

Acton Community Housing Corporation
Nancy Tavernier, Chairman
TOWN OF ACTON
P.O. Box 681
Acton, Massachusetts, 01720
Telephone (978) 263-4776
Fax (978) 266-1408

Comments on Site Plan Special Permit, 19 Railroad St. #04-03-397
Rail Road Realty Trust

August 27, 2004

Board of Selectmen
Acton Town Hall
Acton, MA

Dear Board members:

We are sorry to be so late in submitting comments on the above Site Plan Special Permit which was presented at your August 16 meeting with the hearing continued to your Sept. 27 meeting. We were unaware of this application until we watched the broadcast of the hearing.

While we supported the recent zoning changes for multi-housing development in South Acton, we are disappointed that the inclusion of affordable units or financial support for affordable housing activities was not factored into the Special Permit process. Of the 25 affordable units in town that have been under the aegis of the ACHC, 8 of them came as a result of the Planning Board and the ACHC requesting of developers that affordable units be provided, often without any or few waiver trade-offs. This request should have been made of Michael Gurtler, we trust it is not too late.

ACHC formally requests that one unit in the 19 Railroad Street development, whether rental or home ownership, be deed restricted for occupancy by a household earning at a maximum of 80% of the Area Median Income (AMI is currently \$82,600). There is a significant need for affordable housing in Acton as the recent Housing Plan has documented. Even a 2 bedroom unit is in high demand, especially one that is so conveniently located to the commuter rail. This should not be a financial hardship for Mr. Gurtler since the current "affordable rents" for 2 BR units are in the \$1200-1400/month range depending on household size. These are very close to the current market rents due to a softening of the market.

We would propose that a better arrangement would be for the affordable unit to be a home ownership unit with a 99-year deed restriction limiting its sale only to households at 80%AMI. This would then allow the regulation requiring "one unit to be owner occupied" to be met permanently. Two bedroom affordable units are currently selling in the range of \$175,000.

We would be happy to meet with the developer to discuss affordable housing opportunities at 19 Railroad Street. This is an opportunity that should be pressed with the developer.

ACHC trusts that we will be included in the review of future multi-family development proposals that come before the Selectmen.

Thank you.

Sincerely,

Nancy Tavernier, Chair
Acton Community Housing Corporation

Cc Garry Rhodes

Acton Community Housing Corporation
Nancy Tavernier, Chairman
TOWN OF ACTON
P.O. Box 681
Acton, Massachusetts, 01720
Telephone (978) 263-4776
Fax (978) 266-1408

TO: Garry Rhodes
FROM: Nancy Tavernier, Chair ACHC
SUBJECT: 19 Railroad St. affordable unit options
DATE: October 29, 2004
Cc ACHC

*agreed to 1 unit
120 days notice
right of first offer
for 2nd unit*

Members of the ACHC met with the developer of 19 Railroad St, Michael Gurtler, and Garry Rhodes to discuss options for the provision of one or more deed restricted affordable housing units in Gurtler's proposed development. Due to the fact that Mr. Gurtler does not plan to sell the condo units until 1 year following occupancy, for income tax purposes, the complexity of locking in a unit at this time at the current estimated price of \$200,000 presents too great a challenge for all involved.

It was resolved to create a condition in the decision that would require the developer to give the "Right of First Refusal" to the Town via the Acton Community Housing Corporation with a 120 day waiting period to allow the legal intricacies of the agreement to be crafted and the marketing of the unit to income eligible households to be accomplished.

ACHC offers the following suggested wording with the caveat that it is not legally crafted with only parts of it from either existing DHCD documents or previous local decisions on affordable housing developments. The "intent" should be clear even if the words are not legally proper. The Intent is to give the ACHC an opportunity to add at least one deed restricted DHCD –approved unit to be counted toward the Town's 10% unit count.

It is understood by the developer and the ACHC that a public subsidy would most likely be required to fund the gap between the market price and the affordable price, ACHC would intend to use affordable housing funds, including CPA, for this purpose. I would suggest this should not be included in the decision however, given the uncertain nature of those funds' availability. If the ACHC were not able to come up with funding to create a unit, the sale would not go forward and the terms would lapse.

