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TOWN OF ANDOVER, MASS.

**DECISION OF THE ANDOVER PLANNING BOARD
AS A SPECIAL PERMIT GRANTING AUTHORITY**

ON THE APPLICATION OF

254 Lowell Street

By: National Development Acquisitions, LLC

For a Special Permit Elderly Housing
under Section 7.4 of the Andover Zoning Bylaw

Decision: SP14-06

YES (with conditions)

A public meeting of the Planning Board was held on August 13, 2015 in the Third Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Zachary Bergeron, Vincent Chiozzi, James Doherty, Ann Knowles and Steven Pouliot.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on July 24, 2014 and July 31, 2014 and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened by the Planning Board (the "Board") on August 12, 2014, for an application filed on July 16, 2014 by National Development Acquisitions, LLC on property owned by Loosigian Realty Trust for a Special Permit for Elderly Housing. The property is more specifically identified as Lot 17 on Assessors Map 111. The public hearing was closed on December 16, 2014, with the aforementioned members present throughout.

On February 26, 2015 the Board voted 3 to 2, in favor of the project, but by virtue of not receiving the necessary super majority vote pursuant to MGL, Chapter 40A, Section 9, the project proposed for 254 Lowell Street was therefore denied.

Pursuant to the agreed upon joint motion for remand by the Commonwealth of Massachusetts Land Court, CASE NO. 15 PS 000098, a new public hearing was held on June 18, 2015. Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on May 28, 2015 and June 4, 2015 and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened June 18, 2015 on the application of National Development Acquisitions, LLC Andover, LLC. The hearing was closed on July 28, 2015, with the aforementioned members of the Board present throughout.

Planning Board Findings:

According to Section 9.4.2. of the Zoning By-law, Special Permits may be granted when the Planning Board has found that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such is in harmony with the general purpose and intent of the By-law.

Unreasonably Detrimental Test Overview

Considerations include: Impact – Significant Impact – Detrimental – Unreasonably Detrimental - Mitigation

An “impact”, as identified in one of the technical review criteria (traffic, stormwater, design, etc.), is not automatically equivalent to a “significant impact” on neighborhood character, and rather, it serves as an indication that it, the “impact”, should be carefully examined. The examination focuses on whether a defining feature of the neighborhood will be affected, to then be considered a “significant impact”. For example, an impact on traffic may occur if a project adds vehicles to an intersection, increasing the delay to vehicles already typical at a particular time. This would not necessarily constitute a “significant impact” on the neighborhood character if the neighborhood’s traffic conditions are not considered one of its defining features (i.e. such traffic conditions are comparable to those of other similar roadways in an area of the city or town or that intersection is already at unacceptable levels). However, it may constitute a “significant impact” if 1.) the roadway in the neighborhood is considered a particularly quiet roadway with little or no existing issue with the intersection’s level of service, or 2.) when the increased traffic will result in a change in the type of traffic (i.e., an increase in truck deliveries when typically trucks do not pass upon the street).

If it is determined that it is a “significant impact”, the next consideration must be, is it “detrimental” to the neighborhood’s character? The “significant impact” becomes “detrimental” when it is considered a condition that interferes with the health or well-being of persons or property in the neighborhood in such a way that it disrupts the neighborhood’s existence in a harmful manner. During the review process, as soon as project approaches the “significant impact” trigger, mitigation should be an opportunity to reduce the impact itself such that the

project never reaches the “detrimental” benchmark.

Lastly, in order to deem a “detrimental” impact to be “unreasonably detrimental”, the test among many special permits is that it must cause a considerable disturbance or be injurious to persons or property such that the proposed use or proposed establishment as designed, located, maintained and/or operated will be harmful or adverse to the public health, safety and welfare of the district in which it is located and cannot be mitigated.

Mitigation is an important tool for any special permit granting authority. It is important to note, if and when possible during the review process, alternatives, measures and solutions to be proposed to avoid impacts. In sum, a special permit granting authority should consider: Is there an impact? Is that impact significant? If it is significant, is it detrimental? If it is detrimental, is it unreasonably detrimental? Can project changes, design changes, onsite improvements, and/or offsite improvements, result in reducing the overall impact to insignificant or tolerable levels?

Communities change, land is developed and redeveloped, it is the responsibility of the regulatory board to reference the community’s master or comprehensive plan, follow local bylaws, follow state statutes, oversee orderly growth, propose modifications and improvements, and to create opportunities for a project, subdivision or development to be the best project possible for that community.

In considering the issuance of a special permit under the Andover Zoning By-Law, the Planning Board, acting as Special Permit Granting Authority, is required to render a decision and make certain findings pursuant to Section 9.4. of the By-Law. The decision of the Board must also be based upon the specific standards described in the section of the By-Law which are applicable to the type of permit being sought; in this instance those found under Section 7.4.7., as well as any appurtenant or relevant subsections. The Board finds that the project is in compliance with the applicable standards of the Zoning By-Law. The Board must also find that the proposed use covered under the Special Permit will not be unreasonably detrimental to the established or future character of the neighborhood and Town, and that the project is in harmony with the general purpose and intent of the By-Law. In making those findings the Board is to give due consideration to the following:

Social, economic, or community needs which are served by the proposal.

The development 254 Lowell Street provides for new social, economic and community needs and is consistent with the goals of the 2012 Master Plan, specifically:

- ✓ H.1.1. Promote the **construction and renovation** of a wide range of ownership and rental housing types and densities including single family homes less than 2,500 square feet, condominiums, apartments, multi-unit buildings with less than eight units, and townhouses.

- ✓ H.1.4. Encourage affordable housing for the **elderly**.

