

CONDITIONS

1. The Project shall be constructed in conformance with the following plans of record:
 - a. Residences at Acorn Park, prepared by Rizzo Associates, dated December 6, 2005, revised June 26, 2006 submitted as part of the Comprehensive Permit Application. Said plans include:
 - Sheet C-1: Existing Conditions Plan
 - Sheet C-2: Layout and Materials Plan (**NEED REVISED PLAN SHOWING NEW LOCATION OF BUILDINGS**)
 - Sheet C-3: Grading and Drainage Plan
 - Sheet C-4: Erosion Control Plan
 - Sheet C-5: Utility Plan
 - Sheet C-6: Landscape Plan
 - Sheet C-7: Lighting Plan
 - Sheet C-8 through C-10: Construction Details
 - Sheet C-11: Water and Sewer Extension Plan (**NEED REVISED PLAN SHOWING THE HOLDING TANK LOCATION**)
 - Sheet C-12: Surface Parking Cross Sections
 - Sheet C-13: Fire Truck Turning Plan
 - Sheet A-1: Architectural Site Plan, prepared by ADD, Inc
 - Sheet A-2: Typical Building Plans, Building E (A Similar), prepared by ADD, Inc
 - Sheet A-3: Typical Building Plans, Building B (D Similar), prepared by ADD, Inc
 - Sheet A-4: Typical Building Plans, Building C, prepared by ADD, Inc
 - Sheet A-5: Typical Building Sections, prepared by ADD, Inc
 - Sheet A-6: Typical Building Elevations, prepared by ADD, Inc
 - b. Open Space Maintenance Plan. Belmont Uplands Site. Acorn Park Drive and Frontage Road, Belmont/Cambridge, MA, prepared by Epsilon Associates, Inc., dated September 5, 2001, revised May 17, 2002.
 - c. Stormwater Management Systems narrative prepared by Rizzo Associates, dated December 9, 2005, revised June 26, 2006
2. Prior to the issuance of a building permit, the Applicant shall submit the following final engineered plans and supporting documentation, which plans shall be consistent with the Project plans (listed in Condition #1 and shall be subject to review and approval by the Zoning Board of Appeals ("Board") or its designee:
 - a. Site Plan (including location of snow removal and/or storage, bicycle racks, and dumpster location and screening). A property line, stamped by a Professional Land Surveyor should be shown on plan.
 - b. Landscaping, screening and planting plan.
 - c. Lighting plan.
 - d. Grading plan.
 - e. Architectural plans (including floor plans and elevations of all facades).
 - f. Erosion Control plans.
 - g. Utilities plan including Stormwater/drainage plan.

- h. Final Stormwater management calculations and supporting material (including soils information) and demonstrating compliance with DEP's Stormwater Management Policy provisions.
 - i. Signage plan.
 - j. Road and sidewalk design with profiles.
3. During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of any roads. The Applicant shall at all times use all reasonable means to minimize inconveniences to residents in the general area. Construction shall not commence on any day before 7:00 A.M. on weekdays, and 8:00 A.M. on Saturday, and shall not continue beyond 8:00 P.M. There shall be no construction on any Sunday or state or federal legal holiday.
4. Prior to commencing construction, the Applicant shall prepare and present to the Board or its designee, for its approval, a construction mitigation plan that shall include, but not be limited to, a phasing plan, measures to control erosion and sedimentation, limitations on hours of work, a description of proposed earth removal, types and numbers of vehicles and vehicle trips involved with construction, tree and brush clearing and grading and general site mitigation measures.
5. Prior to the grant of a building permit, the Applicant shall submit draft Regulatory and Monitoring Agreements used by MassDevelopment to the Zoning Board of Appeals ("Board") for its review and approval. Such documents shall include the Town as a party to the Agreements with the right to enforce and impose sanctions and shall contain, at a minimum the following terms:
 - a. no less than 60 units shall be affordable in perpetuity to households earning not more than 50 percent of Median Income.
 - b. the monitoring Agent for this project shall be Mass Development.
 - c. The Applicant, its successors or assigns, shall donate to the Town profits from the Project that are in excess of those allowed by Chapter 40B as demonstrated by the audit conducted by the Monitoring Agent. Any excess profits shall be in an Affordable Housing Development Fund used for affordable housing purposes only.
6. This project is subject to MEPA review. Consistent with 760 CMR 31.03(3)(a), if, during the course of MEPA review, changes to the site plans are necessitated, the Applicant shall return to the Board for a review of those changes for a determination as to whether the change is substantial or insubstantial. If any such changes are determined to be substantial the Board will proceed pursuant to 760 CMR 31.03(c). Said review will be limited to the changes in the proposal or aspects of the proposal affected by the change and may result in a denial, amendment, or approval with no changes to the comprehensive permit.
7. Prior to the issuance of the final Certificate of Occupancy, the Applicant shall provide a performance guarantee (which may include a covenant, bond, surety, or tripartite agreement) to the Board or its designee for completion of on and off-site improvements in a form acceptable to the Board. The Board shall approve both the type and amount of