Here is the suggested wording:

Upon issuance of a valid certificate of occupancy and when the Applicant is ready to sell up to two condo units, the Applicant shall offer in writing to make available said property to a qualified low or moderate income first time homebuyer through the Acton Community Housing Corporation, or to any public entity, such as the Acton Housing Authority, for the express purpose of providing one or more deed-restricted affordable housing units.

Notice of such offer shall be addressed to the Acton Community Housing Corporation at Acton Town Hall. The ACHC shall exercise the Right of First Refusal by written notice to the Applicant within 120 days of the Applicant's offer. If such notice shall not be given within such time, and a time extension has not been requested by the ACHC, the Right of First Refusal shall be deemed lapsed and the ACHC shall have no further rights hereunder.

The exercise of such Right of First Refusal is expressly contingent upon the execution of a mutually-acceptable purchase and sale agreement for the property which shall be subject to the approval of the MA Department of Housing and Community Development.

The designated affordable unit shall be offered to qualified low or moderate-income first time homebuyers. Sales price, deed, deed restrictions, and all other documents and procedures shall comply with the DHCD's Local Initiative Program (LIP). If permitted by DHCD, the affordable unit shall be marketed under ACHC's local preference guidelines.

The Applicant shall bear the cost of marketing the designated affordable unit, including the cost of the lottery that may be necessary to select from a pool of qualified homebuyers. Included in those costs, generally 3% of the selling price would be the expense of hiring a consultant to prepare all the necessary documents and applications required for certification of the affordable unit by DHCD. Throughout the process of marketing and selling the designated affordable unit, the Applicant shall consult with and seek guidance from the ACHC, which is the designated facilitator of affordable housing in Acton.

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

Acton Town Hall

472 Main Street

Acton, Massachusetts, 01720

Telephone (978) 263-9611

achc@acton-ma.gov

TO: Roland Bartl
FROM: Nancy Tavernier
SUBJECT: Comments on 19 Railroad St. Condo Conversion
DATE: September 27, 2006

The ACHC reviewed the application submitted by Michael Gurtler for a Condo Conversion at 19 Railroad St. and has the following comments.

It has been standard practice for the Board of Selectmen to seek affordable units whenever apartments are converted to condominiums. This was the case with the recent conversion at Somerset Hills where 4 units will be provided for income eligible households. In past conversion projects, the Acton Housing Authority has been able to acquire 27 scattered-site units for their low income rental program with the help of the Selectmen. This has been a tremendous boost for affordable housing opportunities.

In the case of 19 Railroad St., there is an existing condition in the original Site Plan Special Permit of November 2004 that will require Mr. Gurtler to offer to the Town one unit to be sold to a low or moderate income first time homebuyer at a selling price approved by DHCD's Local Initiative Program. This unit, however, will be contained in the 2 smaller buildings being constructed adjacent to this 9 unit building. These are a 2 unit building and the a 4 unit building. It is one of those 6 units that will be offered to the Town. ACHC would like to remind the applicant of this requirement and also that the ACHC will oversee the lottery, outreach, and marketing that will presumably be done by a lottery consultant at the applicant's expense. This is all clearly spelled out in the original decision. We assume these units are currently under construction. The trigger point for this condition happens when Mr. Gurtler plans to sell one unit of those 6 units and he has received a valid certificate of occupancy.

We would ask the Board to seek an update on the plans for those 6 units so we can factor that into our current activities. We would like to know if Mr. Gurtler is planning to sell or rent those units.

Given the existing agreement for a future unit, ACHC will not seek additional consideration for this proposed Condo Conversion.



Board of Selectmen

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9612
Fax (978) 264-9630
bos@acton-ma.gov
www.acton-ma.gov

DECISION

2006.C19

Railroad Realty Trust
American House Condominium
Condominium Conversion Permit
November 27, 2006

GRANTED

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of Michael Gurtler, Trustee of Railroad Realty Trust (hereinafter the Owner) for a Condominium Conversion Permit under the provisions of Chapter 584 of the Acts of 1987 - "An Act Relative to the Protection of Tenants and Purchasers of Condominium or Cooperative Units in the Town of Acton" (the Act) and the Town of Acton Regulations for Condominium or Cooperative Conversion Permit Applications (the Rules). The subject building is an older building located at 19 Railroad Street on property shown on the 2006 Acton Town Atlas map H-2A as parcel 19 (the Property).

