



TOWN OF ACTON

P.O. Box 681

Acton, Massachusetts, 01720

Telephone (978) 263-4776

Fax (978) 266-1408

Acton Community Housing Corporation
Nancy Tavernier, Chairman

March 17, 2004

Board of Selectmen
Town of Acton
Acton, MA

Dear Board members:

The Acton Community Housing Corporation (ACHC) has voted enthusiastically to support the Local Initiative Program (LIP) application by Acton residents Paul Gaboury and Glen Kaufmann for an affordable housing development at 68 River St., known as Fort Pond Brook Place.

We were first approached by Paul and Glen in December 2003. They had recently acquired the property at 111-113 School St. which is a unique parcel with significant frontage on both School and River Streets. The School St. section of the parcel has a six unit apartment dwelling and barn while the lower River St. section is vacant. The lot can be legally subdivided, which has been confirmed by the pertinent town departments.

Paul and Glen are new to the affordable housing field and thus bring to it a refreshing willingness to work in a collaborative approach by listening to suggestions and concerns and then acting on them. At our first meeting, ACHC recommended the use of the DHCD LIP approval process and they agreed. We have become disenchanted with the MassHousing Starts program used by Crossroads and Franklin Place. We do not believe the MassHousing program offers the same incentives for working with the community nor the same degree of oversight by the DHCD. The LIP process is known as a "friendly Chapter 40B." It is the program that was used in the acquisition of all 16 affordable housing units in Acton prior to Crossroads and Franklin Place. Endorsing this proposal will send a signal to developers that they may find a more welcoming environment under LIP than MassHousing.

Under LIP, the Board of Selectmen and the ACHC share the initial local approval responsibility and both must sign the application before it can be filed with the DHCD. ACHC has done that. While not required, the developers have met with other town boards prior to the final application, most notably the Historic District Commission to gather input on what would be an appropriate design for the location in the South Acton Historic District. They will continue to meet with other boards once the application is signed and the project is a reality. They are still required to file for a comprehensive permit through the ZBA which will be done just as soon as DHCD grants approval. At that time, all the

town boards will be solicited for official comments and public hearings will be held. In ACHC's opinion, the reward for any developers' willingness to use LIP, could be an expedited process and we are hopeful that sufficient groundwork has been laid to allow that to happen. This is less costly to all involved. Many concessions have already been made by the developers, primarily on the issue of design.

In addition to meeting with town staff and town boards, Paul and Glen have met several times with the two direct abutters to allay their concerns, changing the original placement on the parcel to one that is more appealing to them. I attended one of the meetings in an abutter's home and was very impressed with the warmth and sincerity of the effort. ACHC also sponsored a Public Information Session on February 19 that was open to the public. All abutters were invited as well as members of relevant town boards. The session was not well attended which we consider a sign that there is no organized opposition. Ironically, there were more potential buyers in attendance than others. There is very strong buyer interest for both the market and affordable units. The design and location are very appealing.

Due to the recent revision of the HUD Area Median Income (AMI) statistics for the Boston metropolitan area, the 2004 income limit and the corresponding price of the affordable units has jumped dramatically. ACHC continues to be concerned that the selling price of the affordable units in this development at \$187,000 is effectively pricing a major target group, public employees, out of the market. However, the formulas are fixed and are based on current HUD income guidelines. The affordability analysis has been vetted by ACHC and found to be accurate.

At a future meeting of the BOS, the developer intends to present a request for sewer betterment relief to be applied dollar for dollar to the affordable units' selling price. ACHC supports this effort and will be in attendance to advocate for the Sewer Commissioners' approval. There may be other proposals available to us that would help close the gap between the actual income levels of the local target group and the HUD projections.

In conclusion, the ACHC urges the Selectmen to endorse Fort Pond Brook Place and to authorize the Chairman to sign the application. We believe Paul Gaboury and Glen Kaufmann have "raised the bar" for future affordable housing development in the town with their willingness to collaborate with the local officials. It is especially appropriate for the Selectmen to embrace this approach at a time when the Town is developing an EO 418 Housing Plan which will propose strategies to facilitate affordable housing while honoring the tradition of local approval. If there is a way to accomplish the goal of increased affordable housing without rancor, this collaborative approach is a good nominee.

Thank you for your continued leadership and support for affordable housing.

Sincerely,

Nancy Tavernier, Chair
Acton Community Housing Corporation

March 23, 2004

Local Initiative Program

Application for
Comprehensive Permit
Projects

Fort Pond Brook Place

Acton, Massachusetts

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¹ Includes a memo from the Acton Community Housing Corporation to the Acton Board of Selectmen in support of the project. The 2 pages are not numbered.

Department of Housing & Community Development
Local Initiative Program
Application for Comprehensive Permit Projects

GENERAL INFORMATION

- 1. Community: Acton
- 2. Name of Development: Fort Pond Brook Place
- 3. Site Address: 68 River Street, Acton MA
- 4. Developer: Meridian Construction Company, Inc.
- 5. Municipal Project Contact: Roland Bartl
- 6. Title: Town Planner
- 7. Address: 472 Main Street
- 8. Phone: 978-264-9636 Fax: 978-264-9630
- 10. Email: PB@acton-ma.gov

11. Type of Housing: Fee Simple Condominium Rental Age Restricted

12. Project Characteristics:
 New Construction Rehabilitation Conversion Other

13. Total Acres .7426 Density of Project (units/acre) 11

NOTE on Density: The immediate neighborhood is characterized by small lot sizes. The 4 buildings in Fort Pond Brook Place rest on 32,346 +/- square feet or 8,086 square feet each.

In the immediate neighborhood there are three 2-family homes on 4,000, 7,000 and 10,900 square foot lots respectively. In addition, the immediate abutters have lots that are 7,900 and 10,900 respectively. Further, there are two single family homes on 5,400 square feet each and another on 8,700 square feet.

14. Are there wetlands on the site? Yes No

15. Unit Count:
Total Number of Units 8 Affordable 2 Market 6

16. Unit Prices/Rents:
Market Rate 4 @ \$325,000, 2 @ \$350,000
Affordable \$187,000

Department of Housing & Community Development
Local Initiative Program
Application for Comprehensive Permit Projects

GENERAL INFORMATION

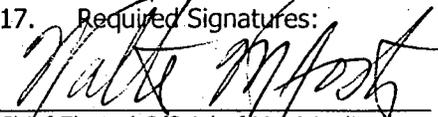
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Affordable \$187,000

17. Required Signatures:


Chief Elected Official of Municipality

ORIGINAL SIGNED

Chairman, Local Housing Partnership

4/5/04
Date
4/6/04
Date

March 23, 2004

Municipal Contact Information ~ Other than Project Contact

1. Chief Elected Official

Name Walter Foster
Address 472 Main Street
Phone 978-264-9611 Fax 978-264-9630
Email BOS@acton-ma.gov or wkfoster@erols.com

2. Town Administrator/Manager

Name Don Johnson
Address 472 Main Street
Phone 978-264-9612 Fax 978-264-9630
Email Manager@acton-ma.gov

3. City/Town Planner (if any)

Name Roland Bartl
Address 472 Main Street
Phone 978-264-9636 Fax 978-264-9630
Email PB@acton-ma.gov

4. Chairman, Zoning Board of Appeals

Name Jonathan Wagner
Address 472 Main Street
Phone 978-264-9632 Fax 978-264-9630
Email BOA@acton-ma.gov

5. Chairman, Local Housing Partnership (if any)

Name Nancy Tavernier
Address 68 Windsor Avenue
Phone 978-263-4776 Fax 978-266-1408
Email ahabetty@attglobal.net

Community Support

1. Letter of Support from Municipality

Attach a letter containing a short narrative on the basics of the project, the history of the project, the ways in which the community is providing support, and how the development team has addressed any concerns the community has. The letter must be signed by the chief elected official of the community.

Section II: Community Support

Fort Pond Brook Place
Acton, MA

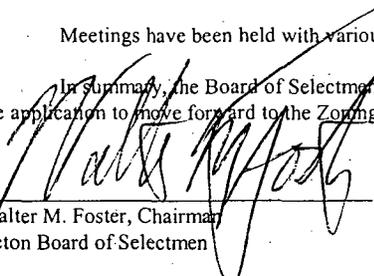
Fort Pond Brook Place would create a community of eight, three bedroom, 2 ½ bath duplex units constructed in a Greek revival style, befitting the South Acton historical district. In accordance to state law, 25% or two units of the eight have been reserved as affordable housing.

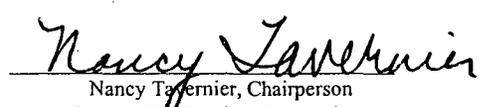
The units will be divided into four, two-unit duplex structures. Each structure will have the appearance of a single home with entrances on the front and rear. Two will be aligned perpendicular to the street with two structures closest to the street and the remaining two parallel to the street offset and in the rear. The length of the frontage on River Street (245 feet) provides enough separation space to make the two street facing structures appear as two lots each with a common driveway and more street frontage than adjacent homes. 57% of the lot is open green space.

The proximity of the property to the South Acton Village District and the commuter rail service (1/2 mile) makes this an excellent location for affordable housing. Further, the concept of this project is consistent with one of the Goals and Objectives of the Acton Master Plan to "promote a wide range of economic diversity in housing including low and moderate income housing."

Meetings have been held with various town departments and boards and the project has been well received.

In summary, the Board of Selectmen supports the concept of this plan and herewith gives its approval for the application to move forward to the Zoning Board of Appeals for further review.


Walter M. Foster, Chairman
Acton Board of Selectmen


Nancy Tavernier, Chairperson
Acton Community Housing Corporation

2. Letter of Support from Local Housing Partnership

If the community has a housing partnership, please attach a letter from them indicating their support for the project. The letter should summarize how the partnership has been working with the developer.

3. Local Contributions

Check off all that apply and provide a brief description at the end.

- Land donation (dollar value _____)
- Building donation (dollar value _____)
- Marketing assistance
- Other work by local staff
- Density increase
- Waiver of permit fees
- Other regulatory or administrative relief (specify)

- Local funds (cash)
Amount \$ _____
- Agreement by a lender to provide favorable end-loan financing
(ownership projects only)
- Other (specify)
Sewer Betterment Fee "Pending approval by the Selectmen"

Briefly explain the contributions:

Requested abatement of sewer betterment fees for the affordable units " Pending approval by the Selectmen"

4. Conformance with Local Plans

If applicable, briefly describe how the project fits with any planning the community has done (e.g. master plan, EO 418 housing strategy or CD Plan, affordable housing plan).

The project is immediately adjacent to the South Acton village designated growth area under the Town of Acton Master Plan and is zoned for mixed use.

Goal #6 of the South Acton Village Plan (Page 19) dated March 1995 and a part of the Town's official Master Plan is "Promote a diversity of housing in South Acton Village and surrounding neighborhoods." Its Action Recommendations (#6) states, "Provide greater zoning incentives for the inclusion of deed-restricted affordable housing units in the village center and in its surrounding neighborhoods."

The Town is in the process of completing its EO418 strategy. As part of the CD (Community Development) plan, the town has held workshops and performed a visual preference survey rating both multi and single family as well as multi use buildings. We have met with the Acton Planning Department to review the results of the survey.

The Site

1. Site Characteristics

Describe the site and note the presence of any development constraints such as wetlands or ledges. If there are any unusual site conditions, explain them here.

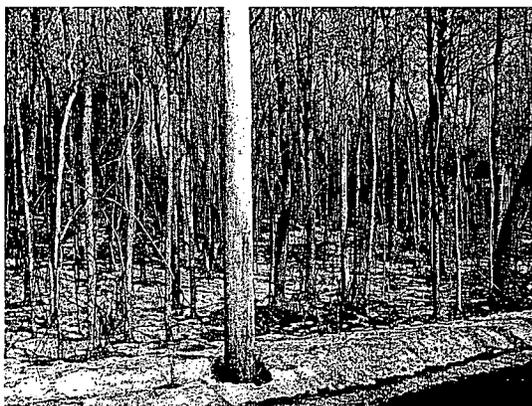
The site is a nearly flat wooded lot with one corner raised approximately 10 feet above the lowest level of the lot. This area is composed of ledge and will be removed as necessary. The 200' river protection resource area extends into the front of the lot by 10 to 12 feet. A 100' local wetlands resource area appears on the right front area of the lot and penetrates the lot approximately 15 feet beyond the river setback. The lot is entirely outside of the state mandated 50 foot wetlands resource area.



View from inside the lot to home across the street



View from River Street



View from River Street

2. Describe the current and prior uses of the site. If there are any existing buildings, explain what will be done with them. The site is an area without any structures that is currently a portion of a larger lot which will be subdivided to create the new LIP lot. There is a foundation on the site that appears to have been in use in the early part of the 1900's.