- ✓ H.1.5. Encourage the creation of affordable housing for **persons with disabilities**; this includes those who are either mentally and/or physically challenged and those who are developmentally disabled.
- ✓ H.2.1. As the market rate **housing supply** increases, promote an increase in the supply of affordable housing so that Andover remains above the state's Subsidized Housing Inventory (SHI) 10% minimum as required by the Commonwealth of Massachusetts under MGL Chapter 40B.
 - In the last thirty years, only two elderly housing developments have been developed in Town. By year 2026 their affordability provisions expire, thus presenting the community with no affordable senior housing.
 - This project will provide for an important unmet social and community need for elderly housing in Andover for those with affordability and/or memory care needs (see demographic data in staff memo 1/15/15). The project will provide for 76 units of congregate living, with various tiers of affordability. All affordable units will be in perpetuity, with a local preference given to current residents of Andover to the greatest extent permissible by law.
 - This service-enriched housing model will include a resident services coordinator who will be available to connect residents with services they need to live productive and healthy lives. The resident services coordinator will offer case management services, providing connections to area service providers to enhance the well-being of residents. This coordinator may also organize wellness, recreational, and educational programming and facilitate resident participation and leadership activities.
 - This project provides for both services for memory need and elderly housing. The fact that they are located on the same parcel as condominium units, has been confirmed with the Inspector of Buildings and Town Counsel as to consistency with the Andover Bylaw.
- ✓ H.3.3. New housing developments should advance Andover as a walkable and bikeable community, when possible.
 - The site plan includes pedestrian pathways, bike racks and a reconstructed sidewalk being added along the frontage of the project on Lowell Street.
- ✓ TC.2.1. Promote **local transportation** improvements such as bridge repairs, congestion elimination and new sidewalks.
- ✓ ED.1.1. Encourage the creation of a full range of jobs for local residents, from services and trades to high tech and research and development.

- The 254 Lowell Street residential development would create 40 full time jobs, expand the tax base, while not placing a burden on public services.
- ✓ OS.7.1. Require trail and open space connections between and within neighborhoods when a new subdivision or development is planned. This has been a longstanding policy of the Planning Board and the Conservation Commission.
 - The proposal provides for over 3 acres of common open space. Said open space will be available to the public and adjacent neighborhoods for passive recreational use.
- ✓ LU.2.1. Promote development that is sensitive to land features, environmentally sustainable, and appropriately scaled. Encourage a variety of residential choices and styles for Andover's diverse population, designed to withstand the economic and demographic tests of time.

In consideration of the testimony presented throughout the hearing, the Board finds the applicant has sufficiently demonstrated that there is a social, economic and community needs for this use and the use will not have an unreasonable detrimental impact on the established neighborhood and Town and that such use is in harmony with the general purpose and intent of the By-law.

Traffic flow and safety, including parking and loading.

Throughout the hearing the applicant described the Bridges and Andover Residences project as a low-traffic generating use that would have a negligible impact on the existing traffic patterns of the surrounding area. The project will provide for 137 onsite parking spaces, accommodating residents, employees and visitors. Deliveries to the site will be limited and be restricted to times and days as outlined in the Board's approval.

Based upon the Traffic Impact and Access Study, dated June 25, 2014, along with a report from the Public Safety Officer stating "The Andover Police Department has reviewed final plans for 254 Lowell St. Planned usage and operations of this facility do not raise any concerns. I do not foresee any traffic issues due to excessive trip counts or sight line issues..." .

In response to the agreed upon joint motion for remand, the public hearing was re-opened to accept additional information related to a Traffic Peer Review. In a report from the Town's peer traffic consultant GPI dated June 4, 2015, Mrs. Barnes states:

Overall, the proposed senior residential development is a low traffic generator and the minimal increase in traffic is not expected to have an adverse impact on traffic operations along Lowell Street or at the study area intersection of Lowell Street at Windemere Drive. We hope that this letter aids the Planning Board in their review of the proposed senior housing development project. Should you have any questions, or require additional information, please feel free to contact me directly at

Mrs. Barnes further states “Based on the information provided in the traffic study performed by TEC for the Medical Office Building (attached), I was able to run a quick analysis adding the traffic (based on 80% to/from the west and 20% to/from the east as in “Traffic Analysis”), and none of the approaches drop a level of service at the intersection of Lowell Street at Greenwood/Lovejoy drop as a result. The greatest increase in delay seen on a given movement is less than 4 seconds. No traffic counts are available to my knowledge at the intersection of Lowell Street at Argilla, however, based on the low impact at the intersection of Lowell/Windemere and Lowell/Greenwood/Lovejoy, we do not request more data or analysis.”

In consideration of the testimony presented, the Board finds the applicant has sufficiently demonstrated that traffic flow and safety, including parking and loading from this use will not have an unreasonable detrimental impact on the established neighborhood and Town and that such use is in harmony with the general purpose and intent of the By-law.

Adequacy of utilities and other public services.

In closely working with the various Town staff, the applicant has demonstrated that there is adequate water, gas and electric capacity to service the development.

Based upon reports and testimony from various Town Departments, the Board finds that the applicant has sufficiently demonstrated that utilities and other public services for this use will not have an unreasonable detrimental impact on the established neighborhood and Town and that such use is in harmony with the general purpose and intent of the By-law.

Neighborhood character and social structures.

By virtue of the 1997 Town Meeting vote to include Congregate Housing in the SRA and SRB Districts as an allowed use, Town Meeting has overwhelmingly endorsed allowing elderly housing in Single Residence Zoning Districts (Town Meeting vote 1010 in favor and 1 against). As previously detailed in staff's memo dated 1/15/15, there are number of existing land uses in the immediate area ranging from an animal hospital, single family homes, multi-family residential and religious uses. Within a 10 min walk or ½ mile, residents would have access to medical services, Boston Sports Club and Dunkin Donuts.