The Board held a public hearing on the matter on October 30, 2006. The Applicant was present at hearing. Board members Walter M. Foster (Chairman), Peter K. Ashton, F. Dore Hunter, Andrew Magee, and Lauren S. Rosenzweig were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1.1 Documentation and items required by the Rules consisting of:

- A properly executed Application for a Permit to Convert a Rental Housing Unit from Rental Housing Use, dated August 23, 2006 and filed on September 6, 2006.
- A letter to the Board, dated 9/6/06 with a list of requested waivers from the Rules.
- The propose condominium master deed.
- Certification by an independent licensed architect (Elton + Hampton Architects) regarding building and health code compliance, dated 8/11/06.
- Application filing fee.

1.2 Additional items submitted by the Applicant:

- Unit floor plans by Elton + Hampton Architects, dated 8/10/06.

- Correspondence from the Applicant, dated 9/13/06, stating that the subject building is vacant and undergoing repair and remodeling.
 - A list of former tenants with dates when they vacated their apartments.
 - Sample copy of notification letter, dated 10/3/06, that the Applicant sent to each former tenant at their last known mailing address; and certified mail receipts for each such letter.
 - Copy of hearing notice as it appeared in the Boston Globe Legal Notices on 10/8/06.
- 1.3 Interdepartmental communication received from:
- Acton Building Commissioner, dated 9/21/06.
 - Acton Fire Chief, dated 10/24/06.
 - Acton Planning Department, dated 8/25/06.
 - Acton Community Housing Corporation, dated 9/27/06.
- 1.4 Correspondence:
- From Roland Bartl, Town Planner, to the Applicant dated 9/11/06 and 9/18/06 regarding certain supplemental filing requirements and special procedures for this application.
- 1.5 Other permits:
- Site Plan Special Permit #04/30/04-398, issued on November 9, 2004.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The subject building is an older building and houses three 1-bedroom and six 2-bedroom dwelling units. The building is currently vacant and undergoing repair and renovations.
- 2.2 The Owner has on the same Property (+/-1 acre) two new buildings near completion with six additional dwelling units. The units in the new buildings are not condominium conversion units. They were approved under Site Plan Special Permit #04/30/04-398.
- 2.3 The Owner proposes that the entire Property with all three buildings becomes the "American House Condominium". According to the Owner, this was not the original intent. Rather, he had intended to split off the new buildings for a condominium on a separate lot while he would retain ownership of the subject rental building. Lack of planning for required zoning setbacks made this impossible. Now, the Owner wishes to create a condominium for the entire Property, whereby he would retain ownership of all former rental units and will continue to offer them on the rental housing market.
- 2.4 In the absence of present tenants, the Owner has provided each most recent former tenant on the Property notice of his intent to convert the subject building to the condominium form of ownership, including information about certain rights afforded under the Act to present tenants, and the time and date of the hearing. The Owner also published a notice to this effect in the Boston Globe.
- 2.5 The Board received no correspondence from any former tenant, and no former tenant appeared at the public hearing.
- 2.6 The Owner has provided to the Board a certification, stamped and signed by an independent registered engineer or architect licensed to practice in the Commonwealth, that he housing accommodations on the Property meet all applicable building and health codes of the Town of Acton and the Commonwealth.

- 2.7 Site Plan Special Permit #04/30/04-398 requires in condition 3.2 that, upon the issuance of a valid certificate of occupancy, the Owner shall offer the Town a 120-day right of first refusal on one of the newly constructed units so that the Town may purchase it as an affordable unit for qualified low or moderate income first time homebuyer in compliance with DHCD's Local Initiative Program (LIP) guidelines.
- 2.8 As presented at the hearing, the proposed conversion of the subject building to condominium ownership will comply with the purpose and intent of the Act and the Rules.
- 2.9 The Applicant has requested certain waivers from the Rules. These are discussed in section '3.1 Waivers' below.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations, the Board voted on November 13, 2006 to GRANT the requested Condominium Conversion permit.