3. Is the site or any building on the site listed, nominated, or eligible for listing on the National or State Register of Historic Places? Yes No

4. Is the site located in or adjacent to an historic district? Yes No

NOTE: Meetings have been held with the Acton Historical District Commission regarding the exterior design of the project. The major issues raised are the use of vinyl siding and windows that do not have true or near-true divided lites. The use of the preferred materials – cedar and SDK windows - would raise the cost of the project by approximately \$67,000. This cost does not include the incremental labor to install the material nor the additional ongoing maintenance cost, primarily painting. The developer is in the process of applying for a Certificate of Hardship even though this is not a requirement under the state LIP 40B rules.

Please refer to Tab 8, Page 14 for a depiction of the structure to be built which correlated both in design (Greek Revival) and period as the predominant structures in the South Acton Historic District.

5. Acreage

Acreage on site	<u>.7426</u>
Total buildable acreage	<u>.7426</u>

6. Site Control

Developer owns the site. *Attach a copy of the deed. (See Tab 23)*

Developer holds a Purchase and Sale agreement or option on the site. *Attach a copy of the P&S or option.*

7. Value of Land

Attach verification of the value of the land either through the last arms-length transaction if the transaction occurred within the last three (3) years or through a current appraisal by a licensed appraiser showing the value of the land under by-right zoning. **(See Tab 22)**

8. Available Utilities & Infrastructure

- | | |
|--|---|
| <input checked="" type="checkbox"/> Public water | <input checked="" type="checkbox"/> Public sewer |
| <input type="checkbox"/> Private well | <input type="checkbox"/> Private sewer |
| <input checked="" type="checkbox"/> Public streets | <input type="checkbox"/> Septic system |
| <input type="checkbox"/> Private streets | <input type="checkbox"/> On-site package treatment or alternative |

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9. Is the site located near public transit (bus, subway, commuter rail, etc.)? If so, indicate the type, distance to the nearest stop, and frequency of service. Commuter Rail, 1/2 mile, 16 stops per weekday

10. Describe any known or suspected hazardous waste sites on or within a 1/2 mile radius of the project site. None

11. Has a 21E hazardous waste assessment ever been done on this site? If so, attach a summary of the filing.

Yes No

12. Current Zoning

Zoning classification	<u>Residential & Industrial</u>
Usage allowed	<u>Single Family</u>
Units per acre allowed	<u>2</u>

13. Has the municipality denied a permit on another proposal for this site within the last 12 months?

Yes No

14. What waivers will you be requesting under the comprehensive permit?

Variance change from single family to multi-family; Side and road setback requirements, Local wetland resource area rules

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Surrounding Neighborhood & Community

1. Describe the land uses in the surrounding neighborhood. Residential & Industrial
2. What is the prevailing zoning in the surrounding neighborhood? Residential & Industrial
3. Describe nearby amenities and services such as shopping or recreation. 1.6 miles to food, drug and retail stores
4. Is the site close to other affordable housing units? If so, provide the distance. 1.5 miles
5. Explain how developing the site contributes to smart growth development in the area (e.g. mixed use, reuse, concentrated development), if at all. Multi-family construction in a village area within walking distance of the commuter rail

The Project

1.	Type of Project	Total number of units
	Fee simple	<u>0</u>
	Condo	<u>8</u>
	Rental	<u>0</u>
	Other	<u>0</u>

2.	Project Style	Total number of units
	Detached single-family	<u>0</u>
	Rowhouse/townhouse	<u>0</u>
	Duplex	<u>8</u>
	Multifamily house (3+ family)	<u>0</u>
	Apartment building	<u>0</u>
	Other (specify)	<u>0</u>

3. If there will be multiple buildings, will they follow smart growth design (e.g. cluster)? Explain. Yes, Four two-family structures

4.	Unit Mix	Number	Percentage of Total
	Affordable (see Instructions)	<u>2</u>	<u>25%</u>
	Market Rate	<u>6</u>	<u>75%</u>
	Handicapped Accessible	<u>0</u>	<u>0</u>
	Other (see Instructions)	<u>0</u>	<u>0</u>
	Total Units	<u>8</u>	<u>100%</u>

5. Will the project meet Energy Star Standards? If so, describe. We are in discussions with the "South Middlesex Opportunity Council's" Energy & Financial Assistance Programs and Energy Star and are evaluating their programs. We expect to qualify for some level of Energy Star certification and for many of their programs. However this will not be known until final plans are put in place and evaluated and the completed structures are tested by Energy Star.

6. Estimate the percentage of the site used for:

Buildings 16.72%	Parking & Paved Areas 26.06%
<u>Usable Open Space 57.22%</u>	Unusable Open Space None

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7. Development Schedule

Complete the chart below by providing the appropriate month and year. Fill in only as many columns as there are phases. If there will be more than three phases, add columns as needed.

	<u>Phase 1</u>	<u>Phase 2</u>	<u>Phase 3</u>	Total by type
Number of affordable units	<u>1</u>	<u>1</u>	<u> </u>	<u>2</u>
Number of market units	<u>3</u>	<u>3</u>	<u> </u>	<u>6</u>
Total by phase	<u>4</u>	<u>4</u>	<u> </u>	<u>8</u>

Please complete the following chart with the appropriate projected dates:

All permits granted	<u>8/1/04</u>	<u>8/1/04</u>	<u> </u>
Construction start	<u>8/15</u>	<u>8/15</u>	<u> </u>
Marketing start - affordable units	<u>1/1/05</u>	<u>3/1/05</u>	<u> </u>
Marketing start - market units	<u>9/1</u>	<u>9/1</u>	<u> </u>
Construction completed	<u>1/30</u>	<u>4/1/05</u>	<u> </u>
Initial occupancy	<u>2/1/05</u>	<u>4/1/05</u>	<u> </u>

8. If any public funds will be used to develop this project, please indicate the source, the amount, and the use. None

9. Local tax rate per thousand: \$14.05

10. Will all features and amenities available to market buyers also be available to affordable buyers? If not, explain the differences. No: The affordable units may differ in the following areas: flooring materials, kitchen countertops and cabinetry.

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11. Unit Composition ~ Ownership Projects Only*

Complete the chart below. Include a separate entry for each unit type according to its square footage and/or sales price.

Type of Unit	# of Units	# of Bedrooms	# of Baths	Gross Sq. Ft.	# Parking Spaces	Sales Price	Condo Fee	Handicapped Accessible?
Affordable	2	3	2.5	1672 ¹	2	\$187,000		<input type="checkbox"/>
								<input type="checkbox"/>
								<input type="checkbox"/>
								<input type="checkbox"/>
Market	4	3	2.5	1672 ¹	2	\$325,000		
	2	3	2.5	1672 ¹	2	\$350,000		<input type="checkbox"/>
								<input type="checkbox"/>
Other								<input type="checkbox"/>
								<input type="checkbox"/>

¹ This is the "Net Living Space" not the Gross Building Square Footage (see Project Feasibility)

Design and Construction

1. Drawings: Full Scale drawings to be submitted to the State with the application
Cover sheet

- Proposed buildings by design, ownership type, and size
 - *4 structures in the Greek Revival style*
 - *Condominium*
 - *1,672 sq. ft. each*
- Dwelling unit distribution by floor, size, and bedroom/bath number
 - *All units are identical: 3 Bedroom, 2 ½ Baths*
- Square footage breakdown of commercial, residential, community, and other usage in the buildings
 - *100% residential.*
- Number of parking spaces
 - *2 per unit*

Site & Utilities

Full Scale drawings to be submitted to the State
Reduced versions in **Tab 21, Page 44**

- Lot lines, streets, and existing buildings
- Proposed building footprint(s), parking (auto and bicycle), and general dimensions
- Zoning restrictions (i.e. setback requirements, easements, height restrictions, etc).
- Wetlands, contours, ledge, and other environmental constraints
- Identification of affordable units
- None** Sidewalks and recreational paths
- Site improvements, including landscaping
- Existing and proposed locations and types of sewage, water, drainage facilities, etc.

Graphic depiction of the design showing:
Full Scale drawings to be submitted to the State
For reduced versions see specified tabs below

- Typical building plan **See Tab 20, Page 40**
- Typical unit plan for each unit type with square footage tabulation **See Tab19, Page 37**
- Elevation, section, perspective, or photograph **See Tabs 8, Page 14 and 20, Page 40**
- Typical wall section

The neighborhood is in the South Acton Historical District. River Street structures are generally in the Greek Revival style predominant in the mid to late 1800's, which is when many of the structures on River Street were constructed. The two structures immediately adjacent to the lot were built in the early 1860's in this style. Of the two, one retains the distinctive elements of this style.

The structure below was built in a similar time frame and is in the Greek Revival style with columns and an extended pediment. A Town of Acton Visual Preference Survey conducted in October 2003 ranked this structure highest. It is in the Greek Revival style which is a dominant style in the South Acton Historical District.

There will be four nearly identical structures in the Fort Pond Brook Place development – two without the porch and two with, each retaining this appearance but internally divided into two townhouse units. The elements of this structure that will not appear in the Fort Pond Brook Place structures are as follows:

Breakfast nook: This is replaced by one window below the third window on the second floor from the front and an entrance door for access to the rear unit.

The extension behind the main house is excluded.

One side of each of the structures without porches will have a side door in the place of the end windows, one for each unit.



March 23, 2004

2. Construction Information

<u>Foundations</u>	# Mkt Units	# Affordable Units	<u>Attic</u>	# Mkt Units	# Affordable Units
Slab on Grade	<u>0</u>	<u>0</u>	Unfinished	<u>0</u>	<u>0</u>
Crawl Space	<u>0</u>	<u>0</u>	Finished	<u>6</u>	<u>2</u>
Full Basement*	<u>6</u>	<u>2</u>	Other	<u>0</u>	<u>0</u>

<u>Exterior Finish</u>	# Mkt Units	# Affordable Units	<u>Parking</u>	# Mkt Units	# Affordable Units
Wood	<u>0</u>	<u>0</u>	Outdoor	<u>6</u>	<u>2</u>
Vinyl	<u>6</u>	<u>2</u>	Covered	<u>0</u>	<u>0</u>
Brick	<u>0</u>	<u>0</u>	Garage	<u>0</u>	<u>0</u>
Fiber Cement	<u>0</u>	<u>0</u>	Bicycle	<u>0</u>	<u>0</u>
Other	<u>0</u>	<u>0</u>			

Heating System

Fuel: Oil Gas Electric Other

Distribution method (air, water, steam, etc.): Air

Energy Efficient Materials

Describe any energy efficient or sustainable materials used in construction: Only that which is required by code or regulation or, potentially that which will assist achieving Energy Star certification

Non-Residential Space

Describe any non-residential construction on the site, e.g. office space, clubhouse, commercial space, etc. None

Modular Construction

If modular construction will be used, explain here. Not Applicable

* Full basement construction will depend on the geology of the location, which is as yet not known.

March 23, 2004

February 24, 2004

Notes to the Project Feasibility

The following paragraphs are directed to the issue of the performance of certain tasks necessary for the completion of Fort Pond Brook Place and payment for these services. Specifically, we are referring to real estate sales commissions, local initiative program consulting, and the day-to-day construction supervision of the project.

Current & Future Property Ownership

The property is currently owned by 111-113 School Street, LLC. The 111-113 School Street, LLC is managed by Glen Kaufmann. On approval of the project by the Town of Acton Zoning Board of Appeals, the property will be sub-divided. The area to be developed under this local initiative program (LIP) application will be sold to 68 River Street, LLC. This entity is owned jointly by Meridian Construction Company, Inc. and Mosaic Partners, LLC. Meridian Construction Company, Inc. is owned by Glen Kaufmann, and Mosaic Partners, LLC is owned by Paul Gaboury.

Expenses

The project feasibility pro forma includes expenses for real estate sales commissions, LIP program consulting, and day-to-day construction supervision. These three expenses are customary for any real estate development project and will be incurred regardless of what company or person performs them.

The developer's team, specifically Glen Kaufmann (who is a licensed construction supervisor and a licensed real estate broker), the (LIP) consultant (Mosaic Partners, LLC) and the developer (Meridian Construction Company, Inc.) are capable of marketing the property, providing the LIP consulting necessary for successful completion and approval of the project, and performing day-to-day construction management.

Glen Kaufmann will market and sell the units and will charge the project a reasonable and customary real estate commission of 5% of the selling price of the market units.

Paul Gaboury of Mosaic Partners, LLC will perform all consulting services related to the creation of the LIP application, meeting with all Town and State officials and the public. Mosaic Partners, LLC will charge the project a reasonable and customary consultant fee of \$35,000 for these services. Further, he will also perform day-to-day construction management under the supervision of the developer at a cost of \$8,000 per month through project completion.

These expenses detailed above are a required part of any LIP development. Therefore, it is the intent of the developers to charge these expenses directly to the project as shown on the Fort Pond Brook Place LIP Project Feasibility. The undersigned hereby agree to be bound by the fee limitations set forth above.

Dated: _____ 2/26, 2004

111-113 School Street, LLC

By: _____ FOR 111-113 SCHOOL STREET LLC
Its Managing Partner

Mosaic Partners, LLC

Paul Gaboury
Its Managing Partner

The undersigned hereby acknowledge disclosure of the above categories of expenses, and agree that these charge categories by the developer's team are valid expenses for the purpose of project final accounting.