Route 133 is functionally classified by the States' planning system as an Urban Principal Arterial. According to MassDot, the definition of an Urban Principal Arterial's is “These arterials provide a lower level of regional mobility than principal arterials, by linking towns and cities together. These roadways can provide the highest level of mobility through rural areas without principal arterials, while providing important connections between the principle arterial and collector network in urban areas. Vehicular speeds vary between 25 M.P.H. in urban areas to as high as 55 M.P.H. in rural areas. These roadways support intra county level shopping centers, moderate residential development, and travel through many urban town centers.”

During the hearing various renderings and photographs of similar projects had been presented by

the applicant depicting traditional New England residential design details. Their plans call for inclusion of roofing, siding, trim, native species landscaping, and courtyard garden areas for resident use.

In response to the agreed upon joint motion for remand, the public hearing was re-opened to accept additional information related to renderings illustrating a roof design similar to that of Goddard House in Brookline Mass, with said design being submitted to the Design Review Board (DRB) for nonbinding guidance to the Planning Board. In response to a communication from the Design Review Board dated July 14, 2015, the applicant provided a detailed response to the eight nonbinding bulleted comments from the DRB. In reviewing their response letter dated July 21, 2015, the applicant was able to accommodate 6 of the 8 bulleted items into their design.

In the Board's opinion, the proposed development will not have a significantly adverse impact, and will not be unreasonably detrimental, to the neighborhood's character or social structures. During the public hearing process, the Planning Board reviewed a progression of design changes through building elevations and renderings. At the close of the public hearing process, the architecture, scale, and landscaping of the development have the ability to complement the aesthetic characteristics of the surrounding area. The plans call for inclusion of native species landscaping, and courtyard garden areas for resident and visitor use.

In consideration of the testimony presented throughout the hearing and with appropriate conditions, the Board finds that the applicant has sufficiently demonstrated that the neighborhood character and social structures derived from this use will not have an unreasonable detrimental impact on the established neighborhood and Town and that such use is in harmony with the general purpose and intent of the By-law.

Impacts on the natural environment, including, but not limited to air, water pollution, noise, stormwater runoff, and aesthetics.

In order to control the stormwater run-off from the site, the project has been designed to incorporate subsurface detention and infiltration to mitigate the rate of runoff from the site, reducing the rate to below pre-development rates. The project will also incorporate best management practices that will promote stormwater recharge and Total Suspended Solids (TSS) removal. In order to confirm that applicant's drainage design a peer review had been performed by the Horsley Witten Group to ensure the project has been designed in accordance with State and Town standards.

Following examination of detailed comment letters from area abutters relating to the Watershed Protection Overlay District, drainage, off-site flooding concerns, combined with attending several working meetings with various Town staff to review the proposed drainage design, the peer drainage consultant, Ms. Janet Carter Bernardo of the Horsley Witten Group reports in a communication dated December 8, 2014 that the project has been designed in accordance with the standards of Massachusetts Department of Environmental Protection (MassDEP) Wetlands Protection Act, the MassDEP Stormwater Management Handbook dated February 2008, the Town of Andover Stormwater Management and Erosion Control Regulations and the Town of Andover Zoning By-law.

In consideration of the existing conditions, the site has historically been a working farm, with no significant vegetation growth. The current plan calls for approximately 280 varied trees to be planted, with the dilapidated farming structures to be razed, thus improving the aesthetics of the site.

Based upon reports and testimony from various Town Departments, the Board finds that the applicant has sufficiently demonstrated that the natural environment, including, but not limited to air, water pollution, noise, stormwater runoff, and aesthetics for this use will not have an unreasonable detrimental impact on the established neighborhood and Town and that such use is in harmony with the general purpose and intent of the By-law.

On a vote of 4 to 1, the Board finds that the proposed use will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such proposed use with appropriate conditions is in harmony with the general purpose and intent of the bylaw. The Board approves with conditions an application by National Development Acquisitions, LLC for a Special Permit for Elderly Housing by National Development Acquisitions, LLC on property owned by Loosigian Realty Trust, located at 254 Lowell Street, more specifically identified as Lot 17 on Assessors Map 111.

CONDITIONS OF THE PERMIT

This special permit is approved subject to the following conditions:

General Conditions

1. For purposes of this special permit the project shall encompass and be defined as the structures, parking areas, utilities, drainage systems, street improvements, signage, landscaping and all other details as shown on the approved plans. The site is identified as a parcel of land situated at 254 Lowell Street, more specifically shown on Assessor's Map 111 Lot 17. The developer is identified and shall be defined as ND Acquisitions, LLC or its assigns. The developer, as defined, shall be subject to all conditions listed hereunder, and shall be directly responsible for construction of the project, including all contractors, subcontractors, vendors, or other parties working on the site and on the project;
2. Except as otherwise provided for in these conditions all work associated with the project, including architecture and landscaping, shall be in strict conformance with the following plans and drawings prepared by Stantec, which are considered the final plans and may be found in the Planning Division:
 - a. Locus Plan, dated December 9, 2014;
 - b. Topographic Plan, dated April 16, 2014, as prepared by Andover Consultants;
 - c. Sheet L-001, Sediment and Erosion Control Plan – Phase 1, dated 7/15/14 last revised 11/21/14;
 - d. Sheet L-002, Sediment and Erosion Control Plan – Phase 2, dated 7/15/14 last

revised 12/6/14;