3.1 WAIVERS

The Applicant has requested waivers from sections 2.3, 2.4, 2.4.1 through 2.4.5, and 2.5 of the Rules. The waivers are granted. The subject sections of the Rules pertain to requirements for notification of tenants residing in the apartment units. However, all units were vacant at the time of the application and remain so while the building is undergoing renovations. The Owner has instead undertaken reasonable and acceptable efforts to contact most recent former tenants.

3.2 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. The Town of Acton may elect to enforce compliance with this decision and the Act using any and all powers available to it under the law.

- 3.2.1 Condition 3.2 of Site Plan Special Permit #04/30/04-398 in its entirety is hereby made part of this permit and decision (see Exhibit A attached hereto). It requires that the Owner offers to the Town one unit in one of the new buildings on the Property for purchase and use as an affordable dwelling unit. Therefore:
- a) Prior to recording of the condominium master deed at the Middlesex South District Registry of Deeds or the Land Court, the Owner shall cause it to be revised to include provisions for the affordable unit in one of the new buildings on the Property. Specifically, the master deed shall reserve the Owner (or the "Declarant" in the master deed) the right -
 - to file a single unit deed for the affordable dwelling unit to be sold at a reduced and deed restricted price, reduced percentage interest, and reduced condominium fees; and
 - to make all necessary amendments in the master deed to ensure that the affordable unit complies with Massachusetts Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) regulations and guidelines, and to ensure that the unit counts as part of Acton's Subsidized Housing Inventory.
 - b) Prior to the recording of the first unit deed or the sale of the first condominium unit, the Owner shall offer the Town for purchase and right of first refusal one of the units in the new buildings as required in condition 3.2 of Site Plan Special Permit #04/30/04-398 for a price to be negotiated with the ACHC.

- 3.2.2 Prior to recording of the condominium master deed at the Middlesex South District Registry of Deeds or the Land Court, the Owner shall cause it to be revised to include a provision stating that the row of boulders along the 25-foot setback line from wetlands shall not be moved or removed and that no alterations shall be allowed within the 25-foot wetlands setback area without first having received formal permission of the Acton Conservation Commission.
- 3.2.3 This decision shall be recorded with the Acton Town Clerk; and it shall be recorded with the Middlesex South District Registry of Deeds or the Land Court concurrently with the condominium master deed.

3.3 LIMITATIONS

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

- 3.3.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Act, the Rules, and other applicable laws and regulations.
- 3.3.2 Other approvals or permits required by law and other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.3.3 This condominium conversion permit shall expire after 1 year has elapsed from the date that this decision has been filed with the Town Clerk without recording of the condominium master deed at the Middlesex South District Registry of Deeds or the Land Court. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension and to issue any appropriate changes to this Decision.
- 3.3.4 The Board hereby reserves its right and power to modify or amend this Decision and its terms and conditions with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

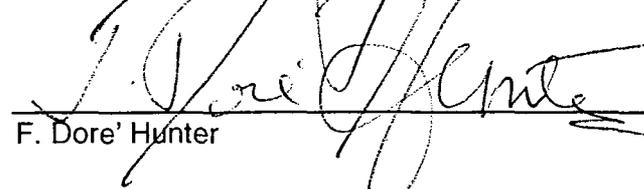
4 APPEALS

Appeals to this Decision, if any, shall be made pursuant to section 6A of the Act within 20 days after the date of filing this Decision with the Town Clerk.

The Town of Acton Board of Selectmen


Walter M. Foster, Chairman

Peter K. Ashton


F. Dore Hunter

Andrew Magee


Lauren S. Rosenzweig

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Taylor, Town Clerk

Date

Copies furnished:

Owner -
certified mail #
Fire Chief
Planning Department

Tenants
Health Director
Acton Water District
ACHC

Building Commissioner
Town Clerk
Assistant Assessor

EXHIBIT A

Condition 3.2 of Site Plan Special Permit #04/30/04-398:

- 3.2 Upon issuance of a valid certificate of occupancy and when the Petitioner is ready to sell one unit, the Petitioner shall offer in writing to the Town, to make available said property to a qualified low or moderate income first time homebuyer. This shall be administered by the Acton Community Housing Corporation, or any other affordable housing entity, such as the Acton Housing Authority, for the express purpose of providing one or more deed-restricted affordable housing units.