Nancy E. Tavernier
Acton Community Housing Corporation
Date 2/26/04

Acton Zoning Board of Appeals
Date

Project Feasibility ~ Ownership Projects

1. Ownership Pro Forma

	Total Costs	Per Unit	Per Gross Building Sq. Ft. ^[1]	% of Total	Per Net Living Sq. Ft. ^[4]
(a) Site Acquisition	\$ 210,000	\$ 26,250	\$ 14.20	9.6%	\$ 15.70
Hard Costs:					
Site Development ^[2]	\$ 300,000	\$ 37,500	\$ 20.29	13.7%	\$ 22.43
Landscaping	\$ 24,000	\$ 3,000	\$ 1.62	1.1%	\$ 1.79
(b) Total Site Work	\$ 324,000	\$ 40,500	\$ 21.92	14.8%	\$ 24.22
Foundation	\$ 73,537.34	\$ 9,192	\$ 4.97	3.4%	\$ 5.50
House framed	\$ 254,173.45	\$ 31,772	\$ 17.19	11.6%	\$ 19.00
Roof	\$ 32,988.71	\$ 4,124	\$ 2.23	1.5%	\$ 2.47
Door & windows	\$ 71,017.37	\$ 8,877	\$ 4.80	3.2%	\$ 5.31
Exterior siding	\$ 57,042.98	\$ 7,130	\$ 3.86	2.6%	\$ 4.26
Plumbing	\$ 69,757.38	\$ 8,720	\$ 4.72	3.2%	\$ 5.22
HVAC	\$ 75,942.77	\$ 9,493	\$ 5.14	3.5%	\$ 5.68
Electrical	\$ 44,672.22	\$ 5,584	\$ 3.02	2.0%	\$ 3.34
Insulation	\$ 34,248.70	\$ 4,281	\$ 2.32	1.6%	\$ 2.56
Blue board & plaster	\$ 53,606.66	\$ 6,701	\$ 3.63	2.4%	\$ 4.01
Interior trim	\$ 63,113.82	\$ 7,889	\$ 4.27	2.9%	\$ 4.72
Kitchen/bath cabinets, countertops	\$ 72,162.81	\$ 9,020	\$ 4.88	3.3%	\$ 5.39
Flooring	\$ 81,097.25	\$ 10,137	\$ 5.49	3.7%	\$ 6.06
Appliances and central vac	\$ 15,578.00	\$ 1,947	\$ 1.05	0.7%	\$ 1.16
Interior painting	\$ 31,041.46	\$ 3,880	\$ 2.10	1.4%	\$ 2.32
Dumpster & interior cleaning (1.2%)	\$ 13,745.30	\$ 1,718	\$ 0.93	0.6%	\$ 1.03
Porta potty: (0.24%)	\$ 274.91	\$ 34	\$ 0.02	0.0%	\$ 0.02
(c) Total Construction	\$ 1,044,001	\$ 130,500	\$ 70.62	47.6%	\$ 78.05
(d) General Conditions	\$ -	\$ -	\$ -	0.0%	\$ -
(e) Subtotal Hard Costs (a+b+c+d)	\$ 1,578,001	\$ 197,250	\$ 106.74	72.0%	\$ 117.97
(f) Contingency a 5% contingency	\$ 78,900	\$ 9,863	\$ 5.34	3.6%	\$ 5.90
(g) Total Hard Costs (e+f)	\$ 1,656,901	\$ 207,113	\$ 112.07	75.6%	\$ 123.87
Soft Costs:					
Permits (See Supporting Details)	\$ 5,500	\$ 688	\$ 0.37	0.3%	\$ 0.41
Architectural	\$ 6,000	\$ 750	\$ 0.41	0.3%	\$ 0.45
Engineering/Surveys	\$ 8,000	\$ 1,000	\$ 0.54	0.4%	\$ 0.60
Sewer Betterment	\$ 120,000	\$ 15,000	\$ 8.12	5.5%	\$ 8.97
Legal	\$ 12,000	\$ 1,500	\$ 0.81	0.5%	\$ 0.90
Real Estate Taxes	\$ 3,170	\$ 396	\$ 0.21	0.1%	\$ 0.24
Insurance	\$ 60,000	\$ 7,500	\$ 4.06	2.7%	\$ 4.49
Day to Day Construction Manager ^[3]	\$ 88,000	\$ 11,000	\$ 5.95	4.0%	\$ 6.58
Construction Interest @ 6%	\$ 51,000	\$ 6,375	\$ 3.45	2.3%	\$ 3.81
Local Initiative Program Consulting Expense	\$ 35,000	\$ 4,375	\$ 2.37	1.6%	\$ 2.62
Utilities	\$ 8,000	\$ 1,000	\$ 0.54	0.4%	\$ 0.60
Maintenance (unsold units)	\$ 4,000	\$ 500	\$ 0.27	0.2%	\$ 0.30
Accounting	\$ 4,000	\$ 500	\$ 0.27	0.2%	\$ 0.30
Sales Commissions - Market Units @ 5%	\$ 100,000	\$ 12,500	\$ 6.76	4.6%	\$ 7.48
Lottery administration	\$ 5,000	\$ 625	\$ 0.34	0.2%	\$ 0.37
(h) Subtotal Soft Costs	\$ 509,670	\$ 63,709	\$ 34.47	23.3%	\$ 38.10
(i) 5% Contingency	\$ 25,484	\$ 3,185	\$ 1.72	1.2%	\$ 1.91
(j) Total Soft Costs (h+i)	\$ 535,154	\$ 66,894	\$ 36.20	24.4%	\$ 40.01
(k) Total Development Costs (g+j)	\$ 2,192,055	\$ 274,007	\$ 148.27	100.0%	\$ 163.88

2 Profit Analysis (should conform to the pro forma)

Sources:

Affordable projected sales	\$ 374,000	\$ 187,000	each
Market sales	\$ 2,000,000	\$ 325,000	for 4, \$350 for 2 front units
Public grants	None		
(J) Total Sources	\$ 2,374,000		
<u>Uses:</u>			
Construction Contract Amount			
(K) Total Development Costs	\$ 2,192,055		
<u>Profit:</u>			
(L) Total Profit (J-K)	\$ 181,945		
(M) Percentage Profit (L/K)	8.3%		

3 Cost Analysis (should conform to the pro forma)

	Gross Building Sq Ft[1]		Net Living Space Sq Ft [4]
Total Square Footage (N)	14,784		13,376
Residential Construction Cost per Sq. Ft.	\$ 70.62	(C/N)	\$ 78.05
Total Hard Costs per Sq. Ft.	\$ 112.07	(G/N)	\$ 123.87
Total Development Costs per Sq. Ft.	\$ 148.27	(K/N)	\$ 163.88
Sales per Sq. Ft.	\$ 160.58	(J/N)	\$ 177.48

(does not include proceeds from public grants)

[1] Based on 1,848 Gross Building Square Feet per unit (22 x 28 x 3 floors). Excludes cellar.

[2] Includes \$100,000 blasting and removal of ledge.

[3] 11 Months @ \$8,000 per month. Performed by Mosaic Partners, L.L.C. Paul Gaboury, Principal to perform these duties. Paul Gaboury is the co-owner of 68 River Street, LLC.

[4] Net living space is 1,672 * 8 units or 13,376

Fort Pond Brook Place			
Purchase Price Limits			
Housing Cost:			
Sales Price	\$ 194,450	\$ (7,450)	\$ 187,000
5% Down payment	\$ 9,723	Developer Concession Note: This is based on the assumptions in this calculation and may change should these factors change	\$ 9,350
Mortgage	\$ 184,727.50		\$ 177,650.00
Interest rate	5.25%		5.25%
Amortization	\$ 30		\$ 30
Monthly P&I Payments	\$ 1,020.07		\$ 980.99
Tax Rate	\$ 14.03		\$ 14.03
Monthly property tax	\$ 227.34		\$ 218.63
Hazard insurance¹	\$ 19.25		\$ 19.25
PMI	\$ 120.07		\$ 115.47
HOA fees (if applicable)	\$ 101.58		\$ 97.69
Monthly Housing Cost	\$ 1,488.32		\$ 1,432.03
Necessary Income:	\$ 59,533		\$ 57,281
Household Income:			
# of Bedrooms	3	3	
Sample Household size	4	4	
80% AMI	\$ 66,150	\$ 66,150	
Target Housing Cost	\$ 1,654	\$ 1,654	
10% Window	\$ 59,535	\$ 57,281	
Target Housing Cost	\$ 1,488.38	\$ 1,432.03	

¹ Per Gallant Insurance, 2/9/04

RATIONALE FOR THE CALCULATION

Below are the rules and assumptions that generate this figure.

- The Targeted Monthly Housing Cost is equal to 90% of the 80% AMI or \$59,535 divided by 12 and then multiplied by 30%. The result is \$1,488 per month.
- The developer enters a first mortgage interest that reflects current prevailing rate for a 30 year fixed rate mortgage. In this case 5.25%.
 - A soft second mortgage or other subsidized rates are not allowed.
 - The impact of a soft second mortgage cannot be used in the calculation of the affordable unit price per the State of Massachusetts.
- A 5% down payment is mandated for the calculation.
- The developer enters the current tax rate for the town.
- The developer can obtain a cost per month for hazard insurance from an insurance company (in our case Gallant Insurance Company) or use the state calculation that calls for a \$4 per \$1,000 estimate. Our cost is \$19.25 per month, which provides \$30,000 in coverage and is based on a quotation.
- Private Mortgage Insurance is required given the down payment amount. The State mandates \$7.88 per thousand or in this case \$115.47 per month. A soft second loan would eliminate this charge allowing the qualifying income to drop substantially. (See below)
- Condominium Fee. There is no state guidance on calculating this so we have followed the approach of Crossroads. A budget was created. The total annual expenses were allocated to the market and affordable units in proportion to their respective per unit price. In our budget, the average cost per unit per month if applied evenly is \$173.96. Based on the discounted selling price (\$187,000) and the average price for the market units (\$333,000) the average rate (\$173.96) is reduced to 56.2% of the average (\$187,000/\$333,000) or \$97.69.
 - As the unit price for the affordable units declines, the monthly condominium charge increases for the market units. At some point this becomes unrealistic and unfair to the market units and thus should be evaluated based on the pricing used.

The total of the mortgage, real estate taxes, hazard insurance, PMI and condo fee must equal the Target Monthly Housing Cost (TMHC) that was calculated based on 70% of the AMI

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Fort Pond Brook Place
Acton, Massachusetts

Preliminary Building Specifications

Foundation

- 10" x 20" Concrete footings and 10" poured concrete walls
- 4" Poured concrete floor

Roof

- ½" CDX plywood sheathing will be covered by 25 year asphalt shingles
- Metal drip edge above all soffits
- Ice and water barrier extending 3 feet up from all soffits and valleys

Exterior Walls & Finish

- 2" x 4" studs, 16" on center with ½" OSB sheathing and Tyvek or equivalent house wrap
- Vinyl siding
- Vinyl Shutters, Front

Exterior Doors & Windows

- Front door will be 3' six panel steel frame insulated door on all units except the two road facing doors. These will be fir (Ref: Historic Commission)
- All exterior windows will be double hung, vinyl with insulated glass, grills and screens

Landscaping

- Loam and seed disturbed areas not to exceed 25' from the buildings
- Mulch and foundation shrubs

Insulation

- R13 insulation on exterior walls
- R19 insulation on basement ceiling
- R30 insulation on third floor ceiling and knee walls

Interior Walls & Ceilings

- Walls between each townhouse unit will be constructed to adhere to fire delay and sound prevention regulations
- Studs covered by blue board with a smooth "skim coat" plaster
- Closets and ceilings will have a textured finish and will not be painted
- One coat primer and one coat flat latex paint on the walls

Interior Doors & Trim

- 6 panel hollow core masonite doors
- Baseboard trim will be 3 ½ inch colonial casing
- Door and window trim will be 2 ½ inch colonial casing
- One coat primer and one coat semi-gloss

Interior Flooring

- Hardwood (Market Units), tile, vinyl and carpeting

Cabinets & Countertops

- Standard Kitchen and bathroom cabinets
- Post formed laminated countertops

Appliances

- 30" range
- Dishwasher
- Microwave
- Bowl sink with faucet & spray (Kitchen)

HVAC

- Forced hot air by oil
- Central Air Conditioning
- 50 Gallon water heater
- Laundry hook-up in basement

Electrical Service

- 200 AMP service to home with circuit breaker panel in the basement and individual house meter
- Smoke detectors per code

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- Exterior outlets per code
- Wired for telephone and CATV outlets
- Wall switch and outlets

Flooring

- Linoleum in Kitchen, Breakfast area and baths
- Carpeting in the rest of the house

Shelving & Mirrors

- All bathrooms will have a flush mounted mirror the approximate width of the vanity cabinets
- All shelving will be white epoxy coated steel shelving for bedrooms and linen areas

Town Services

- Town Water
- Town Sewer

Note: Builder reserves the right to substitute any of the above building specifications at any time with equal or better quality specifications. Specifications are subject to omissions and errors by the builder and changes requested by buyers.