the performance guarantee. The amount of the performance guarantee shall be based on the costs of any outstanding improvements, as determined by the Project Engineer plus a ten percent (10%) contingency. Any such security instrument shall provide for reduction in the secured amount as the work is satisfactorily completed as indicated by Building Inspector certificates.

8. If the Applicant must revise any of the Final Plans to comply with any other local or state approvals or permits, it shall present the revised plans to the Board for a review of those changes for a determination as to whether the change is substantial or insubstantial. If any such changes are determined to be substantial the Board shall proceed pursuant to 760 CMR 31.03(c). Said review shall be limited to changes in the proposed aspects of the proposal affected by the change and may result in a denial, amendment, or approval with no changes to the comprehensive permit.

Prior to the issuance of a Building Permit, the Applicant shall certify to the Board or its designee that all local, and state approvals and permits required to obtain a Building Permit or commence site work have been obtained.

9. As set forth in 760 CMR 31.08(5), this Permit is granted solely to Applicant and shall not be transferred to any other person or entity without the written approval of the Board, which approval shall not be unreasonably withheld or delayed. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. In the event the Applicant sells, transfers, or assigns any of its interest in the Project, this Comprehensive permit shall be binding upon the purchaser, transferee, or assignee. The provisions and limitations of the Limited Dividend Organization shall apply to the Project regardless of sale, transfer or assignment.
10. Annually, and immediately upon its receipt, the Applicant shall submit to the Board a copy of the audit conducted by the Monitoring Agent, which shall be MassDevelopment. The Board reserves the right to conduct an initial audit with the reasonable cost thereof paid by Applicant. The Applicant shall provide a copy of its cost certification to the Town not later than sixty (60) days after the issuance of the final Certificate of Occupancy and in no event later than the time it provides the cost certification to the Monitoring Agent.
11. Applicant shall submit to the Board a Final As-Built site plan showing the Property line and the location of all buildings and other improvements on the Property. Said As-Built plan shall be stamped by a Professional Land Survey or Registered Land Surveyor and shall be submitted within 90 days of the final Certificate of Occupancy.
12. Applicant shall pay reasonable inspection, peer review and/or legal fees for Town consultants as may be required to ensure compliance with the conditions listed herein.
13. The Applicant has requested, and the Board hereby authorizes those exceptions from the requirements of the Belmont Zoning By-Law and other local laws, rules and regulations, as listed in Attachment A, as long as the project is constructed in accordance with the Project Plans and this Decision. Minor deviations from otherwise applicable local rules may be authorized by the Board in the subsequent review and approval of final plans.

