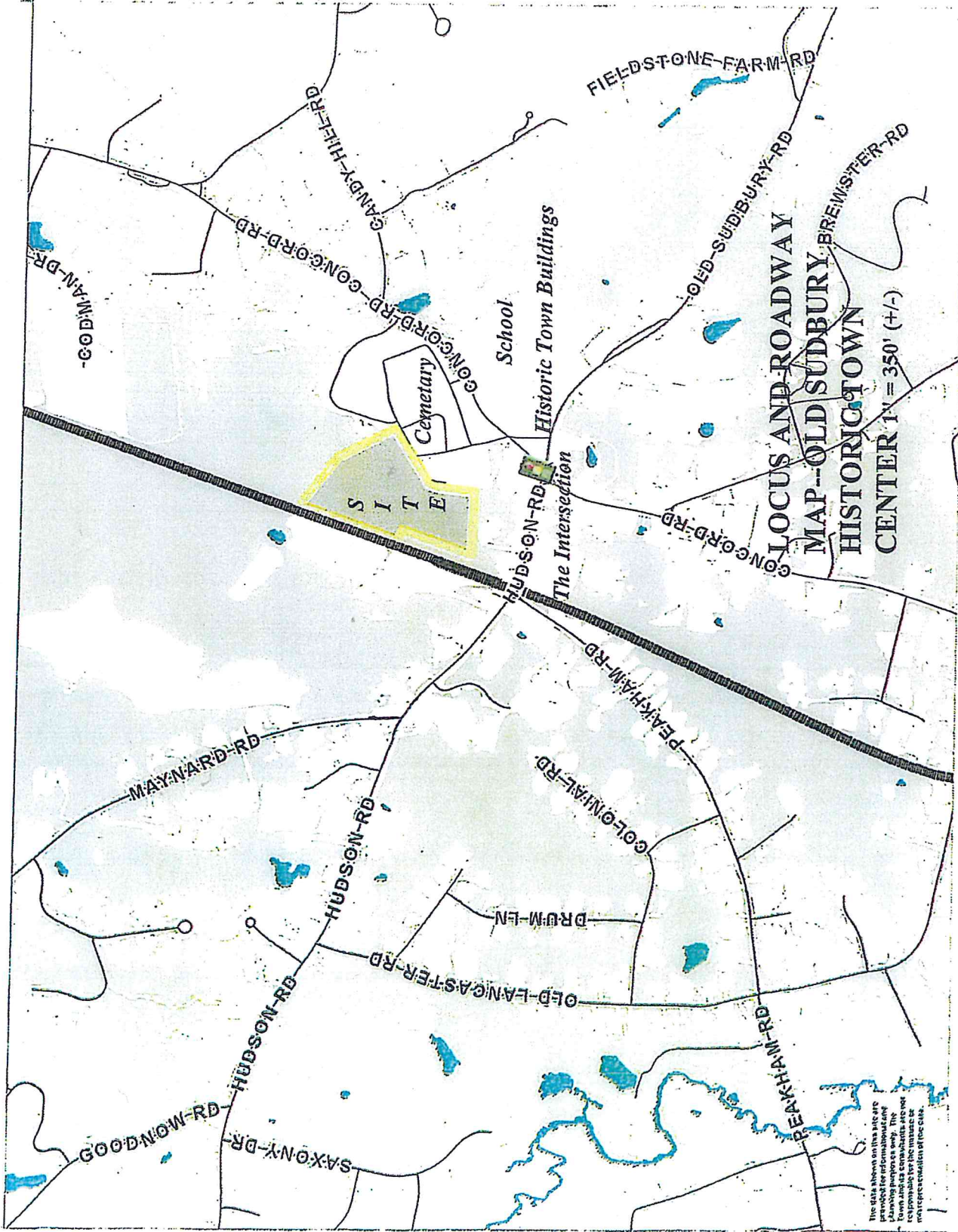


**EXHIBIT C**

**LOCUS MAP & ROADWAY SYSTEM**



- Abandoned Railroad
- Traffic Signs
- Driveways
- Jardins
- Sidewalks
- Culverts
- Roads
- Paved Roads
- Unpaved Roads
- Parcels
- Vegetated Areas
- Buildings
- Shrubs
- Trees



The data shown on this site are for informational purposes only. The Town and its contractors are not responsible for the accuracy or non-representation of the data.



Printed on 09/16/2016 at 10:38 AM