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The Development Team ~ Contact Information and Experience

1. Developer

Name Glen Kaufmann, Meridian Construction Company, Inc. (Also co-owner of 68 River Street, LLC)

Address 114 Newtown Road, Acton, Massachusetts, 01720

Phone 978-263-0069 Fax 978-263-2012

Email GKMeridian@verizon.net Tax ID #597683045

2. Contractor/Builder

Name Glen Kaufmann, Meridian Construction Company, Inc. (Also co-owner of 68 River Street, LLC)

Address 114 Newtown Road, Acton, Massachusetts, 01720

Phone 978-263-0069 Fax 978-263-2012

Email GKMeridian@verizon.net Tax ID #597683045

3. Architect/Engineer NO LEED certified?

Name Dan Miele, Integrity Building & Design

Address 498 Great Road, Acton MA 01720

Phone 978-264-0657 Fax 978-266-9463

Email _____ Tax ID #04-3178764

4. Attorney

Name Trevor Haydon,

Address 37 Main Street, PO Box 540, Concord, MA 01742

Phone 978-369-8333 Fax 978-369-3106

Email thaydon@danelaw.us Tax ID #04-2655968

5. Marketing Agent *(if more than one, attach a separate sheet)*

Name Mosaic Partners, L.L.C. (Also co-owner of 68 River Street, LLC)

Address 12 Assabet Crossing, Acton, MA 01720

Phone 978-461-0197; Cell: 978-618-1729 Fax None

Email gaboury@fiam.net Tax ID #421596770

6. 40B/LIP Consultant

Name Paul Gaboury, Mosaic Partners, L.L.C. (Also co-owner of 68 River Street, LLC)

Address 12 Assabet Crossing, Acton, MA 01720

Phone 978-461-0197; Cell: 978-618-1729 Fax None

Email gaboury@fiam.net Tax ID #421596770

7. Team Experience -- The Developer and Contractor

Complete the charts on the following pages for all housing projects undertaken by the developer and the contractor during the past three years. Include projects currently in construction. Provide owner references for each project, including a current phone number.

DEVELOPER'S EXPERIENCE

Project Name	Location	Number of Units	Subsidy Program	Type of Construction	Sales or Rental	Total Development Cost	Date of Completion	Reference: Name & Phone
Old Harvard Road	Boxborough, MA	1	No	Wood Frame	Sales	\$82,000 Rehab	2004	Underway
Old Harvard Road	Boxborough, MA	1	No	Wood Frame	Sales	550,000 New Construction	2004	Underway
Newtown Rd.	Acton, MA	1	No	Wood Frame	Sales	525,000 New Construction	2002	
Fort Pond Road	Littleton, MA	1	No	Wood Frame	Sales	457,000 New Construction	2001	
Newtown Rd.	Acton, MA	1	No	Wood Frame	Sales	700,000 New Construction	2000	
Fairview St.	Fitchburg, MA	1	No	Wood Frame	Sales	97,000 Rehab	1999	
Merrill Road	Worcester, MA	3	No	Wood Frame	Sales	47,000 Rehab	1988	Owned by Developer
Connor St.	Fitchburg, MA	1	No	Wood Frame	Sales	64,000 Rehab	1997	
Cedar St.	Fitchburg, MA	1	No	Wood Frame	Sales	47,000 Rehab	1996	
	Leominster, MA	1	No	Wood Frame	Sales	51,000 Rehab	1996	Owned by Developer
Harlow St.	Worcester, MA	3	No	Wood Frame	Sales	77,000 Rehab	1995	Owned by Developer

Marketing and Lottery Plans

1. Marketing Plan

Please provide on a separate sheet a marketing plan in accordance with the LIP Guidelines. The marketing plan should be designed to reach all segments of the eligible population within the HUD region (see Appendix B of the Guidelines), should be specific to the project, and should contain sufficient information on: project size, unit mix, number and type (number of bedrooms) of affordable units, sales price or rent level, selection process for affordable units (e.g., lottery to be held), maximum qualifying income for the affordable units, local preference percentage and criteria (if any), and sales agent information, including telephone number. Describe the proposed time frame for marketing activities.

The marketing plan also needs to include a narrative on outreach to minority populations in the HUD region (Appendix C of Guidelines), including but not limited to: use of newspapers, notice to social service, religious, and/or civic organizations, employers or employer organizations, organizations offering homebuyer education programs, and public meetings.

Fort Pond Brook Place *Acton, Massachusetts*

Marketing Program

Introduction

The marketing program and minority outreach for "Fort Pond Brook Place" in Acton, Massachusetts will be grass roots in nature with a strong focus on the local market. In the immediate market area including the towns of Acton, Boxborough, Littleton, Concord, Stow, Maynard and Sudbury there is an underserved population of working families in need of quality, affordable homes. As home prices in these communities continue to appreciate at a rapid pace and the availability of suitable properties has become more difficult, we are pleased to have the opportunity to build 2 new, quality homes for distribution to income eligible households through the Local Initiative Program (LIP).

The homes will be distributed based on the criteria established by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD). We expect the two townhouse units will be distributed to applicant pools. These will be for those applicants qualified under Acton's Local Preference criteria (which the Town has requested the maximum 70% of the homes). and those to the rest-of-state pool. The final unit mix of these groups is to be established by the DHCD in conjunction with local officials but would most likely be one unit for Local Preference and one unit for the rest of the state applicants.

The objective of the marketing program is to identify a sufficient pool of applicants for the 2 available affordable homes. Based upon the lottery results, all applicants would be assigned their proper rank in the appropriate pool. This will enable us to quickly determine who would have the first opportunity for the purchase of an upcoming home.

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What follows is a list of activities and materials we intend to utilize to assist in our marketing of the two homes, processing of the applicants and our attempts to reach out to the local community's minority population.

Community Outreach

The Acton Community Housing Corporation (ACHC) has been promoting opportunities locally for years and has an established mailing list of potential buyers. We will use this list to communicate the availability of these units. The ACHC also sends information to all Town employees. Contact will also be made with other housing advocates, human service providers and church organizations.

Public Information Meetings

Public information meetings would be held prior to the application deadline to create a proper forum to adequately address the questions and/or concerns of the potential applicants or community organizations. These meeting(s) enable us to better assess the strength of the market, to identify potential applicants and create a notification list of these families. The meeting agenda would consist of a general introduction on the available homes, the LIP program and related deed restrictions, the lottery process as well as a comprehensive discussion of the financial requirements of prospective buyers. A variety of media outlets would be utilized to attract applicants including newspaper advertising and mailings to known interested parties.

Advertising & Materials

A traditional mix of advertising in the local papers will be used to support the outreach activities. A comprehensive information packet will be developed to include specific materials about the homes being offered, an explanation of the program, an affordability analysis as well as a proposed application (attached). This will be mailed to interested applicants

2. **Proposed Lottery Process for Affordable Units**

A lottery process is most often used to achieve fair and open access to the project's affordable units. On a separate sheet, provide a description of the lottery process for this project that includes information on:

- *income eligibility*
- *the application process*
- *where, when, and how to obtain an application*
- *plans for public meetings to be held to explain the lottery process*
- *preference categories including the number of units in each category*
- *who will oversee the lottery process*

Refer to page 18 of the LIP Guidelines to prepare the description.

Fort Pond Brook Place Acton, Massachusetts The Lottery

The pre-screening of applicants will be done internally by a consultant, hired by the developer, approved by the Town (ACHC), to determine the eligibility of the prospective homebuyers on both a program and financial basis.

The criteria applicants will need to meet are:

- Combined household may not exceed \$66,150. This assumes a 4-person household.
- All applicants must be first-time homebuyers. A “first-time” buyer is a household whose members have not owned property as a principal residence for a period of three years prior to completing the application.
- Applicants will be evaluated, pre-qualified and certified for their capacity to secure the necessary funding as well as having the funds required for down payment, closing expenses and reserves. Standard mortgage underwriting practices will be utilized.
- In all cases, family applicants will be given preference over individual applicants for three bedroom units. Households of two or more will be given preference in the process.
- As a component of the application, potential buyers will answer questions enabling us to qualify them as a local preference applicant that will give them preferences in the lottery process. The local preference guidelines have already been established by ACHC.
- The Town of Acton Community Housing Corporation (ACHC) has requested that **70% of the homes** will be distributed to local preference applicants. (as approved by the state Department of Housing and Community Development (DHCD))
- All applicants must meet the LIP guideline that they have total assets of no more than \$50,000.
- Applicants must meet all other applicable guidelines established by ACHC, DHCP and the LIP.

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Lottery Process

Distribution of the homes will be done through a two-part lottery process to determine the ranking of pre-screened and pre-qualified applicants. The lottery will consist of three distinct components.

1. A simultaneous lottery of all local applicants will be held to establish the order for which all local designated homes are to be distributed to Acton residents.
2. A simultaneous lottery for all consisting of all applicants that shall be designated as the rest of state lottery. This lottery pool will also include all the local preference applicants.

Based upon the overall schedule of activities our minimum objective is to identify a ratio of 4 applicants per unit.

Summary

We believe this outreach program will ensure that the Town of Acton and the surrounding communities will be notified of the available opportunities and the smooth and fair processing of all potential applicants.

Fort Pond Brook Place
Acton, Massachusetts
Local Preference Guidelines

Established by the Acton Community Housing Corporation

Approved by Town Counsel Dan Hill 1/9/04 (for Franklin Place approval)

G.3 Selection of Buyers for Affordable Units: The Applicant shall obtain the Monitoring Agent's approval of a Buyer Selection Plan for the sale of the Affordable Units prior to putting the Affordable Units on the market. Buyers shall be selected through a fair lottery process (the "Lottery").

To the maximum extent permitted by law, first preference for the purchase of two of the three Affordable Units shall be given to households that meet one or more of the following "Acton Connection" preference criteria:

- (a) At least one member of the household is currently a legal resident of the Town of Acton. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as an Acton resident with the Acton Town Clerk pursuant to G.L. c. 51, §4 and would be considered a resident under the United States Census Bureau's residency guidelines.¹
- (b) At least one member of the household is either a son or daughter of an Acton resident.
- (c) At least one member of the household is an employee of the Town of Acton, the Acton Public Schools, the Acton-Boxborough Regional School District, or the Acton Water District, and has been an employee for a period of at least six months at the time of the Affordable Unit lottery application deadline.
- (d) At least one member of the household is currently privately or publicly employed within the Town of Acton and has been so employed for a period of at least six months at the time of the Affordable Unit lottery application deadline.

IN ALL CASES APPLICANTS MUST BE A FIRST TIME HOMEBUYER

¹ Usual residence has been defined as the place where the person lives and sleeps most of the time. This place is not necessarily the same as the person's voting residence or legal residence. Also, non-citizens who are living in the United States are included, regardless of their immigration status.

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Fort Pond Brook Place
Acton, Massachusetts
LIP Application

For Office Use Only:

Date Appl. Rcvd: _____

Eligible Pool(s): _____

PERSONAL INFORMATION:

Date: _____

Name: _____

Address: _____ Town: _____ Zip: _____

Home Telephone: _____ Work Telephone: _____ SS#: _____

Email: _____ Have you ever owned a home? _____ If so, when did you sell it?

Do you meet any of the Local Preference Eligibility Criteria established by the Town of Acton Community Housing Corporation? _____ Please check the appropriate category below:

- Employed by the Town of Acton, Acton-Boxborough Regional School District or Acton Water District for past 6 months**
- Current Acton Resident*
- Child of Current Acton Resident*
- Employee Working in Acton for past 6 months**

*All applications will be verified for residency as January 1, 2003

** Applicant must provide proof of 6-month employment

FINANCIAL WORKSHEET: (Include all Household Income)

Borrowers Monthly Base Income (Gross) _____

Other Income _____

Co-Borrowers Monthly Base Income (Gross) _____

Other Income _____

TOTAL MONTHLY INCOME: _____ (A)

Principal & Interest "See Attached Affordability Analysis" _____

Real Estate Taxes _____

Private Mortgage Insurance _____

Association Fee _____

TOTAL PROJECTED MONTHLY HOUSING EXPENSE: _____ (B)

Monthly Installment Loans (Car, Student, Personal, etc.)* _____ (1)

Revolving Credit (Credit Cards) Use 5% of Balances _____ (2)

TOTAL MONTHLY OBLIGATIONS: (B)+(1)+(2) = _____ (C)

RATIOS: (Use Values from above to calculate)

** Monthly Housing Ratio: _____ (B) / (A)

*** Total Obligations Ratio: _____ (C) / (A)

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* You do not need to include any installment loans that have less than 10 payments remaining.

** Should NOT exceed 30% *** Should NOT exceed 38%

(Please complete reverse side)

EMPLOYMENT STATUS: (include for all working household members. Attach separate sheet, if necessary.)