Site Specific

14. The Applicant shall provide a shuttle service designed to meet the needs of employees and residents of the Project to travel from the Project to (and from) the Alewife MBTA Station and Belmont Centre. The shuttle schedule will be created and controlled by the manager of the Project and will be modified as required to accommodate rider-ship levels. The Applicant shall submit to the Board an annual report on the shuttle bus service which shall include, at a minimum, the shuttle bus schedule and general rider-ship numbers.
15. Applicant shall provide four bicycle racks, each holding 8 bicycles for Buildings A, B, D, and E. Racks shall be located in the underground parking facilities. In addition, Applicant shall provide two bicycle racks each holding 8 bicycles for Building C, which shall be located in the underground parking facility of that building.
16. Applicant shall incorporate crime prevention features in the final plans through design features of the site lighting plan and by controlling access to the site, including pedestrian access. The lighting plan shall be presented to and reviewed by the police department and shall balance the need of on-site safety with off-site impacts. Vehicle access shall be limited by installing gates and pedestrian access shall be limited through the choice of landscape features.
17. Prior to receipt of a Building Permit for any buildings on the Property, the Applicant shall provide the Fire Department final plans showing the details demonstrating compliance with the following:
 - a. As requested by the Belmont Fire Department the Project shall construct around the rear of the Buildings B and D a fire access lane, which, as shown on the plans, shall be 20' wide, constructed out of pervious "geo block" pavers and shall be constructed so as to support the weight of an operating fire apparatus.
 - b. As requested by the Belmont Fire Department the Project shall be serviced by a redundant water supply connected to the Belmont water system. The redundant water lines may be located within the same utility trench, provided that they are separated within such trench and that the water line ties into the Belmont water system at two different locations.
 - c. Final plans shall be submitted to the Fire Department to demonstrate that the "trash room" will be constructed as agreed to by Applicant and the Fire Department.

Housing

18. The Project shall be limited to 299 rental units in 5 buildings. 16 units shall be three (3) bedroom units of which no less than 3 shall be Affordable Units.
19. The Affordable Units and the market rate units shall be distributed proportionately within the buildings of the Project. The Affordable Units shall be comparable to the market-rate units in terms of location, quality, character, room size, number of rooms and external

appearance. The interior finishes of and appliances in the Affordable Units shall be comparable to the interior finishes and appliances in the market-rate units. The Affordable Units shall be constructed simultaneous with the construction of the market-rate units and occupancy permits shall be issued at a proportional rate for affordable as for market rate units.

20. The affordability restrictions shall be enforceable against all subsequent owners and shall be effective in perpetuity. The calculation of affordability for the allowable monthly rent to be charged the occupants of the affordable units shall include all mandatory fees.

Transportation

21. The following traffic mitigation measures shall be completed in accordance with the description set forth in the Traffic Impact and Access Study by Vanasse and Associates, Inc., dated January 23, 2006 (as refined in the Vanasse and Associates April 28, 2006 response to comments) and shall be constructed prior to the issuance of a final Certificate of Occupancy for the Project.
 - a. Cross Street and Brighton Street Intersection - Design and implement an optimal traffic signal timing and phasing plan to include re-striping, shared turn-lane, and an upgrade of the existing traffic signal which will accommodate pedestrian and bicycle travel in a safe and efficient manner. Explore installing an emergency preemption system and if feasible and approved by the Town, install said system.
 - b. Lake Street and Cross Street Intersection - Re-stripe the northbound approach to provide separate left and right-turn lanes as an interim improvement measure. The Applicant will undertake a supplemental analysis of operating conditions and safety at the intersection of Lake Street at Cross Street within one year of the issuance of a Certificate of Occupancy for the project. This study will consist of the collection of weekday morning (7 to 9 AM) and evening (4 to 6 PM) manual turning movement counts at the intersection; a review of motor vehicle crash information for the most recent continuous three-year period; the completion of a detailed traffic operations analysis (LOS, delay and vehicle queuing); and the development of a conceptual improvement plan to address any safety or operational deficiencies that are identified as a result of the supplemental analysis. This information will be summarized in a report provided to the Board for planning purposes and to obtain funding to complete the identified improvements by others.
 - c. Acorn Park Drive and Frontage Road Intersection - Upgrade the existing traffic signal equipment, timing and phasing as necessary to accommodate pedestrian and bicycle access to project site. Include upgraded signs and pavement markings at intersection.
 - d. Concord Avenue and Blanchard Road Intersection - Design and implement an optimal traffic signal timing and phasing plan.
 - e. Concord Avenue at Alewife Brook Parkway - Undertake a detailed safety analysis of the rotary based on motor vehicle crash data provided by the City of