Notice of such offer shall be addressed to the Acton Community Housing Corporation at Acton Town Hall. The ACHC shall exercise the Right of First Offer by written notice to the Applicant within 120 days of the Applicant's offer. If such notice shall not be given within such time, and a time extension has not been requested by the ACHC, the Right of First Refusal shall be deemed lapsed and the ACHC shall have no further rights hereunder.

The exercise of such Right of First offer is expressly contingent upon the execution of a mutually-acceptable purchase and sale agreement for the property which shall be subject to the approval of the MA Department of Housing and Community Development.

The designated affordable unit shall be offered to qualified low or moderate-income first time homebuyers. Sales price, deed, deed restrictions, and all other documents and procedures shall comply with the DHCD's Local Initiative Program (LIP). If permitted by DHCD, the affordable unit shall be marketed under ACHC's local preference guidelines.

The Applicant shall bear the cost of marketing the designated affordable unit, including the cost of the lottery that may be necessary to select from a pool of qualified homebuyers. Included in those costs, generally 3% of the selling price, would be the expense of hiring a consultant to prepare all the necessary documents and applications required for certification of the affordable unit by DHCD. Throughout the process of marketing and selling the designated affordable unit, the Applicant shall consult with and seek guidance from the ACHC, which is the designated facilitator of affordable housing in Acton.

19 Railroad St.

AFFORDABILITY ANALYSIS

	2 person 2 bedroom unit	2 person 2 bedroom unit	3 person 2 bedroom unit	2 person bedroom unit	2 person bedroom unit	3 person bedroom unit	3 person bedroom unit
Home Price	\$ 175,000	\$ 175,000	\$ 175,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000
<i>Interest Rate</i>	6.000%	6.000%	6.000%	6.000%	6.000%	6.000%	6.000%
<i>Down Payment (%)</i>	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%
Down Payment (\$)	\$ 8,750.00	\$ 30,000.00	\$ 30,000.00	\$ 10,000.00	\$ 30,000.00	\$ 10,000.00	\$ 30,000.00
Subsidy	0	21,250.00	21,250.00	0	20,000.00		20,000.00
Mortgage Amount	\$ 166,250.00	\$ 145,000.00	\$ 145,000.00	\$ 190,000.00	\$ 170,000.00	\$ 190,000.00	\$ 170,000.00
Monthly Expenses							
<i>Principal & Interest</i>	\$ 996.75	\$ 869.35	\$ 869.35	\$ 1,139.15	\$ 1,019.24	\$ 1,139.15	\$ 1,019.24
<i>Real Estate Taxes</i>	\$ 204.60	\$ 204.60	\$ 204.60	\$ 233.83	\$ 233.83	\$ 233.83	\$ 233.83
<i>Private Mortgage Insurance</i>	\$ 107.37	\$ 93.65	\$ 93.65	\$ 122.71	\$ 109.79	\$ 122.71	\$ 109.79
<i>Sewer Payments</i>	\$ 61.00	\$ 61.00	\$ 61.00	\$ 61.00	\$ 61.00	\$ 61.00	\$ 61.00
<i>Insurance</i>	\$ 35.00	\$ 35.00	\$ 35.00	\$ 35.00	\$ 35.00	\$ 35.00	\$ 35.00
TOTAL Monthly Expenses	\$1,404.73	\$1,263.60	\$1,263.60	\$1,591.69	\$1,458.86	\$1,591.69	\$1,458.86
Minimum Income Required	\$ 56,189	\$ 50,544	\$ 50,544	\$ 63,668	\$ 58,354	\$ 63,668	\$ 58,354
MAXIMUM ALLOWABLE INCOME	\$ 52,950	\$ 52,950	\$ 59,950	\$ 52,950	\$ 52,950	\$ 59,550	\$ 59,550
80% AMI	no	OK	OK	no	no	no	OK

NOTES:

Acton Residential Tax Rate = \$14.03 per thousand

Minimum Income Required based upon 30% Housing Ratio

1 person Max Income = \$46,300

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

Acton Town Hall

472 Main Street

Acton, Massachusetts, 01720

Telephone (978) 263-9611

achc@acton-ma.gov

TO: Michael Gurtler, 19 Railroad St. Village Crossing
FROM: Nancy Tavernier, Chair
SUBJECT: Right of First Offer, condo unit
DATE: December 11, 2006
Cc: Roland Bartl, Garry Rhodes

Members of the ACHC met at a regular meeting on December 7 and discussed the options put forward by you for selecting one of three condo units at your new development. We thank you for taking the time to discuss the various options with us and for taking 4 members on the tour of the development at 19 Railroad St.