Employer: _____
Street Address: _____
City/State/Zip: _____
Date of Hire (Approximate): _____
Annual Wage - Base: _____
Additional: _____ (Bonus, Commission, Overtime, etc.)

ABOUT YOUR FAMILY:

You are requested to fill out the following section in order to assist us in fulfilling affirmative action requirements. Please be advised that you should fill this out based upon family members that will be living in the town home. Please check the appropriate categories:

	Applicant	Co-Applicant	Dependents (#)
White	_____	_____	_____
Black	_____	_____	_____
Hispanic	_____	_____	_____
Asian American	_____	_____	_____
Native American	_____	_____	_____
Other	_____	_____	_____

The total household size is _____
Household Composition Name _____ Relationship _____ Age _____
(other than applicant) Name _____ Relationship _____ Age _____
Name _____ Relationship _____ Age _____
Name _____ Relationship _____ Age _____

ADDITIONAL INFORMATION:

The MAXIMUM allowable annual income for a household (up to 4 people) for this program has been established at \$64,640. This limit is FIRM and cannot be adjusted. If you have questions regarding your income level due to fluctuations please contact MCO & Associates for advice. Please be advised that the income to be used should include income for all members of the household that are to be residing in the town home.

The down payment must be a minimum of 5% based upon standard underwriting procedures. Some of this may be in the form of a gift depending on the lending institution. Applicants will be responsible for all closing costs associated with the purchase of a town home.

Applicant must provide a letter for Pre-Qualification from a Bank. (needs to be worded better)

Lottery winners must provide a current Certificate of completion for a Mass. Homeownership Collaborative-sponsored First Time Homebuyer before purchase of unit is competed.

SIGNATURES:

The undersign warrants and represents that all statements herein are true. It is understood that the sole use of this application is to establish the preliminary requirements for placement into a lottery to have an opportunity to

March 23, 2004

purchase an affordable town home at Crossroads Condominium in Acton, MA. I (we) understand if selected all information provided shall be verified for accuracy at the time of bank application.

Signature _____ Date: _____
Applicant(s)

Based upon the preliminary information provided it is my judgment that the applicant should be allowed to participate in the lottery for affordable town homes at Fort Pond Brook Place in Acton, MA. If selected all information provided shall be verified for accuracy at the time of bank application.

Signature _____ Date: _____
Certifying Agent

Return with Affidavit & Disclosure Form to:

March 23, 2004

Checklist of Attachments

- Letter of support signed by Chief Elected Official of municipality **TAB 3, Page 4**
- Letter of support from local housing partnership (if applicable) **TAB 3, Page 4**
- Signed letter of interest from a construction lender (see Instructions)* **TAB 17, Page 34**
- Map of community showing location of site (see Instructions)* **TAB 18, Page 35 (Aerial Map, Page 36)**
- Directions to site from I93 or I90 in Boston or from nearest train station if appropriate* **TAB 18, Page 36**
- Check payable to DHCD*
- Rationale for calculation of affordable purchase prices or rents (see Instructions)* **TAB 11, Page 14**
- Copy of site control documentation (deed or P&S or option agreement) **TAB 23, Page 45**
- Last arms length transaction or current appraisal under by-right zoning* **TAB 22, Follows page 44**
- N/A 21E summary (if applicable)
- Photograph of existing building(s) and/or site* **TAB 4, Page 6**
- Site Plan showing location of affordable units* **TAB 21, Page 44**
- Sample floor plans and/or sample elevations* **TABS 19, Page 37, 20, Page 40**
- Marketing plan including plan for outreach to minorities* **TAB 14, Page 25**
- Lottery plan* **TAB 15, Page 27**

Fort Pond Brook Place Financial Analysis Unit Price Calculations

The state allows the developer to calculate a purchase price for the affordable units based on 80% of the Median Income (AMI). For 2004 the AMI is \$82,700. This is termed "Low Income" and for 2004 80% of AMI is \$66,150. Utilizing the State supplied worksheet, the Targeted Monthly Housing Cost is derived from 90% of the Low Income limit or \$59,535. This results in a unit price of \$186,300 (Appendix A). Below are the rules and assumptions that generate this figure.

- The Targeted Monthly Housing Cost is equal to 90% of the 80% AMI or \$59,535 divided by 12 and then multiplied by 30%. The result is \$1,488 per month.
- The developer enters a first mortgage interest that reflects current prevailing rate for a 30 year fixed rate mortgage. In this case 5.75%.
 - A soft second mortgage or other subsidized rates are not allowed.
- A 5% down payment is mandated for the calculation.
- The developer enters the current tax rate for the town.
- The developer can obtain a cost per month for hazard insurance from an insurance company (in our case Gallant Ins.) or use the state calculation that calls for a \$4 per \$1,000 estimate. Our cost is \$19.25 per month which provides \$30,000 in coverage.
- Private Mortgage Insurance is required given the down payment amount. The State mandates \$7.88 per thousand or in this case \$115.00 per month. A soft second loan would eliminate this charge allowing the qualifying income to drop substantially. (See below)
- Condominium Fee. There is no state guidance on calculating this so we have followed the approach of Crossroads. A budget was created. The total annual expenses were allocated to the market and affordable units in proportion to their respective per unit price. In our budget, the average cost per unit per month if applied evenly is \$173.96. Based on the calculated selling price (\$186,300) and the average price for the market units (\$333,000) the average rate (\$173.96) is reduced to 55.9% of the average (\$186,300/\$333,000) or \$97.32.
 - As the unit price for the affordable units declines, the monthly condominium charge increases for the market units. At some point this becomes unrealistic and unfair to the market units and thus should be evaluated based on the pricing used.
- The total of the mortgage, real estate taxes, hazard insurance, PMI and condo fee must equal the Target Monthly Housing Cost (TMHC) that was calculated based on 70% of the AMI

ACHC Goal: 60% AMI (\$49,613)

If was recently brought to the developers attention that the goal of the ACHC is to have families earning as little as 60% of the AMI to be able to purchase the affordable units. As we know, the affordable units are sold well below cost. In any real estate development project, the developer accepts risks to unforeseen events such as increased cost for labor and materials, rising interest rates, unexpected rise in soft costs, etc. These unforeseen increases affect the overall project development costs and profitability. Therefore, the projects viability stems from the fact the developer must charge the maximum allowed by the state for the affordable units. Our project feasibility depends on the net unit price for the affordable units to be no lower than that presented in this plan, or \$171,300 net of the sewer betterment.

In our discussions, we have proposed asking the Board of Selectmen to waive the sewer betterment for the two affordable units. This is an estimated savings of \$15,000 per unit. Since our net revenue per unit is unaffected, we will commit to a dollar for dollar reduction in the unit price allowed for any amount waived.

Without the waiver the TMHC is \$1,488 per month and the income required is 20% more than the ACHC goal. (See Appendix A)

A waiver of the sewer betterment allows the TMHC to decline so that it is only 10.56% over the ACHC goal. (See Appendix B)

Two other ways to further reduce the income requirements is for the applicant to qualify for a soft-second mortgage or to buy down the mortgage interest rate.

Soft-Second Mortgage Program

There are two primary benefits of the program.

1. The interest rate declines one percentage point. In this case, to 4.75%.
2. No Private Mortgage Insurance (PMI) is required

The Town of Acton qualifies for the soft-second mortgage program.

Essentially, the buyer puts as little as 3% down and finances a first mortgage which is 77% loan to value (LTV) to stay below the 80% threshold for the PMI requirement. Through the Massachusetts Housing Partnership, the State guarantees a 20% second mortgage at a rate equivalent to that of the first mortgage rate. In addition, the State will further subsidize the loan with direct contributions for the first 10 years under certain conditions.

Assuming the waiver of the sewer betterment and a buyer qualifying for a soft-second program, their income requirement decline would to \$46,600. This is 6% below the ACHC goal while preserving the per unit sales price for the developer. (See Appendix C)

Buy Down the Interest Rate

The ACHC may be able to secure funds to buy down the interest rate for buyers that don't qualify for the soft-second program. In this case, 3 points (maximum State allowance) which equals \$5,139 (3% of \$171,300) would buy the interest rate down to 5.00% at Cambridge Savings Bank.

The use of this mechanism reduces the annual income required to only 4.42% over the ACHC goal. (See Appendix D)

Appendix A

Purchase Price Calculation at 2004 - 70% AMI Target Monthly Housing Cost

No waiver of Sewer Betterment

Fort Pond Brook Place		Modify this until the Monthly Housing Cost is the same as the Target Housing Cost	Fort Pond Brook Place				
Purchase Price Limits			Proposed Condominium Budget				
Sales Price	\$186,300	Dictated by the state	Plowing	\$ 4,000.00			
5% Down payment	\$9,315		Landscaping	\$ 1,200.00			
Mortgage	\$176,985		Insurance	\$ 6,000.00			
Interest rate	5.750%		Management	\$ 1,500.00			
Amortization	30	Calculated	Miscellaneous Maintenance	\$ 1,500.00			
Monthly P&I Payments	\$1,032.84		Reserves	\$ 2,500.00			
Tax Rate	\$13.55	Entered	Total \$ 16,700.00				
Monthly property tax	\$210		Average price per unit per month	\$ 173.96			
Hazard insurance	\$19.25	Per the Condominium Budget	Adjusted Affordable Unit cost	\$ 97.32	Rate = 55.9%	\$ 2,335.74	Less Affordable Payments
PMI	\$115		Adjusted Market Unit Price	\$ 199.50	= Divide by 6->	\$ 14,364.26	Total market cost to be amortized
Condominium Fee	\$97.32		The Condominium fees for the affordable units will be prorated according to the ratio of the affordable selling price to the market unit selling price as follows				
Monthly Housing Cost	\$1,488		Affordable Unit Price	\$ 186,300.00	Market Unit Price	\$ 333,000.00	Note
Necessary Income:	\$59,535		Ratio	55.9%			
Household Income:							
# of Bedrooms	3						
Sample Household size	4						
80% AMI	\$66,150						
[80%] Target Housing Cost	\$1,654						
10% Window	\$59,535						
Target Monthly Housing Cost	\$1,488						
Targeted Income @ 60% AMI	\$49,613						
Variance from 60% AMI	20.00%						
Net Developer Income per unit	\$171,300						

Note: Average of 4 units at \$325,000 and 2 at \$350,000 or \$333,000

Appendix B

Purchase Price Calculation at 2004 - 70% AMI Target Monthly Housing Cost

Sewer Betterment Waived

Fort Pond Brook Place			Fort Pond Brook Place	
Purchase Price Limits			Proposed Condominium Budget	
Sales Price	\$171,300	\$186,300 - \$15,000	Plowing	\$ 4,000.00
5% Down payment	\$8,565		Landscaping	\$ 1,200.00
Mortgage	\$162,735		Insurance	\$ 6,000.00
Interest rate	5.750%	Unchanged	Management	\$ 1,500.00
Amortization	30	Unchanged	Miscellaneous Maintenance	\$ 1,500.00
Monthly P&I Payments	\$949.68		Reserves	\$ 2,500.00
Tax Rate	\$13.55	Unchanged		
Monthly property tax	\$193		\$ 16,700.00	Total \$ 16,700.00
Hazard insurance	\$19.25	Unchanged	Average price per unit per month	\$ 173.96
PMI	\$106		Adjusted Affordable Unit cost	\$ 89.49
Condominium Fee	\$89.49	Per the Condominium Budget	Rate =	51.4%
Monthly Housing Cost	\$1,371			\$ 2,147.68
Necessary Income:	\$54,847		Adjusted Market Unit Price	\$ 202.12
Household Income:			= Divide by 6 ->	\$ 14,552.32
# of Bedrooms	3			
Sample Household size	4			
80% AMI	\$60,944	= \$54,850 / 90%		
[80%] Target Housing Cost	\$1,524			
10% Window	\$54,850	Modify this until the Target Monthly Housing Cost equals the new Monthly Housing cost above		
Target Monthly Housing Cost	\$1,371			
Targeted Income @ 60% AMI	\$49,613			
Variance from 60% AMI	10.56%			
Net Developer Income per unit	\$171,300			

The Condominium fees for the affordable units will be prorated according to the ratio of the a			
Affordable Unit Price	\$ 171,300.00		
Market Unit Price	\$ 333,000.00	Note	
Ratio	51.4%		

Note: Average of 4 units at \$325,000 and 2 at \$350,000 or \$333,000

Appendix C

Purchase Price Calculation at 2004 - 70% AMI Target Monthly Housing Cost Sewer Betterment Waived

Soft Second

Fort Pond Brook Place		
Sales Price	\$171,300	(\$186,300 less \$15,000)
5% Down payment	\$8,565	
Mortgage	\$162,735	
Interest rate	4.750%	CHANGED
Amortization	30	Unchanged
Monthly P&I Payments	\$848.90	
Tax Rate	\$13.55	Unchanged
Monthly property tax	\$193	
Hazard insurance	\$19.25	Unchanged
PMI	\$0	ELIMINATED
Condominium Fee	\$89.49	Changes with the price (Per Condominium Budget -->)
Monthly Housing Cost	\$1,165	New Housing cost
Necessary Income:	\$46,585	
Household Income:		
# of Bedrooms	3	
Sample Household size	4	
80% AMI	\$51,778	= \$46,600 / 90%
Target Housing Cost	\$1,294	
10% Window	\$46,600	Modify this until the Target Housing Cost is the same as the Monthly Housing Cost
Target Monthly Housing Cost	\$1,165	
Targeted Income @ 60% AMI	\$49,613	
Variance from 60% AMI	-6.07%	

Fort Pond Brook Place Proposed Condominium Budget			
Plowing	\$	4,000.00	
Landscaping	\$	1,200.00	
Insurance	\$	6,000.00	
Management	\$	1,500.00	Performed by tenants themselves
Miscellaneous Maintenance	\$	1,500.00	
Reserves	\$	2,500.00	
	\$	16,700.00	Total \$ 16,700.00
Average price per unit per month	\$	173.96	
Adjusted Affordable Unit cost	\$	89.49	Rate = 51.4% \$ 2,147.68 Less Affordable Payments
Adjusted Market Unit Price	\$	202.12	= Divide by 6-> \$ 14,552.32 Total market cost to be amortized

The Condominium fees for the affordable units will be prorated according to the ratio of the af .