Cambridge Police Department including a motor vehicle collision diagram, in order to identify any safety deficiencies that may exist at the rotary that are subject to correction, Subject to the approval of the DCR and the City of Cambridge, the project proponent will review and upgrade the signs and pavement markings at the rotary including providing advance directional signs on all approaches. Copies of the safety study will be provided to the DCR, MassHighway, the City of Cambridge, and the Town of Belmont.

- f. All other intersection mitigation measures presented in the Traffic Impact and Access Study by Vanasse and Associates, Inc. dated January 23, 2006 (as refined as noted above), shall be completed prior to the issuance of a final Certificate of Occupancy.
22. The Applicant shall construct a sidewalk made of pervious material along the Project frontage on Acorn Park Drive that will link the Project to the existing sidewalk located along Frontage Road. The sidewalk design and construction shall meet MAAB & ADA requirements. Further, subject to being given at no charge to the Applicant an easement and all applicable approvals, the Applicant agrees to construct the missing segment of sidewalk between the Property and the existing sidewalk on Acorn Park Drive toward Cambridge Discovery Park. The Applicant shall submit to the Board copies of requests for easements and all applicable approvals by third parties, where necessary, prior to issuance of the final Certificate Of Occupancy.
23. The Applicant will provide a weather protected waiting area for the shuttle bus within the Project which will be designed to be consistent with the architectural character and design of the buildings in the Project.
24. The Applicant's traffic mitigation measures described above in condition 21 assumes that the improvements due to be made by the developer of Cambridge Discovery Park will be in place when Applicant commences implementation of its mitigation measures. In the event that the mitigation measures are not completed when the Applicant proposes to implement its traffic mitigation measures the Applicant will complete any or all improvements that should have been done by the developer of Cambridge Discovery Park which are not in place when Applicant commences work on such mitigation.
25. The Applicant shall be prohibited from granting easements over portions of the Property on the easterly side of Acorn Park Drive and onto the privately owned portion of Acorn Park Drive.

Infrastructure

26. The following portions of the Project shall be and shall remain forever private, and that the Town shall not have, now or ever, and legal responsibility for their operation or maintenance:
 - a. Stormwater management system
 - b. all driveways and parking areas
 - c. wastewater system on the Property, excluding the pump station described in