As part of the recently approved Site Plan Special Permit, you are required to offer in writing to the Town a unit for a qualified low or moderate income first time homebuyer. You have given ACHC three different units to consider for acquisition.

Unit #1	New Townhouse, middle unit 2 BR 950 sf, 1 car garage	Discounted price:	\$266,000
		Affordable price:	\$162,000
Unit #2	"C" unit in original building 1 BR with den, 645 sf	Discounted price	\$123,000
		Affordable price	\$123,000
Unit #3	Unit in original building addition 2BR, 870 sf	Discounted price	\$175,000
		Affordable price	\$162,000

With the exception of Unit #2, the ACHC would need to use CPA funds to buy down the selling price to make it affordable to households of 2-3. The selling price would be in the range of \$162,000 serving an income of \$52,000-59,000. In each scenario, at your request, the ACHC would be responsible for either doing the lottery itself or funding the lottery consultant for approximately \$5000.

ACHC finds the most desirable unit is the 2BR townhouse but the buy down delta simply does not work for us. It would require over \$100,000 to bring the price in line with DHCD price restrictions and funding the lottery. The first time homebuyer program that is used for these units (DHCD LIP Local Action Units) encourages family housing and gives preference to occupancy by households of four for 2BR units. We would need to request a waiver from that household size since we do not believe the second bedroom could comfortably hold two children. A household size of 2 or 3 would be more practical. However, this does not relieve the buy down expense and may actually increase it.

In regard to units 2 & 3, it was hard to make an informed decision due to the unfinished nature of the units but household size also plays a role in our hesitancy for either of

these. The location of the development is ideal for single professionals or a couple who commutes on the train and this should be the primary market for the units. We found that it is not child friendly due to its proximity to the train tracks, the large parking lot adjacent to the development, and lack of play space. This becomes a problem because families are our target market.

Therefore, because it appears that ACHC's affordable housing needs are not compatible with the housing units offered, we do not intend to pursue the options you have given us at this time. We expect that you will make a written offer to the Town as required, sent to the attention of the ACHC at Town Hall. Once that is received ACHC has 120 days to make a formal decision on the offer. We are prepared to do that without delay.

Thank you for working with us as we struggle to increase Acton's affordable housing stock in the most feasible manner.

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

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achc@acton-ma.gov

TO: Michael Gurtler, Trustee
Railroad Realty Trust

FROM: Nancy Tavernier, Chair

SUBJECT: Right of First Offer of unit to ACHC

DATE: January 4, 2007

Cc: Board of Selectmen, Garry Rhodes, Roland Bartl

ACHC received a written offer from you for a newly constructed mid-unit Townhouse located at 19 Railroad St. for a price of \$266,000. The intention was that ACHC would subsidize the selling price to bring it to an affordable price of approximately \$166,000 and sell it to an income eligible household.

After careful review of the location, the size of the unit, and the need to use in excess of \$100,000 of CPA funds for the subsidy, marketing and lottery expenses, the ACHC respectfully declines the offer of the unit.

On January 4, 2007, ACHC voted unanimously to decline the offer of the unit at 19 Railroad Street.

Thank you for your willingness to consider affordable housing.

Date:

Nancy E. Tavernier, Chair
Acton Community Housing Corporation

December 11, 2006

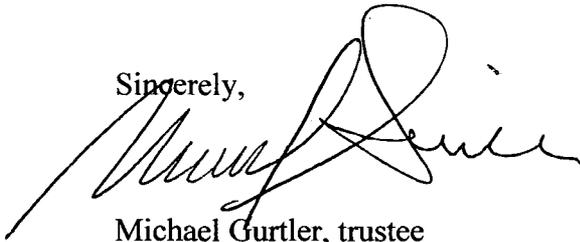
Acton Community Housing Corp
Town of Acton
427 Main Street
Acton, Ma. 01720

Dear Acton Community Housing Corp,

Please accept this as a formal offer to Acton Community Housing Corp for Railroad Realty Trust to sell a mid unit townhouse at 19 railroad street, Acton for the price of \$266,000.