- e. Sheet L-101, Layout and Materials Plan, dated 7/15/14 last revised 11/21/14;
 - f. Sheet L-201, Grading Plan, dated 7/15/14 last revised 12/09/14;
 - g. Sheet L-202, Site Plan – Phase I, dated 7/15/14 dated last revised 12/09/14;
 - h. Sheet L-301, Utility Plan, dated 7/15/14 dated last revised 12/06/14;
 - i. Sheet L-302, Drain Profiles 1, dated 7/15/14 last revised 12/06/14;
 - j. Sheet L-303, Drain Profiles 2, dated 7/15/14 last revised 12/06/14;
 - k. Sheet L-304, Drain Profiles 3, dated 7/15/14 last revised 12/06/14;
 - l. Sheet L-305, Sewer Profiles, dated 7/15/14 last revised 12/06/14;
 - m. Sheet L-401, Planting Plan, dated 7/15/14 last revised 6/10/15;
 - n. Sheet L-501, Photometric Plan, dated 7/15/14 last revised 6/23/15;
 - o. Sheet L-601, Open Space Plan, dated 7/15/14 last revised 11/21/14;
 - p. Sheet L-701, Site Details, dated 7/15/14 last revised 12/06/14;
 - q. Sheet L-702, Site Details 2, dated 7/15/14 last revised 11/21/14;
 - r. Sheet L-703, Site Details 3, dated 7/15/14 last revised 11/21/14;
 - s. Sheet L-704, Site Details 4, dated 7/15/14 last revised 12/06/14;
 - t. Sheet L-705, Site Details 5, dated 7/15/14 last revised 12/06/14;
 - u. Sheet L-706, Site Details 6, dated 7/15/14 last revised 12/06/14;
 - v. Sheet L-707, Site Details 7, dated 7/15/14 last revised 12/06/14;
 - w. Sheet L-708, Site Details 8, dated 7/15/14 last revised 12/06/14;
 - x. A.01, Preliminary Schematic – Not for Construction, dated 6/23/14, as prepared by JSA Architects, Interiors, Planners;
 - y. A.02, Preliminary Schematic – Not for Construction, dated 6/23/14, as prepared by JSA Architects, Interiors, Planners;
 - z. A2-1, Building Elevations Wall Section, dated 7/21/15, as prepared by PCA Architecture, Interior, Planning;
3. If a modified or supplemental plan(s), drawing(s) and document(s), if any, is required by the Planning Board under the conditions of this permit, it shall be submitted to, reviewed and approved by the Planning Division;
4. Administration and enforcement of this permit and the conditions attached thereto shall be pursuant to the requirements of the Planning Board's Rules Governing Special Permits;
5. As to each Phase (Phase I being the Bridges and Phase 2 being Andover Senior Residences), this special permit shall expire two (2) years from the date that this decision has been filed with the Andover Town Clerks office, plus such time as required to pursue or await the determination of an appeal if substantial use thereof has not sooner commenced except for good cause or if construction has not begun by such date except for good cause. The Board may consider extending the special permit upon written request of the applicant provided that such request has been received and a public hearing noticed prior to the expiration of the original permit. In considering a request for extension, the Board may take into account economic conditions and funding availability;

Prior to Construction

6. Prior to any construction or demolition activity of any kind on the site or associated with the project, a pre-construction meeting shall be conducted which shall include representatives from the developer (including principle contractors and/or supervisors), the Department of Community Development and Planning, the Municipal Services Department, the Police Department and the Fire Department, for purposes of reviewing these conditions and construction schedule;
7. Prior to any construction activity of any kind within the site the developer shall submit for review and approval to the Planning Department a proposed construction sequence schedule, said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage systems, stabilization, safe pedestrian circulation before and after construction hours, and stockpiling. This schedule once established should not be deviated from, but may for good and demonstrated reason, be modified by agreement between the developer and the Planning Department;
8. The Andover Department of Public Works shall be notified prior to any construction activities on and off site, including excavation and grading, and shall be given full opportunity to review plans and monitor such activities;
9. The hauling route for the import and/or export of earth materials and demolition debris shall be approved by the Inspector of Buildings and the Police Safety Officer. All public ways are to be kept clean and free of any dirt or debris associated with hauling activities;

Throughout and During Construction

10. All activities on the site shall be conducted in a workmanlike manner. All construction equipment, supplies and building materials shall be appropriately secured against unauthorized access. Construction debris and litter shall be collected and stored in appropriate containers on the site and shall be removed as promptly and regularly as possible. Appropriate measures (or those directed by the Inspector of Buildings) shall be taken so as to protect adjacent properties from dust and other windblown debris during site preparation and construction;
11. All hauling operations involving the import and export of earth materials and removal of all debris associated with the building to be demolished on the site shall be conducted in accordance with a schedule approved by the Inspector of Buildings. Such operations shall be limited to Monday through Friday, during hours deemed appropriate by the Inspector of Buildings, and no such operations shall be allowed or undertaken at any time deemed to be in conflict with safe pedestrian movement near the site or to cause undue congestion or safety hazards in the adjacent street system;
12. Except for periods during replacement, if required, all public sidewalks adjacent to the site shall be kept open, and in a safe and passable condition. No fences, barriers, or gates

may be placed or installed within the Town way. During reconstruction of the sidewalk along Lowell Street, accommodations for pedestrians and school bus stops shall be made by the applicant;

13. A police detail is required for all construction work that may overflow into or adjacent to Lowell Street (such as construction of the sidewalk, entrance driveway, utilities, curbing, or grading) that may prohibit site lines, cause vehicles to slow down or interfere with pedestrians or bicyclists along Lowell Street.
14. Construction activities on the site including equipment startups, vehicle idling, site preparation, excavation, demolition, grading, filling, paving, erection of structures, installation of utilities, and landscaping shall be conducted between the hours of 7:00 a.m., and 6:00 p.m., Monday through Friday. Once fully framed, interior construction related activities are allowed on Saturdays between 8:00 a.m. and 4:00 p.m. unless otherwise restricted or prohibited by the Inspector of Buildings;
15. Burning or burial of trees, stumps, or construction debris of any kind is strictly prohibited anywhere on site. Such materials shall be removed and properly disposed of off the site;
16. Construction of each Phase of the project (Phase I – Bridges, Phase II – Andover Senior Residence), once begun, shall continue through to completion as expeditiously and continuously as possible; however, in the event that construction activities cease on the part of the developer with respect to a particular phase for a period of six (6) months from the date of last observed activity for such phase, the Board may convene a public hearing for the purpose of revocation or modification of the permit as it relates to the Phase in which construction has ceased for six (6) months, but such revocation or modification shall not affect the Phase which is in compliance with this condition;
17. Hauling of earth materials and heavy equipment during morning pick up and drop off of school buses is not allowed. It shall be the developer's responsibility to communicate with the proper school departments to determine precise hours of pick up and drop off, and to inform all contractors, subcontractors, vendors, and workmen of this restriction;
18. During construction, Lowell Street will be kept clean of all debris, runoff and site materials by street sweeping and other cleaning activities;