- condition 33, which will be deeded to the Town.
 - d. on-site lighting
 - e. recreation and all other common areas, excluding the area subject to the Conservation Restriction.
27. All on-site utilities identified on the Final Plans (including electric, telephone, cable, and other such lines and equipment) shall be underground.
- 28.
- a. Wastewater flows from the Project will be discharged into the Belmont wastewater collection system (“Belmont System”) starting on Garrison Road. The Applicant will install on the Property a 25,000 gallon holding tank to detain wastewater during surcharge events in the Belmont System. In addition, the Applicant shall establish operating protocols which are to be supported by SCADA systems/instrumentation to activate the storage system. As part of those operating protocols, the Applicant shall have in place a septage hauler contract to pump out the tank as frequently as necessary until extended surcharging in the Belmont System ceases. The cost of the holding tank will be deducted from the Inflow/Infiltration (I/I) payment made pursuant to condition 29.
 - b. Prior to the issuance of the Building Permit, the Applicant shall make a good faith application to the City of Cambridge for a connection to the Cambridge municipal wastewater system (“Cambridge System”) in Acorn Park Drive. If such application is approved (and no appeals are filed) and the cost and timing of such connection to the Cambridge System is no greater than the cost and timing to connect to the Belmont System (e.g. the cost to construct the sewer line from the Property to Garrison Road and the costs to comply with conditions #33, 28(a) and 29), then the Applicant shall connect into the Cambridge System.
29. Applicant shall make an Inflow/Infiltration (I/I) payment of \$382,500.00 (less the cost of the holding tank described on Condition 28{a}-) to the Town of Belmont prior to the issuance of Building Permits for the Project buildings, provided however, in the event the Applicant is allowed to connect to the Cambridge System, then such I/I payment will not be required.
30. The Applicant shall provide an Operations and Maintenance Plan (O&M Plan) for the Stormwater Drainage System to the Board prior to the issuance of the final Certificate of Occupancy. The O&M Plan shall include: monthly inspections and quarterly cleanings of catch basins, area drains, and drop inlets, monitoring depth of water in the infiltration /detention systems as part of the semi-annual maintenance program. The O&M Plan shall include a provision requiring the use of sand for de-icing of the travel surfaces of the Project.
31. The Applicant shall modify the Design for the catch basins on grade to fully capture the 100-year storm event. Manholes for maintenance will be constructed as part of each chamber and underground detention basin. A clean out shall be installed at the location where grit chamber connects to the system.

32. The Belmont Water Department shall inspect the water main installation during construction. Approval of installation by the Water Department is required prior to issuance of a final Certificate of Occupancy.
33. As recommended by Fay, Spofford & Thorndike, the wastewater pump and force main to be constructed for the Project to tie into the Belmont System shall have a minimum diameter of 4 inches. Specifications for the pump and force main shall be submitted to the Board for review prior to the issuance of a Building Permit.

Environmental

34. Applicant shall provide the Board a detailed site preparation plan, planting plan, and monitoring/maintenance plan for each flood storage area to be created prior to issuance of a Building Permit.
35. The Applicant shall submit to the Board a management plan for the open space surrounding the property prior to the issuance of the final Certificate of Occupancy. Any Open Space Maintenance Plan for the Project shall as a minimum implement habitat enhancement measures as referenced in the previous Open Space Maintenance Plan prepared for the R&D Office Building. In addition the Applicant shall provide the Board with a plan showing the location of all tenant recreational areas prior to the issuance of a Building Permit.
36. The Applicant shall provide tree cutting plan to the Board prior to commencing site work. To save as many mature, healthy, trees as practicable Applicant will determine which trees are closest to the edge of the work area and if healthy and greater than 12 inches in diameter review whether slight modifications in site plan are warranted. If the Applicant determines that slight site plan modifications cannot be practicably accomplished, the Board may request that additional trees (including but not limited to silver maples) be planted outside the Project area, but on the Property.
37. The Applicant shall work with the ~~Green Round Table~~Roundtable to incorporate, to the greatest extent economically feasible, low impact and sustainable development principles for the construction and maintenance of the Project and will include, but not be limited to, consideration of the use ~~if~~of pervious pavement, and ~~drought~~drought-resistant plants and collection of rooftop runoff for the irrigation system. Prior to the issuance of the final Certificate of Occupancy, Applicant shall submit to the Board the final report of the Green Round Table which will detail how the Project satisfies this condition.
38. The Applicant shall finalize, execute and record the Conservation Restriction (CR) in substantially the same form as the draft submitted to the Board on June 9, 2006. The CR will restrict approximately 7.75 acres of the 15.6 acre Property, as generally shown on a plan entitled "Conservation Restriction Limits Companion" drawn by Rizzo Associates, dated June 5, 2006. The Applicant shall perform all of the actions required in the CR, including but not limited to constructing and maintaining the ~~trial~~trail shown on the CR plan, and, with prior written approval of the named Grantee and any governmental approval authority, construct and maintain an instructional KIOSK and off street parking

area as shown on the CR plan. The CR shall be recorded prior to the issuance of the final Certificate of Occupancy.