Affordable Unit Price	\$	171,300.00	
Market Unit Price	\$	333,000.00	Note
Ratio		51.4%	

Note: Average of 4 units at \$325,000 and 2 at \$350,000 or \$333,000

Appendix D

Purchase Price Calculation at 2004 - 70% AMI Target Monthly Housing Cost Sewer Betterment Waived

Buy Down Rate 3/4% for 3 points

Fort Pond Brook Place	
Sales Price	\$171,300 (\$186,300 less \$15,000)
5% Down payment	\$8,565
Mortgage	\$162,735
Interest rate	5.000% CHANGED
Amortization	30 Unchanged
Monthly P&I Payments	\$873.60
Tax Rate	\$13.55 Unchanged
Monthly property tax	\$193
Hazard insurance	\$19.25 Unchanged
PMI	\$106
Condominium Fee	\$89.49 Changes with the price (Per Condominium Budget -->)
Monthly Housing Cost	\$1,293 New Housing cost
Necessary Income:	\$51,803
Household Income:	
# of Bedrooms	3
Sample Household size	4
80% AMI	\$57,559 = \$51,803 / 90%
Target Housing Cost	\$1,439
10% Window	\$51,803 Modify this until the Target Housing Cost is the same as the Monthly Housing Cost
Target Monthly Housing Cost	\$1,295
Targeted Income @ 60% AMI	\$49,613
Variance from 60% AMI	4.42%
COST TO BUY DOWN THE RATE	\$5,139.00
Net Developer Income per unit	\$171,300

Fort Pond Brook Place

Proposed Condominium Budget

Plowing	\$ 4,000.00	
Landscaping	\$ 1,200.00	
Insurance	\$ 6,000.00	
Management	\$ 1,500.00	Performed by tenants themselves
Miscellaneous Maintenance	\$ 1,500.00	
Reserves	\$ 2,500.00	
	\$ 16,700.00	Total \$ 16,700.00

Average price per unit per month \$ 173.96

Adjusted Affordable Unit cost \$ 89.49 Rate = 51.4% \$ 2,147.68 Less Affordable Payments

Adjusted Market Unit Price \$ 202.12 = Divide by 6-> \$ 14,552.32 Total market cost to be amortized

The Condominium fees for the affordable units will be prorated according to the ratio of the al

Affordable Unit Price	\$ 171,300.00	
Market Unit Price	\$ 333,000.00	Note
Ratio	51.4%	

Note: Average of 4 units at \$325,000 and 2 at \$350,000 or \$333,000

Purchase Price Calculation at 2004 - 70% AMI Target Monthly Housing Cost

No waiver of Sewer Betterment

Fort Pond Brook Place

Purchase Price Limits

Sales Price	\$186,300
5% Down payment	\$9,315
Mortgage	\$176,985
Interest rate	5.750%
Amortization	30
Monthly P&I Payments	\$1,032.84
Tax Rate	\$13.55
Monthly property tax	\$210
Hazard insurance	\$19.25
PMI	\$115
Condominium Fee	\$97.32
Monthly Housing Cost	\$1,488
Necessary Income:	\$59,535
Household Income:	
# of Bedrooms	3
Sample Household size	4
80% AMI	\$66,150
[80%] Target Housing Cost	\$1,654
10% Window	\$59,535
Target Monthly Housing Cost	\$1,488
Targeted Income @ 60% AMI	\$49,613
Variance from 60% AMI	20.00%
Net Developer Income per unit	\$171,300

Modify this until the Monthly Housing Cost is the same as the Target Housing Cost

Dictated by the state
Calculated
Entered

Per the Condominium Budget

Fort Pond Brook Place

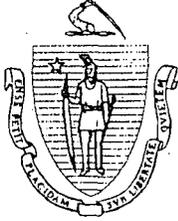
Proposed Condominium Budget

Plowing	\$ 4,000.00		
Landscaping	\$ 1,200.00		
Insurance	\$ 6,000.00		
Management	\$ 1,500.00	Performed by tenants themselves	
Miscellaneous Maintenance	\$ 1,500.00		
Reserves	\$ 2,500.00		
	\$ 16,700.00	Total	\$ 16,700.00
Average price per unit per month	\$ 173.96		
Adjusted Affordable Unit cost	\$ 97.32	Rate = 55.9%	\$ 2,335.74 Less Affordable Payments
Adjusted Market Unit Price	\$ 199.50	= Divide by 6->	\$ 14,364.26 Total market cost to be amortized

The Condominium fees for the affordable units will be prorated according to the ratio of the affordable selling price to the market unit selling price as follows

Affordable Unit Price	\$ 186,300.00	
Market Unit Price	\$ 333,000.00	Note
Ratio	55.9%	

Note: Average of 4 units at \$325,000 and 2 at \$350,000 or \$333,000



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Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

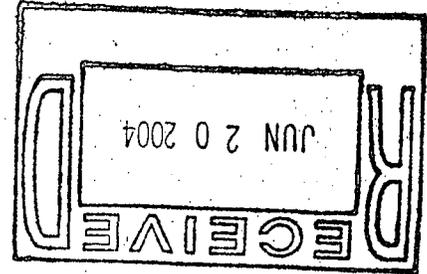
Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

June 18, 2004

Mr. Dore Hunter
Chair, Board of Selectmen
Town Hall - 472 Main Street
Acton, MA 01720

Mr. Paul Gaboury
12 Assabet Crossing
Acton, MA 01720

Mr. Glenn Kaufman
14 Newtown Road
Acton, MA 01720



RE: Fort Pond Brook Place - 68 River Street, Acton, MA - Determination of site eligibility and preliminary approval under Local Initiative Program (LIP)

Dear Mr. Hunter, Mr. Gaboury, and Mr. Kaufman:

I am pleased to inform you that your application for Local Initiative Program (LIP) designation for the proposed Fort Pond Brook Place Local Initiative Program project in Acton, Massachusetts, has been approved, subject to the fulfillment of the conditions listed below. This approval is based on your application that sets forth a plan for eight (8) units of home ownership mixed income housing, of which two (2) will be LIP units. The price proposed is consistent with the standards for affordable housing to be included in a community's Chapter 40B affordable housing stock. The project sponsor, 68 River Street LLC, owns the .7426 of the project's proposed site. As part of the review process, the Department of Housing and Community Development (DHCD) has made the following findings:

1. The proposed project appears generally eligible under the requirements of the Local Initiative Program, subject to final program review and approval.
2. DHCD has performed an on-site inspection of the proposed project site.
3. The proposed housing design is appropriate for the site.
4. The proposed project appears financially feasible in the context of the Acton housing market.
5. The initial pro forma for the project appears financially feasible on the basis of estimated development costs.

6. 68 River Street LLC meets the general eligibility standards of the Local Initiative Program.

The proposed project will be required to comply with all state and local codes not specifically exempted by a comprehensive permit. In applying for a comprehensive permit, the project sponsor should identify all aspects of the proposal that will not comply with local requirements.

The endorsement of the Fort Pond Brook Place project by the Acton Board of Selectmen fulfills the requirement of local action under 760 CMR 45.00.

The specifics of this project must be formalized in a regulatory agreement signed by the municipality, the project sponsor, and the DHCD prior to starting construction. Information concerning both the regulatory agreement and the procedures that must be followed for the sale of individual affordable units will be forwarded to you by DHCD. In preparation for signing of the regulatory agreement, the DHCD legal office will review the comprehensive permit and other project documentation. Additional information may be requested as is deemed necessary. Your cooperation in providing such materials will help the project move toward construction as quickly as possible.

As stated in the application, the Fort Pond Brook Place project will consist of 16 units, four (4) of which will be LIP units eligible for inclusion in the town's subsidized housing inventory. These affordable homes will be marketed and sold to homebuyers whose annual income may not exceed 80% of area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development. The initial purchase prices for the affordable units will not exceed \$173,150. The calculation of the affordable price is enclosed for your reference.

The conditions that must be met prior to final DHCD approval include:

1. Submission to DHCD of the finalized details of the comprehensive permit, a marketing plan and the lottery to be held for the LIP units. An announcement of the lottery shall be mailed to the Metrolist Clearinghouse in Boston City Hall, and the Citizens Housing and Planning Association (CHAPA) website, www.chapa.org/housing_lotteries.htm.
2. Administration of the Lottery: Preference for the two LIP units will be allocated as follows:

Acton Local Preference	1	Open Pool	1
------------------------	---	-----------	---

Town residents and town/school employees are both local preference applicants in the local preference pool. Acton may choose to have the resident pool include parents and/or children of current Acton residents and/or other applicants with ties to Acton. Any local preference definition must be approved by DHCD.

The local preference pool must reflect the minority representation of the Greater Lowell PMSA as defined by HUD. The lottery process must ensure that creating local preference for a percentage of the LIP units will not have a discriminatory impact on potential minority applicants. For details, please refer to "Buyer/Tenant Selection" in the February 2003 "Local Initiative Program Guidelines".

3. DHCD must approve any changes to the application it has just reviewed and approved, including, but not limited to, alterations in unit mix, sales price, development team, unit design, or site plan. As the Fort Pond Brook Place project nears completion of construction, DHCD staff will visit the site to ensure that the development meets program guidelines.
4. The price of the units as presented in the application, \$187,000, is acceptable. However, DHCD requires prior approval of any future price adjustment for the initial sale of either the affordable or market price units.
5. All LIP units in a development phase shall have an executed purchase and sale agreement prior to commencement of construction of subsequent phases. In addition, the construction in a LIP project must proceed such that at least one LIP unit is constructed for every three market-rate units that are constructed.
6. DHCD must approve the terms of the end loan financing for the LIP units. It is the agency's expectation that mortgages for the LIP unit buyers will be 30-year fixed-rate loans at or below current fair market interest rates at the time of closing.
7. Submission of an appraisal of the site reflecting the value of the site under existing "by-right" zoning without a comprehensive permit. An appraisal will need to be completed prior to commencement of construction.
8. Submission of a site plan for the Fort Pond Brook Place with clear identification of the affordable units.
9. Documentation of the final disposition with the Board of Selectmen relative to providing sewer service to the property.
10. Evidence shall be submitted to DHCD that affordable homes in this development are covered by a third-party extended warranty of at least five years in duration recognized as acceptable by a federal agency such as the Federal Housing Administration (FHA).

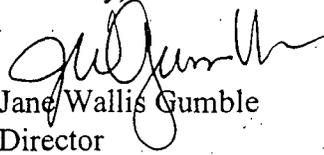
DHCD conducted a site visit with the project sponsors and representatives of the town on May 20, 2004.

The Fort Pond Brook Place project must be organized and operated so as not to violate the state anti-discrimination statute (M.G.L. c151B) or the Federal Fair Housing statute (42 U.S.C.s.3601 et seq.). No restriction on occupancy may be imposed on the affordable units (other than those created by state or local health and safety laws regulating the number of occupants in dwelling units).

This letter shall expire two years from this date, or on June 18, 2006, unless a comprehensive permit has been issued and construction has begun.

We congratulate the town of Acton and the project sponsor on their efforts to work together to increase the town's supply of affordable housing. If you have any questions as you proceed with the project, please call Marilyn Contreas, telephone: (617) 573-1359.