Prior to Occupancy

19. In an effort to reduce the overall number of automobile trips in the area and to integrate the Project into the available transportation resources, the Applicant shall implement the following Transportation Demand Management (TDM) measures. Any service charges associated with the following shall be the responsibility of the applicant:

- a. Join and participate in the local Transportation Management Association (TMA), the Merrimack Valley Transportation Management Association (MVTMA); and
 - b. Work with the Town of Andover (Elderly Services) and the Merrimack Valley Regional Transit Authority (MVRTA) to review the possibility of expansion of existing bus routes to provide public transit to the Lowell Street corridor; and
 - c. Post information relative to potential carpool operations available through MassRides or the MVTMA in a centralized location on site;
20. Prior to occupancy of a building on the site all parking areas, access driveways, pavement markings, sidewalks and off-site street improvements (if any) which relate to the building being occupied, shall have been completed and made fully operational;
21. A set of as-built plans for utilities (water, sewer and drainage) both on and off the site shall be submitted to and approved by the Department of Public Works within seven (7) days after all installations are complete, and before the issuance of a Certificate of Occupancy;
22. Prior to the recording of this permit, the applicant shall provide to the Planning Department a digital file containing the plan if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2010 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works prior to the recording of this permit;
23. Prior to the recording of this permit at the Registry the developer shall provide at least three (3) sets of the plans and drawings, considered the final plans, described under Condition 2 above to the Planning Department for distribution and final review;

Specific to this Special Permit

24. Prior to any construction related activities, the final architectural design of the Andover Senior Residence building shall be filed with the Planning Department;
25. Lighting fixtures in the parking area and perimeter of the property shall be shielded and directed inward toward the site. Due to the nature of the business to be conducted on the site a certain amount of lighting may be required at all times for security purposes. Prior to any construction related activities commencing on-site the developer shall consult with the Andover Police Department to determine the level of lighting needed, the number of

fixtures necessary to achieve that lighting, and the times lighting must be provided during the nighttime hours. Those fixtures not required for nighttime security and safety shall be placed on a timer and shall be extinguished following peak operations, shift changes and/or activities in the buildings;

26. Because the services offered by Bridges at Andover being specifically tailored to those with memory care needs, in order to qualify for a Bridges at Andover affordable unit, a potential resident must not only qualify with respect to income, but also with respect to the fact that the resident would require memory care support services within a residential setting, but would not require intensive health care as provided by an institution;
27. If a Bridges affordable unit within any given tier, as defined by the Zoning By-law, is not leased within one hundred and twenty (120) days following the first occupancy of the building, then the vacant affordable unit(s) may be leased to:
 - a. An affordable resident who qualifies under a higher affordability tier; or
 - b. In the event that the vacant affordable unit(s) is not leased within ten (10) business days to a qualified affordable resident from the waiting list from a higher tier of affordability, the unit may be leased to a market rate resident;
28. In the event that, following the one hundred and twenty (120) day period, a vacant affordable unit is filled with a market rate resident, once the next market rate unit in the Bridges building becomes vacant, the Applicant shall fill the market rate unit with a resident from the affordable housing waiting list at the next lowest income tier for which there remains an unfilled unit, based on the unit allocation set forth in this decision. In no event, however, shall the Applicant be required to provide more than six (6) affordable units at the affordable tiers outlined in this decision at any given time;
29. The occupancy costs for the affordable units, as outlined in this decision, may be adjusted by the Applicant from time to time, to reflect the increase in CPI, and/or to reflect the income limits as defined by HUD;
30. In perpetuity, six (6) of the 63 units within the Bridges shall be “affordable units”, and seventy (70) units within the Andover Senior Residence shall be “affordable units” as set forth in Conditions Nos. 33 and 34. The applicant shall be responsible for maintaining records sufficient to comply with MHP guidelines for the location of affordable units in the Project and occupancy of such units by income-eligible households;
31. The applicant shall provide an affirmative marketing plan and tenant selection plan to the Planning Department prior to making any of the units available for rent. The applicant shall incorporate Local Preference in the affirmative marketing and tenant selection plans for the Project to the extent permitted by the Department of Housing & Community Development;

32. To the extent permitted by the Department of Housing and Community Development and applicable law, with respect to seventy percent (70%) of the Affordable Units in the Development, local preference for occupancy shall be given to persons satisfying all applicable eligibility requirements and who qualify as any of the following:
- a. Current Andover residents, with verification provided such as rent receipts, utility bills, street listing or voter registration listing;
 - b. Immediate family members of Andover residents,;
 - c. Employees of the Town of Andover, such as teachers, janitors, firefighters, police officers, librarians, or town hall employees, with a Town employment history of at least one year, regardless of where they currently reside, with verification from employer; and
 - d. Former Andover residents;
 - e. Local Veteran's preference as verified by their Department of Defense Form 214 Certificate;
33. The Bridges at Andover will include six (6) affordable units, provided at the low, moderate, and upper moderate tiers of affordability according to the Lawrence/HUD Metro Area, as set forth by Section 7.4.4.4 of the Zoning By-law and as further described below:
- o One (1) unit is to be provided at the low income affordability level, as defined by Section 7.4.4 of the Zoning By-law as "below 60% of the Lawrence Standard Metropolitan Statistical Area median income based on Housing and Urban Development (HUD) figures ("median income").
 - o Three (3) units are to be provided at the moderate income affordability level, defined as 60-79% of median income.
 - o Two (2) units are to be provided at the upper-moderate income affordability level, defined as 80-100% of median income.
34. The Andover Senior Residences will include seventy (70) affordable units, at a proposed affordability level of 100%, for a total of (70) affordable units, broken down into the following affordability tiers:
- o Sixty-four units (64) units to be provided at the low-income affordability level, defined as below 60% of median income.
 - o Four (4) units to be provided at the moderate income affordability level, defined as 60%-79% of median income, and
 - o Two (2) units to be provided at the upper-moderate income affordability level, defined as 80%-100% of median income,
35. Pursuant to Section 7.4.4.6. of the Zoning Bylaw, the Andover Planning Board permits the applicant to reduce the affordability requirement at the Bridges and Andover Senior