39. Prior to the final Certificate of Occupancy Applicant shall provide the Board with a snow removal plan. The Applicant's snow removal plan shall be consistent with DEP Snow Disposal Guidelines (BRPG01-01, March 8, 2001), in that, landscaped areas, designated on the plans as snow storage areas, will be used as much as possible. Any damage occurring to such landscaped area due to snow storage shall be replaced/repaired as necessary by the Applicant consistent with BRPG01-01.

Any paved areas used for snow storage shall be graded to drain away from any wetlands and towards the site drainage system as required by BRPG01-10.

Snow storage from "small" snow storms (for purposes of this condition "small" storms shall be storms of 6 inches or less) shall be stored on the areas designated on the plan and need not be removed from the site, except as provided hereinafter. For snow storms greater than 6 inches and when the accumulated snow piles cover 10% of the exterior parking spaces (approximately 21 spaces), or where accumulated snow piles from clearing the imperious surfaces from a number of small snowstorms covers 10% of the parking spaces (approximately 21 spaces) on the site, the Applicant shall remove such snow piles from the site within 24 hours of the completion of the clearing of the parking lots and the end of the snow fall that causes the accumulated snow piles to exceed the threshold herein.

Legal

40. If any part of Decision is for any reason held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of any other portion of this Decision.
41. The Board shall retain jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
42. Subsequent to the end of all applicable appeal periods and prior to the commencement of construction, the Applicant shall record this Decision in the Middlesex County South District Registry of Deeds and shall provide the Office of Community Development and the Building Inspector with a copy of this Decision endorsed with the applicable recording information.

5. Design and Site Plan Review: Exception from all provisions of §6B.6, permit approval procedure is governed by M.G.L. c.40B.

6. Site Plan Review Procedures: Exceptions from all provisions of §6.B.8, permit approval procedure is governed by M.G.L. c.40B.

B. General Zoning By-Laws NOT Superseded By Belmont Uplands District:

1. Parking:

- a.) Exception from 5.1.3(e), see note on §5.4.3(b), below.
- b.) Exception from §5.1.3(g), egress location, exception from the limit of 2 driveway openings onto a street from a parking area serving more than 20 parking spaces where all driveways are not separated by 150'.

2. Landscaping:

- a.) Exception from §5.3.5, existing vegetation, exception from the retention of trees exceeding 6" in caliper within 25' of the street.

3. Lighting:

- a.) Exception from §5.4.3(b) for the safety of pedestrians and vehicles, project will exceed the lighting level of 0.3fc at the project driveways.

4. Cluster Development Special Permit

- a.) Exception from all provisions of §6.5, permit approval provided is general by M.G.L. c.40B.

5. Floodplain District

- a.) Exception from §6.6.3, use regulations
- b.) Exception from §6.6.5, floodway requirements, to the extent such section conflicts with State law
- c.) Exception from §6.6.6, special permits, permit approval procedure is governed by M.G.L. c.40B.

5. Design and Site Plan Review

- a.) Exception from all provisions of §7.3, permit approval procedure is governed by M.G.L. c.40B.

6. Special Permits
 - a.) Exception from all provisions of §7.4, permit approval procedure is governed by M.G.L. c.40B.
7. Development Impact Report
 - a.) Exception from all provisions of §7.5, permit approval procedure is governed by M.G.L. c.40B.

II. OTHER NON-ZONING BYLAWS AND REGULATIONS

- A. Water Department Regulations. To the extent Section C (paragraphs 1 through 3) of the regulations for water main pipe extension require Applicant to increase the size of proposed water pipes to accommodate **future non-project extensions an exception is required.**

III. RESERVATION OF FURTHER EXCEPTION REQUESTS

- A. To the extent the proposed project changes during the public hearing process or some additional, currently not requested, exception is required, the Applicant reserves the right to amend or modify this document.