Sincerely,



Jane Wallis Gumble
Director

cc: Nancy Tavernier, Chair, Acton Local Housing Partnership
Ronald Bartl, Acton Town Planner
Jonathan Wagner, Chair, Acton Zoning Board of Appeals
Don Johnson, Acton Town Manager
Policy Office, DHCD
Legal Office, DHCD

Fort Pond Brook Place - Acton, Massachusetts

LOCAL INITIATIVE PROGRAM – COMPREHENSIVE PERMIT PROJECT

Sponsor:
68 River Street LLC (Glenn Kaufman)
114 Newtown Road
Acton, Massachusetts 01720

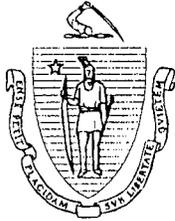
Project Address:
68 River Street
Acton, Massachusetts 01720

68 River Street LLC (Paul Gaboury)
12 Assabet Crossing
Acton, MA 01720

This project will provide ownership opportunities as indicated in the chart below:

Type of Unit	# Units	# Bdrms	# Baths	Gross SF	Sales Price	Homeowner Assoc./Condo Fee
L.I.P. Units	2	3	2.5	1,672 sq. ft.	\$187,000	\$102
Market Units	6	3	2.5	1,672 sq. ft.	\$325,000 - \$350,000	TBD*
Total Units	8					

**Pursuant to MGL, c. 184, the association fee for units must reflect unit value, and thus, the affordable units are subject to a lower association fee than the fee to be charged to market units.



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

MEMORANDUM

TO: Glenn Kaufman
Paul Gaboury
Dore Hunter, Chair, BOS
DHCD Legal Office
DHCD Policy Office

Ronald Bartl, Town Planner
Jonathan Wagner, ZBA Chair
Don Johnson, Town Manager
✓ Nancy Tavernier, Acton Local
Housing Partnership

FROM: Marilyn Contreas, Interim Coordinator - Local Initiative Program

A handwritten signature in cursive script that reads "Marilyn Contreas".

DATE: July 12, 2004

SUBJECT: **LIP SITE ELIGIBILITY LETTER: FORT POND BROOK PLACE**

Attached please find the corrected pages for the above-referenced letter. Corrections appear in bold face type. We regret the delay in providing this to you.

6. 68 River Street LLC meets the general eligibility standards of the Local Initiative Program.

The proposed project will be required to comply with all state and local codes not specifically exempted by a comprehensive permit. In applying for a comprehensive permit, the project sponsor should identify all aspects of the proposal that will not comply with local requirements.

The endorsement of the Fort Pond Brook Place project by the Acton Board of Selectmen fulfills the requirement of local action under 760 CMR 45.00.

The specifics of this project must be formalized in a regulatory agreement signed by the municipality, the project sponsor, and the DHCD prior to starting construction. Information concerning both the regulatory agreement and the procedures that must be followed for the sale of individual affordable units will be forwarded to you by DHCD. In preparation for signing of the regulatory agreement, the DHCD legal office will review the comprehensive permit and other project documentation. Additional information may be requested as is deemed necessary. Your cooperation in providing such materials will help the project move toward construction as quickly as possible.

As stated in the application, the Fort Pond Brook Place project will consist of 8 units, ^{two} ~~four~~ (2) of which will be LIP units eligible for inclusion in the town's subsidized housing inventory. These affordable homes will be marketed and sold to homebuyers whose annual income may not exceed 80% of area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development. The initial purchase prices for the affordable units will not exceed \$187,000.

The conditions that must be met prior to final DHCD approval include:

1. Submission to DHCD of the finalized details of the comprehensive permit, a marketing plan and the lottery to be held for the LIP units. An announcement of the lottery shall be mailed to the MetroList Clearinghouse in Boston City Hall, and the Citizens Housing and Planning Association (CHAPA) website, www.chapa.org/housing_lotteries.htm.
2. Administration of the Lottery: Preference for the two LIP units will be allocated as follows:

Acton Local Preference	1	Open Pool	1
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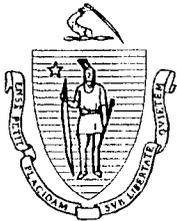
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The local preference pool must reflect the minority representation of the Greater Lowell PMSA as defined by HUD. The lottery process must ensure that creating local preference for a percentage of the LIP units will not have a discriminatory impact on potential minority applicants. For details, please refer to "Buyer/Tenant Selection" in the February 2003 "Local Initiative Program Guidelines".

3. DHCD must approve any changes to the application it has just reviewed and approved, including, but not limited to, alterations in unit mix, sales price, development team, unit design, or site plan. As the Fort Pond Brook Place project nears completion of construction, DHCD staff will visit the site to ensure that the development meets program guidelines.
4. The price of the units as presented in the application, \$187,000, is acceptable. However, DHCD requires prior approval of any future price adjustment for the initial sale of either the affordable or market price units.
5. All LIP units in a development phase shall have an executed purchase and sale agreement prior to commencement of construction of subsequent phases. **The town and developer may agree to a different arrangement, provided that the Local Initiative Units are among the first to be completed in the development**
6. DHCD must approve the terms of the end loan financing for the LIP units. It is the agency's expectation that mortgages for the LIP unit buyers will be 30-year fixed-rate loans at or below current fair market interest rates at the time of closing.
- ~~7. Submission of an appraisal of the site reflecting the value of the site under existing "by-right" zoning without a comprehensive permit. An appraisal will need to be completed prior to commencement of construction. NOTE: provided with application~~
- ~~8. Submission of a site plan for the Fort Pond Brook Place with clear identification of the affordable units. NOTE: provided with application~~
9. Documentation of the final disposition with the Board of Selectmen relative to providing sewer service to the property.
10. Evidence shall be submitted to DHCD that affordable homes in this development are covered by a third-party extended warranty of at least five years in duration recognized as acceptable by a federal agency such as the Federal Housing Administration (FHA).

DHCD conducted a site visit with the project sponsors and representatives of the town on May 20, 2004.

The Fort Pond Brook Place project must be organized and operated so as not to violate the state anti-discrimination statute (M.G.L. c151B) or the Federal Fair Housing statute (42U.S.C.s.3601 et seq.). No restriction on occupancy may be imposed on the affordable units (other than those created by state or local health and safety laws regulating the number of occupants in dwelling units).



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

June 18, 2004

Mr. Dore Hunter
Chair, Board of Selectmen
Town Hall - 472 Main Street
Acton, MA 01720

Mr. Paul Gaboury
12 Assabet Crossing
Acton, MA 01720

Mr. Glenn Kaufman
14 Newtown Road
Acton, MA 01720

RE: Fort Pond Brook Place - 68 River Street, Acton, MA - Determination of site eligibility and preliminary approval under Local Initiative Program (LIP)

Dear Mr. Hunter, Mr. Gaboury, and Mr. Kaufman:

I am pleased to inform you that your application for Local Initiative Program (LIP) designation for the proposed Fort Pond Brook Place Local Initiative Program project in Acton, Massachusetts, has been approved, subject to the fulfillment of the conditions listed below. This approval is based on your application that sets forth a plan for eight (8) units of home ownership mixed income housing, of which two (2) will be LIP units. The price proposed is consistent with the standards for affordable housing to be included in a community's Chapter 40B affordable housing stock. The project sponsor, 68 River Street LLC, owns the .7426 of the project's proposed site. As part of the review process, the Department of Housing and Community Development (DHCD) has made the following findings:

1. The proposed project appears generally eligible under the requirements of the Local Initiative Program, subject to final program review and approval.
2. DHCD has performed an on-site inspection of the proposed project site.
3. The proposed housing design is appropriate for the site.
4. The proposed project appears financially feasible in the context of the Acton housing market.
5. The initial pro forma for the project appears financially feasible on the basis of estimated development costs.

6. 68 River Street LLC meets the general eligibility standards of the Local Initiative Program.

The proposed project will be required to comply with all state and local codes not specifically exempted by a comprehensive permit. In applying for a comprehensive permit, the project sponsor should identify all aspects of the proposal that will not comply with local requirements.

The endorsement of the Fort Pond Brook Place project by the Acton Board of Selectmen fulfills the requirement of local action under 760 CMR 45.00.

The specifics of this project must be formalized in a regulatory agreement signed by the municipality, the project sponsor, and the DHCD prior to starting construction. Information concerning both the regulatory agreement and the procedures that must be followed for the sale of individual affordable units will be forwarded to you by DHCD. In preparation for signing of the regulatory agreement, the DHCD legal office will review the comprehensive permit and other project documentation. Additional information may be requested as is deemed necessary. Your cooperation in providing such materials will help the project move toward construction as quickly as possible.

As stated in the application, the Fort Pond Brook Place project will consist of 16 units, four (4) of which will be LIP units eligible for inclusion in the town's subsidized housing inventory. These affordable homes will be marketed and sold to homebuyers whose annual income may not exceed 80% of area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development. The initial purchase prices for the affordable units will not exceed \$173,150. The calculation of the affordable price is enclosed for your reference.

The conditions that must be met prior to final DHCD approval include:

1. Submission to DHCD of the finalized details of the comprehensive permit, a marketing plan and the lottery to be held for the LIP units. An announcement of the lottery shall be mailed to the Metrolist Clearinghouse in Boston City Hall, and the Citizens Housing and Planning Association (CHAPA) website, www.chapa.org/housing_lotteries.htm.
2. Administration of the Lottery: Preference for the two LIP units will be allocated as follows:

Acton Local Preference	1	Open Pool	1
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Town residents and town/school employees are both local preference applicants in the local preference pool. Acton may choose to have the resident pool include parents and/or children of current Acton residents and/or other applicants with ties to Acton. Any local preference definition must be approved by DHCD.

The local preference pool must reflect the minority representation of the Greater Lowell PMSA as defined by HUD. The lottery process must ensure that creating local preference for a percentage of the LIP units will not have a discriminatory impact on potential minority applicants. For details, please refer to "Buyer/Tenant Selection" in the February 2003 "Local Initiative Program Guidelines".

3. DHCD must approve any changes to the application it has just reviewed and approved, including, but not limited to, alterations in unit mix, sales price, development team, unit design, or site plan. As the Fort Pond Brook Place project nears completion of construction, DHCD staff will visit the site to ensure that the development meets program guidelines.
4. The price of the units as presented in the application, \$187,000, is acceptable. However, DHCD requires prior approval of any future price adjustment for the initial sale of either the affordable or market price units.
5. All LIP units in a development phase shall have an executed purchase and sale agreement prior to commencement of construction of subsequent phases. In addition, the construction in a LIP project must proceed such that at least one LIP unit is constructed for every three market-rate units that are constructed.
6. DHCD must approve the terms of the end loan financing for the LIP units. It is the agency's expectation that mortgages for the LIP unit buyers will be 30-year fixed-rate loans at or below current fair market interest rates at the time of closing.
7. Submission of an appraisal of the site reflecting the value of the site under existing "by-right" zoning without a comprehensive permit. An appraisal will need to be completed prior to commencement of construction.
8. Submission of a site plan for the Fort Pond Brook Place with clear identification of the affordable units.
9. Documentation of the final disposition with the Board of Selectmen relative to providing sewer service to the property.
10. Evidence shall be submitted to DHCD that affordable homes in this development are covered by a third-party extended warranty of at least five years in duration recognized as acceptable by a federal agency such as the Federal Housing Administration (FHA).

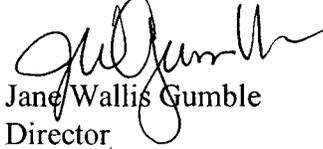
DHCD conducted a site visit with the project sponsors and representatives of the town on May 20, 2004.

The Fort Pond Brook Place project must be organized and operated so as not to violate the state anti-discrimination statute (M.G.L. c151B) or the Federal Fair Housing statute (42 U.S.C.s.3601 et seq.). No restriction on occupancy may be imposed on the affordable units (other than those created by state or local health and safety laws regulating the number of occupants in dwelling units).

This letter shall expire two years from this date, or on June 18, 2006, unless a comprehensive permit has been issued and construction has begun.

We congratulate the town of Acton and the project sponsor on their efforts to work together to increase the town's supply of affordable housing. If you have any questions as you proceed with the project, please call Marilyn Contreas, telephone: (617) 573-1359.

Sincerely,



Jane Wallis Gumble
Director

cc: ✓ Nancy Tavernier, Chair, Acton Local Housing Partnership
Ronald Bartl, Acton Town Planner
Jonathan Wagner, Chair, Acton Zoning Board of Appeals
Don Johnson, Acton Town Manager
Policy Office, DHCD
Legal Office, DHCD

Fort Pond Brook Place - Acton, Massachusetts

LOCAL INITIATIVE PROGRAM – COMPREHENSIVE PERMIT PROJECT

Sponsor:

68 River Street LLC (Glenn Kaufman)
114 Newtown Road
Acton, Massachusetts 01720

Project Address:

68 River Street
Acton, Massachusetts 01720

68 River Street LLC (Paul Gaboury)
12 Assabet Crossing
Acton, MA 01720

This project will provide ownership opportunities as indicated in the chart below:

Type of Unit	# Units	# Bdrms	# Baths	Gross SF	Sales Price	Homeowner Assoc./Condo Fee
L.I.P. Units	2	3	2.5	1,672 sq. ft.	\$187,000	\$102
Market Units	6	3	2.5	1,672 sq. ft.	\$325,000 - \$350,000	TBD*
Total Units	8					

**Pursuant to MGL, c. 184, the association fee for units must reflect unit value, and thus, the affordable units are subject to a lower association fee than the fee to be charged to market units.