Residences from 15% to 10% as set forth in this decision. In making this determination the Board had examined the testimony provided by the applicant on financial feasibility of the project;

36. In lieu of providing for 15% affordability for the Bridges portion of the project, the applicant has offered to make a contribution of \$75,000 (\$25,000/unit) to the Andover Affordable Housing Trust Fund. It should be noted that the Andover Senior Residences would remain 100% affordable, with only the tiering of the affordable units being amended as provided in this decision. Said contribution to the Affordable Housing Trust Fund shall be made prior to occupancy of the Bridges Building;
37. All units within the Bridges and Andover Senior Residences shall require at least one resident to have attained the age of 55 and no resident shall be under the age of 18. Prior to issuance of the first building permit for a building, the applicant shall record a restriction, approved by Town Counsel, that all units shall require at least one resident to have attained the age of 55 and that no resident of a dwelling unit shall be under the age of 18 and shall be limited to double occupancy per unit for the Andover Senior Residence Building;
38. Prior to any construction related activities commencing on-site, the applicant shall have inspected and cleaned the two existing drainage systems as identified on the approved plan set, Sheet L-301, Utility Plan, as prepared by Stantec Planning & Landscape Architecture, dated 12/06/14. Upon confirmation from the Municipal Service Department in writing that said systems have been cleaned per the approved plan, this condition shall be deemed satisfied;
39. In order ensure proper operation and maintenance of the proposed stormwater system, the project shall be subject to an "Operation & Maintenance Plan", as prepared by Stantec Planning & Landscape Architecture, dated December 5, 2014. Said plan may be amended from time to time and is subject to review and approval by the Municipal Service Department;
40. In the event that any of the facilities are damaged to such an extent that they no longer perform its intended function, and such damage is not repaired or repair commenced within 21 days of written notice to the property owner from the Town, the Town shall have the right to make such repairs and lien the property owner or use any other remedy available under the law to effect the same;
41. Prior to occupancy of the site, the developer shall have established a segregated account in the amount of \$5,000, which shall be controlled and used solely by the Town of Andover for emergency repairs, maintenance or other measures related to the stormwater system;
42. Pursuant to the remand order, the applicant has submitted a revised landscape plan, which has been subject to a peer review by Birchwood Design Group. The developer shall be required to replace, in kind and number any trees that do not survive the two (2) years

following initial planting. Following one year from construction of the last building or two years following initial planting, whichever comes later, this condition shall be considered satisfied;

43. The applicant shall pay to the Town of Andover the amount of \$5,000 made payable to the "Town of Andover", which shall be controlled and used solely by the Town of Andover to hire a landscape contractor for landscaping repairs, replacement or maintenance of trees in case the applicant fails to maintain and replace said trees as specified in condition number 42. Following two years from construction of the last building or three years following initial planting, whichever comes later, this condition shall be considered satisfied and any remaining funds will be returned to the applicant. Prior to occupancy the applicant shall provide an Operation & Maintenance plan to the Planning Division of yearly maintenance for the landscaping;
44. Prior to occupancy of the 2nd building and pursuant to Section 7.4.3.10. of the Zoning Bylaw, the common open space as depicted on Sheet L-601 of the approved plan set, shall be retained in perpetuity by the land owner for conservation and/or passive recreation use, with said land being available for public use. Prior to recordation of the permanent conservation restriction, said restriction shall be reviewed and approved as to form by the Town of Andover.
45. The Board has determined that, if the Bridges is constructed first, it will comply with all of the provisions of the Zoning Bylaw, including open space, affordability and setbacks even if the Andover Senior Residences is not constructed. Since the Bridges alone complies with all applicable zoning requirements, this Special Permit shall remain in full force and effect even if Andover Senior Residences is not constructed. This provision is consistent with the Board's previous decisions approving special permit applications that contemplate multiple buildings to be constructed in the future based upon financing and other economic conditions beyond the applicant's control. Further, a violation of any condition of this Special Permit applicable to a particular Phase shall not affect the validity of the Special Permit for the other Phase;
46. The Board has determined that, if the Andover Senior Residence is constructed first, it will comply with all of the provisions of the Zoning Bylaw, including open space, affordability and setbacks even if the Bridges is not constructed. Since the Andover Senior Residence alone complies with all applicable zoning requirements, this Special Permit shall remain in full force and effect even if Bridges is not constructed. This provision is consistent with the Board's previous decisions approving special permit applications that contemplate multiple buildings to be constructed in the future based upon financing and other economic conditions beyond the applicant's control. Further, a violation of any condition of this Special Permit applicable to a particular Phase shall not affect the validity of the Special Permit for the other Phase;
47. Pursuant to Section 10. Definitions of Andover Zoning Bylaw, a Congregate Living Facility is defined as follows "*Congregate Living Facility: A non-institutional, shared living environment which integrates shelter and service needs of functionally impaired*

and/or socially isolated elderly persons who are otherwise in good health and can maintain a semi-independent life-style and who do not require constant supervision or intensive health care as provided by an institution. Each resident shall have an individual bedroom and may have a separate living room, kitchen, dining area or bathroom and may share living, dining and bathroom facilities with other elderly persons, such as a common dining facility.”