This offer is made in accordance with condition 3.2 of site plan special permit # 14/30/04-398 . A copy of this condition is attached .

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Gurtler", written over the word "Sincerely,".

Michael Gurtler, trustee
Railroad realty trust

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2.0 Plan Modifications

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1 The Plan shall be revised to provide information to support compliance within § 10.6.3.
- 2.2 The Plan shall be revised to include a note that both new buildings shall have an approved residential fire suppression system.

3.0 Conditions

- 3.1 Prior to the issuing of any permit the Petitioner shall provide the total "allowed lighting power" as per Bylaw § 10.6.3. All existing exterior lighting shall be removed prior to any permit being issued. No additional lighting or change in approved exterior lighting shall be allowed without further Site Plan Approval by the Board of Selectmen.
- 3.2 Upon issuance of a valid certificate of occupancy and when the Petitioner is ready to sell one unit, the Petitioner shall offer in writing to the Town, to make available said property to a qualified low or moderate income first time homebuyer. This shall be administered by the Acton Community Housing Corporation, or any other affordable housing entity, such as the Acton Housing Authority, for the express purpose of providing one or more deed-restricted affordable housing units.

Notice of such offer shall be addressed to the Acton Community Housing Corporation at Acton Town Hall. The ACHC shall exercise the Right of First Offer by written notice to the Applicant within 120 days of the Applicant's offer. If such notice shall not be given within such time, and a time extension has not been requested by the ACHC, the Right of First Refusal shall be deemed lapsed and the ACHC shall have no further rights hereunder.

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The Applicant shall bear the cost of marketing the designated affordable unit, including the cost of the lottery that may be necessary to select from a pool of qualified homebuyers. Included in those costs, generally 3% of the selling price, would be the expense of hiring a consultant to prepare all the necessary documents and applications required for certification of the affordable unit by DHCD. Throughout the process of marketing and selling the designated affordable unit, the Applicant shall

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consult with and seek guidance from the ACHC, which is the designated facilitator of affordable housing in Acton.

- 3.3 Prior to occupancy or use of the new building, as-built Plans shall be supplied by the engineer of record and lighting design professional certifying the project was built according to the approved documents. The as-built Plans shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades elevations and exterior lighting equipment installed. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.
- 3.4 The garage doors shall be painted a dark color.
- 3.5 The Petitioner may request a revision of the rear addition. Any request to build the rear addition shall include detailed plans of both the interior and exterior details.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision, all nonconforming signs shall be removed prior to the issuance of the Building Permit.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on November 29, 2006 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

WAIVER OF RIGHT OF FIRST REFUSAL
VILLAGE CROSSING CONDOMINIUMS
ACTON, MASSACHUSETTS

The Acton Community Housing Corporation, holder of a right of first refusal to purchase the first unit of the Village Crossing Condominium as set forth in Special Permit Decision by the Acton Board of Selectmen dated November 29, 2004, recorded with the Middlesex South Registry of Deeds in Book 46460, Page 355, Condominium Conversion Permit Decision by the Acton Board of Selectmen, recorded with Middlesex Registry of Deeds in Book _____, Page _____ hereby releases the Right of First Refusal for the purchase of a Unit of the Village Crossing Condominiums created pursuant to said Master Deed dated _____ and recorded with Middlesex South Registry of Deeds in Book _____, Page _____.

WITNESS the execution hereof under seal this 22 day of December, 2007.

Naomi E. McManus, Clerk
Acton Community Housing Corporation

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX

On this 22 day of December, 2007 before me, the undersigned notary public, personally appeared Naomi E. McManus

_____ (name of document signer), proved to me through satisfactory evidence of identification, which were _____ (source of identification), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for its stated purpose.

Andrine A. Mason
Notary Public
My commission expires: 6/22/2012