Consistent with the Zoning Bylaw, the Andover Senior Residences will provide a housing environment that allows residents to address their health and wellness needs through service programming.

This service-enriched housing model shall include a resident services coordinator who will be available to connect residents with services they need to live productive and healthy lives. The resident services coordinator will offer case management services, providing connections to area service providers to enhance the well-being of residents. This coordinator may also organize wellness, recreational, and educational programming and facilitate resident participation and leadership activities.

The services to be provided by area providers within the building and offsite will depend on each resident's needs, and may include but are not limited to nutrition counseling, health screening programs and healthy living programs.

The Applicant shall also continue to pursue relationships with a number of existing area service providers such as Elder Services of the Merrimack Valley, Home Health Foundation, Lawrence General Hospital, and Jewish Family and Children's Services, and will ensure that the services provided by these agencies are well integrated into the Andover Senior Residences community.

On a yearly basis, the applicant shall provide a written report of the ongoing services that are being provided to Andover Elderly Services and the Planning Department;

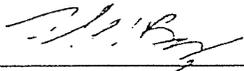
48. Scheduled deliveries for the Bridges and the Andover Senior Residence shall be restricted to Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturday, Sunday and Holidays 9:00 a.m. to 4:00 p.m. The above hours do not apply to FedEx or equal after 6pm weekdays and 4pm on weekends. This condition shall be enforceable by the Inspector of Buildings;
49. Class 8b trucks weighing over 33,001 lbs and/or recreational vehicles, unless for emergency purposes or by permission of the Inspector of Buildings, are not allowed on site after a certificate of occupancy permit is granted;
50. If deemed necessary by the Public Safety Officer the applicant shall be required to coordinate additional signage and/or other traffic control measures along their frontage of Route 133 to enhance public safety. Said signage shall have been installed prior to occupancy;

51. If deemed necessary by the Public Safety Officer the applicant shall install and maintain two speed display signs with recording/survey capabilities, specifically the "All Traffic Solutions SpeedAlert 18" or equal/equivalent. The applicant shall provide for the periodic calibration and maintenance of the radar speed limit signs for a period of ten (10) years following the installation of said radar speed limit signs. After five years, in consultation with the Traffic Safety Officer and Planning Division, the applicant may provide a lump sum payment sufficient for the remaining five years of maintenance and calibration of the equipment;
52. Prior to occupancy of the Bridges at Andover building, the applicant shall have appropriately marked by signage or other acceptable means to the Planning Division the 32 parking spaces along Lowell Street as "Visitor Parking". Said parking shall be limited to visitors and emergency vehicles only, with the easterly access drive being limited to the same;
53. Project parking is not allowed on Lowell Street or side streets. Additional parking if needed, shall be constructed on site and be of a pervious material in consultation with the Planning Division. Following occupancy, spillover event parking is not allowed, on Lowell Street or side streets unless otherwise agree to by abutting property owners;
54. Any damage to any public way during the course of construction shall be at the expense of the applicant;
55. Prior to the start of construction a cash contribution in the amount of \$25,000.00 shall be submitted by the applicant payable to the Town of Andover. This account shall be administered by the Planning Division to study traffic and roadway impacts along the Route 133 Corridor.
56. If deemed necessary by the Public Safety Officer the applicant shall coordinate the installation of a pedestrian crosswalk with the Town of Andover, with a "safe haven"/concrete pad being installed along the northerly side of Lowell Street at the intersection of Windermere and Route 133;

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

On August 13, 2015, at a regularly scheduled public meeting, the Andover Planning Board voted (4-1) to issue the foregoing Special Permit for Elderly Housing.

Date: 8/14/15



Zachary Bergeron, Chair

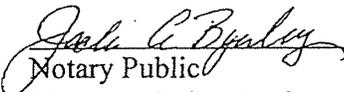
Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 8/14/15

On this 14th day of August, 2015, by Zachary Bergeron, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of his knowledge and belief and who acknowledged to me that she signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,



Notary Public
My commission Expires:

JACKI A. BYERLEY
NOTARY PUBLIC
My commission expires June 11, 2021

Applicant: National Development Acquisitions, LLC
Subdivision Street Name: 254 Lowell Street
Decision on: Special Permit SP14-06

CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that the above referenced decision of the Andover Planning Board was filed in the office of the Town Clerk on August 14, 2015, that a notice of appeal to the Land Court Department of the Trial Court, Docket Number 15 Misc. 000341 filed in the Town Clerk's Office on September 3, 2015 and that an agreement for settlement has been reached between the applicant and plaintiffs. Pursuant to G.L. Ch. 40A, Sec. 11, last paragraph, this permit may be issued "at risk" of the applicant that a court might reverse this permit and any construction performed under this permit might be ordered undone.

November 3, 2016


Lawrence J. Murphy
Town Clerk
Andover, Massachusetts

U:AppCerts:Cert8PB

CERTIFICATE OF ACTION
OF
THE ANDOVER PLANNING BOARD
ON A REQUEST OF

**Bridges at Andover
254 Lowell Street**

FOR A MINOR MODIFICATION
TO SPECIAL PERMIT FOR ELDERLY HOUSING SP14-06

On October 25, 2016, at a regularly scheduled public meeting, the Planning Board determined the request from the Bridges at Andover to be minor in nature and is considered a minor modification subject to the following:

1. The Department of Public Works provides a favorable recommendation as to the modified water service connection and sanitary sewer system to the Planning Department.
2. Revised stormwater calculations shall be submitted to the Planning Department for review and approval by the Department of Public Works, with the applicant agreeing to pay for a supplemental peer drainage review to confirm the revised stormwater design is compliant with the Massachusetts Department of Environmental Protection (MassDEP) Wetland Protection Act, the MassDEP Stormwater Management Handbook dated February 2008, the Town of Andover Stormwater Management and Erosion Control Regulations and the Town of Andover Zoning By-law.
3. Following receipt of written confirmation from the DPW and the peer drainage consultant that Item Nos.1 and 2 have been satisfactorily addressed, the applicant shall provide six (6) sets of plans that shall be considered the final plan set along with a CD of PDF and autocad version of the same.
4. Following receipt of the final plan set, this Certificate shall be recorded at the Essex North Registry of Deeds detailing the Board's minor modification.

The Planning Board's original Conditions of Approval, Condition # 2 updated plan set now consists of:

- a. Locus Plan, dated December 9, 2014;
- b. Topographic Plan, dated April 16, 2014, as prepared by Andover Consultants;
- c. Sheet L-001, Sediment and Erosion Control Plan – Phase 1, dated 7/15/14 last revised 1/24/17;
- d. Sheet L-002, Sediment and Erosion Control Plan – Phase 2, dated 7/15/14 last revised 12/6/14;
- e. Sheet L-101, Layout and Materials Plan, dated 7/15/14 last revised 11/03/16;
- f. Sheet L-201, Grading Plan, dated 7/15/14 last revised 1/24/17;
- g. Sheet L-202, Site Plan – Phase I, dated 7/15/14 dated last revised 11/03/16;
- h. Sheet L-301, Utility Plan, dated 7/15/14 dated last revised 1/24/17;
- i. Sheet L-302, Drain Profiles 1, dated 7/15/14 last revised 11/03/16;
- j. Sheet L-303, Drain Profiles 2, dated 7/15/14 last revised 11/03/16;
- k. Sheet L-304, Drain Profiles 3, dated 7/15/14 last revised 12/06/14;
- l. Sheet L-305, Sewer Profiles, dated 7/15/14 last revised 01/24/17;
- m. Sheet L-401, Planting Plan, dated 7/15/14 last revised 11/03/16;
- n. Sheet L-501, Photometric Plan, dated 7/15/14 last revised 11/03/16;
- o. Sheet L-601, Open Space Plan, dated 7/15/14 last revised 11/03/16;
- p. Sheet L-701, Site Details, dated 7/15/14 last revised 11/03/16;
- q. Sheet L-702, Site Details 2, dated 7/15/14 last revised 11/03/16;
- r. Sheet L-703, Site Details 3, dated 7/15/14 last revised 1/24/17;
- s. Sheet L-704, Site Details 4, dated 7/15/14 last revised 11/03/16;
- t. Sheet L-705, Site Details 5, dated 7/15/14 last revised 11/03/16;
- u. Sheet L-706, Site Details 6, dated 7/15/14 last revised 11/03/16;
- v. Sheet L-707, Site Details 7, dated 7/15/14 last revised 11/03/16;
- w. Sheet L-708, Site Details 8, dated 7/15/14 last revised 1/24/17;
- x. A.01, Preliminary Schematic – Not for Construction, dated 6/23/14, as prepared by JSA Architects, Interiors, Planners;
- y. A.02, Preliminary Schematic – Not for Construction, dated 6/23/14, as prepared by JSA Architects, Interiors, Planners;
- z. A2-1, Building Elevations Wall Section, dated 7/21/15, as prepared by PCA Architecture, Interior, Planning;

The foregoing Item Nos. 1, 2 and 3 have been satisfied.

All other conditions of the Special Permit shall remain in full force and effect.

Date: February 15, 2017

For the Board:


Paul Materazzo

Director of Planning

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

On this 15th day of February, 2017, by Paul Materazzo, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of his knowledge and belief and who acknowledged to me that he signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Kathryn L. Forina

Before me: Kathryn L. Forina, Notary Public

My Commission Expires: May 8, 2020



Applicant: National Development Acquisitions, LLC
Subdivision Street Name: 254 Lowell Street
Decision on: Minor Modification to Special Permit for Elderly Housing SP14-06

CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that the above referenced Certificate of Action was filed in the office of the Town Clerk on February 15, 2017. The original decision of the Andover Planning Board was filed in the office of the Town Clerk on August 14, 2015, that a notice of appeal to the Land Court Department of the Trial Court, Docket Number 15 Misc. 000341 filed in the Town Clerk's Office on September 3, 2015 and that an agreement for settlement has been reached between the applicant and plaintiffs. Pursuant to G.L. Ch. 40A, Sec. 11, last paragraph, this permit may be issued "at risk" of the applicant that a court might reverse this permit and any construction performed under this permit might be ordered undone.

February 22, 2017


Lawrence J. Murphy
Town Clerk
Andover, Massachusetts

U:AppCerts:Cert&aPB

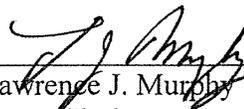
Applicant: National Development Acquisitions, LLC
Subdivision Street Name: 254 Lowell Street
Decision on: Special Permit SP 14-06

CERTIFICATION

I, Lawrence J. Murphy, Town Clerk of the Town of Andover, Massachusetts hereby certify as follows:

1. The above-referenced Special Permit was certified by me on November 3, 2016 and recorded with the Essex North Registry of Deeds (the "Registry") on November 18, 2016 in Book 14880, Page 337;
2. As recited in said certification, at that time, a Notice of Appeal had been filed in the Land Court Department of the Trial Court, Docket Number 000341 (the "Appeal");
3. A further Certificate of Action dated February 15, 2017 related to the Special Permit was recorded with the Registry on March 1, 2017 in Book 15002, Page 61;
4. The Appeal has now been dismissed as evidenced by Stipulations of Dismissal executed by all parties, copies of which were filed in the Town Clerk's Office on March 30, 2017; and
5. This Certification shall be recorded with the Registry and a marginal notation shall be requested on the Special Permit recorded in Book 14880, Page 337.




Lawrence J. Murphy
Town Clerk
Andover, Massachusetts