TOWN OF ACTON
P.O. Box 681
Acton, Massachusetts, 01720
Telephone (978) 263-4776
Fax (978) 266-1408

Acton Community Housing Corporation
Nancy Tavernier, Chairman

October 1, 2004

Board of Appeals
Town of Acton
Acton, MA

Dear Board members:

The Acton Community Housing Corporation (ACHC) has voted enthusiastically to support the Comprehensive Permit Application by Acton residents Paul Gaboury and Glen Kaufmann for an affordable housing development at 68 River St., known as Fort Pond Brook Place.

We were first approached by Paul and Glen in December 2003. They had recently acquired the property at 111-113 School St. which is a unique parcel with significant frontage on both School and River Streets. The School St. section of the parcel has a six unit apartment dwelling and barn while the lower River St. section is vacant. The lot can be legally subdivided, which has been confirmed by the pertinent town departments.

Paul and Glen are new to the affordable housing field and thus bring to it a refreshing willingness to work in a collaborative approach by listening to suggestions and concerns and then acting on them. At our first meeting, ACHC recommended the use of the DHCD LIP approval process and they agreed. We had become disenchanted with the MassHousing Starts program used by Crossroads and Franklin Place. We do not believe the MassHousing program offers the same incentives for working with the community nor the same degree of oversight as the DHCD. The LIP process is known as a "friendly Chapter 40B." It is the program that was used in the acquisition of all 16 affordable housing units in Acton prior to Crossroads and Franklin Place. Endorsing this proposal will send a signal to developers that they may find a more welcoming environment under LIP than MassHousing.

Under LIP, the Board of Selectmen and the ACHC shared the initial local approval responsibility and both signed the application before it was filed with the DHCD. While not required, the developers met with other town boards prior to the final application, most notably the Historic District Commission to gather input on what would be an appropriate design for the location in the South Acton Historic District.

In addition to meeting with town staff and town boards, Paul and Glen met several times with the two direct abutters to allay their concerns, changing the original placement of the

buildings on the parcel to one that is more appealing to them. I attended one of the meetings in an abutter's home and was very impressed with the warmth and sincerity of the effort. ACHC also sponsored a Public Information Session on February 19 that was open to the public. All abutters were invited as well as members of relevant town boards. The session was not well attended which we consider a sign that there is no organized opposition. Ironically, there were more potential buyers in attendance than others. There is very strong buyer interest for both the market and affordable units. The design and location are very appealing.

Due to the 2004 revision of the HUD Area Median Income (AMI) statistics for the Boston metropolitan area, the income limit, and the corresponding price of the affordable units has jumped dramatically. ACHC continues to be concerned that the selling price of the affordable units in this development at \$187,000 is effectively pricing a major target group, public employees, out of the market. However, the formulas are fixed and are based on current HUD income guidelines. The affordability analysis has been vetted by ACHC and found to be accurate.

To help mitigate the selling price of the affordable units, the ACHC has voted to use \$15,000 of CPA funds to be deposited into the Sewer Enterprise Fund as payment toward the upfront sewer capital payments for these two units. The result of this action is to lower the selling prices of the two affordable units, dollar-for-dollar, to \$179,500. **We would request the ZBA include this as a condition in the decision.**

In conclusion, the ACHC urges the Board of Appeals to approve the Comprehensive Permit for Fort Pond Brook. We believe Paul Gaboury and Glen Kaufmann have "raised the bar" for future affordable housing development in the town with their willingness to collaborate with the local officials. If there is a way to accomplish the goal of increased affordable housing without rancor, this collaborative approach is a good nominee.

Sincerely,

Nancy Tavernier, Chair
Acton Community Housing Corporation

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

October 14, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place

CC: Acton Community Housing Corporation
Board of Health
Planning Department and Board

We have reviewed a number of the reports by Town departments, boards and committees on our application for a comprehensive permit. In order to expedite the Board's review we have prepared comments and offer a response to each in advance of our meeting on October 21st, 2004.

Acton Community Housing Corporation: (ACHC)

- ACHC has requested that the ZBA include a condition that a contribution toward the sewer betterment fee be deducted from the affordable unit purchase price specified in the LIP application.
 - **Response:** We agree to deduct any contribution toward the betterment fee from the affordable unit purchase price as specified in our LIP application (\$187,000). In our early discussions with ACHC in the first quarter this year, we committed to this approach.

Acton Board of Health

- “The applicants must **petition the Sewer Commissioners** ... for a determination of what reasonable fees should be assigned”
 - We have submitted this petition and are scheduled to present it to the Sewer Commissioners at their meeting on October 18th, 2004.
- “**Legal documents** must be provided to show” that 105 School Street and 111 & 113 School Street “will have the legal right to discharge, maintain and repair the sewer connection lines”
 - This easement will be recorded after the BOA's decision on our comprehensive permit application. This will be done so that all easements can be created and recorded at the same time.
- **Solid waste handling**
 - Receptacles for solid waste will be surrounded by fencing with a lockable gate and shrubs.

Planning Department

General: In Items, 4, 5, 6, 7, 8, 9, 11 and 12 the paragraph references indicate “1.B”. The actual paragraph numbers are the digits following “1.B.”

Item 1. Development Schedule: We accept the recommendation.

Item 2. Sidewalk: The owners of the School Street property (111-113 School Street, LLC) will not agree to allow a passageway from Fort Pond Brook Place Condominiums to Summer Street for a variety of reasons.

Residents of the neighborhood currently walk along the street or take Chadwick Street (only a few hundred feet away) to access the School Street sidewalks.

A common alternative to this has been a contribution to a sidewalk fund. The development is an affordable unit project that is already contributing in excess of approximately \$292,000 in housing price concessions toward the two affordable units. In addition, we have reduced the allowable selling price calculated according to DHCD rules by \$7,450 per unit. Our efforts to make the units energy star certified (See Item 3 below) will increase costs to us in order to decrease future costs to the buyers of these units. We believe additional concessions or assessments are not warranted in this case.

Item 3. Energy Star: Our building plans have been submitted to the Conservation Services Group, Energy Star Homes program for evaluation and recommendations on HVAC systems and other energy saving areas. Barring a significant net cost impact, our plan is to obtain Energy Star certification of the affordable units.

The primary reason for doing so is that if the buyer’ income is at or below 60% of adjusted median income for the region AND the unit is Energy Star certified, the buyer will receive direct subsidies from the South Middlesex Opportunity Council - Energy and Financial Assistance Program (SMOC). This includes the purchase of Energy Star rated refrigerators and dishwashers, high efficiency furnaces and other Energy Star rated items

Market unit buyers will be offered Energy Star certification as an upgrade option.

Item 4 – Language correction Agreed.

Item 5 – Language correction We will consult with the Building Commissioner.

Item 6 – Language correction Agreed. A revised Master Deed will be drafted on receipt of all master deed related items.

Item 7 – Terminology – Yes, the “Board of Governors” are the same as the “Condominium Trustees”

Item 8 – Cable Television & Clothes lines to decrease owners cost. Televisions may use “rabbit ear” antennas for very nearly the same reception as exterior mounted antennas to avoid cable charges. Our energy star efforts will save vastly more energy costs than either the purchase or operating cost of a clothes dryer and SMOC may be willing to fund purchase of a unit. Furthermore, the unit owners already receive a 46% subsidy on their condominium fees by the market rate unit owners. Allowing clothes lines will impact the development and only serve to identify affordable families – if they even use them. As a practical matter, it is indeed a rare event to see clothes lines in use today.

We have reviewed the Master Deed and have found no other restrictions that may adversely impact the cost to the affordable unit owner. In fact, many of them are specified to minimize the costs to the community.

Item 9 - Language correction Agreed. A revised Master Deed will be drafted on receipt of all master deed related items.

Item 10 – Public way & town provided snow removal petitions – Agreed. A revised Master Deed will be drafted on receipt of all master deed related items.

Item 11 - Language addition Agreed. A revised Master Deed will be drafted on receipt of all master deed related items.

Item 12 - Language correction – Legal Counsel has indicated that this modification is not required as the restrictions with respect to the affordable units are contained in the Regulatory Agreement [dictated by DHCD] to be recorded with the Master Deed as well as the Deed Rider [also dictated by DHCD] to be recorded with the unit deed.

Item 13 - Language correction Agreed. A revised Master Deed will be drafted on receipt of all master deed related items.

Item 14 - Language correction Agreed. A revised Master Deed will be drafted on receipt of all master deed related items.

Item 15 – Zoning identification on the DHCB 40B/LIP – Change is noted and will be forwarded to DHCD.

Item 16 - Parking; Agreed

Item 17

1. **Showing the ledge on the site plan –** The Natural Features and Existing Conditions site plan contains the words “Area of Exposed Ledge” in the upper right corner of the plan.
2. As to delineation of “**proper instructions for blasting**” be “added to the Erosion and Sedimentation Control and Construction Detail Sheet 1” :
 - Requirements for blasting permits are dictated by the Massachusetts Fire Prevention Regulations 527 CMR 13.
 - Blasting companies pull their own permits and are required to adhere to that law. Permits will not be issued unless all requirements of this law are satisfied and accepted by the Acton Fire Department.
 - Instructions, based on this law, are issued to blasting companies by the Acton Fire Department. A copy of this is attached.
 - One element of these requirements is to identify all homes within 250 feet of the site for notification and indemnification. The Assessors have provided that certified list.
 - By definition, blasting cannot occur without a permit. Therefore, we suggest that modifying the site plans [which will increase costs] is unnecessary.

Item 18 – Porch depth increase from 5 to 6 feet – Virtually every house on River Street was constructed in the 1860’s in the Greek revival style. The design of the structure, as

depicted and described on Page 14 of our LIP application is of a structure of this period. We included the porch as an architectural element in keeping with the period. A survey of antique homes in South & West Acton shows that nearly all have approximately five foot porches. Many have benches or rocking chairs or narrow tables up against the wall.

Examples of these can be found at the following addresses:

- 204 & 214 Central Street.
- 24, 30, 38, 48, 56 Windsor Ave.
- 60, 64, 70 School Street
- 2 family home on the corner of Chadwick & School Street
- 101, 103 River Street

Our design calls for a patio in the rear of the units, where there is more than adequate room for tables and chairs. In short, porches are architectural elements that embellish the look of the structure. The depth is consistent with period houses (particularly 48 Windsor Ave., which is nearly identical to the Fort Pond Brook structure).

It is for these reasons [and the added cost for this extension] that we do not believe this change is appropriate or necessary.

OTHER Additions to our Comprehensive Permit Application:

3.14.4.1 – We have received a final response from the Massachusetts Historical Commission (MHC) Please insert attached letter under tab 3.14.1 to 7 Site Plans

- Per Brona Simon, State Archaeologist, Deputy State Historic Preservation Officer of the MHC “After a review of MHC files and the information submitted, I have determined that the proposed project will have **“no adverse effect”** (950 CMR 71.07(2)(b)(2)) on the South Acton Village Historic District”

Regarding the Regulatory Agreement and Deed Rider: The Department of Housing and Community Development has dictated the content of these documents. Any and all modifications to the documents must be reviewed and approved by DHCD regardless of the source of the change. We have accepted the contents of these standard DHCD documents without modification. Some elements of this agreement worthy of note are:

1. Paragraph 5 – Profit limitation to 20% of total development costs.
2. Paragraph 6 – Excess profit handling
3. Paragraph 16 (a) – Term of the agreement – perpetual but with conditions

Sincerely,

Paul Gaboury
978-618-1729

Glen Kaufmann
978-621-7701

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

October 19, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place

CC: Acton Housing Authority
Engineering Department

We have reviewed comments by the Acton Housing Authority and the Town's Engineering Department on our application for a comprehensive permit. In order to expedite the Board's review we have prepared comments and offer a response to each in advance of our meeting on October 21st, 2004.

Waiver request withdrawn:

3.14.10.1 "Architectural Floor and Elevations Plan Sheet". Counsel has advised that despite the DHCD's acceptance of an alternative to a registered architect's stamp (namely a professional engineer), all plans must be stamped by a registered architect according to State Law. Therefore, our floor plans and elevations will be signed and stamped by an architect.

Revised "Preliminary Building Specifications" (Ref: Pages 20, 21 of our LIP Application)

Please refer to the specification sheet below. Changes are noted.

Acton Housing Authority (AHA)

- AHA requests the right of first refusal/Option to purchase a market unit.
 - Response: We agree to do this. The price of the unit will be the greater of the last market unit sold, an offer for the unit from a third party or the price indicated in our submission to DHCD.

Engineering Department

- Items 1 – 4 – Agreed
- Item 5 – Unit Numbers: Agreed. Note: The unit numbers appear on the Site Development Plan.
- Items 6 – 8 – Agreed
- Item 9: Sign – There will be no sign identifying the condominium

- Item 10: Screening around the Trash areas: Agreed: Our Landscape Plan indicates shrubs around the trash areas. Also, in our response to the Health Dept. comments of 10/14, we indicated that the trash receptacles will be enclosed by a cedar fence with a lockable gate.
- Items 11 – 22 will be submitted to our engineer for evaluation.
- Item 23 – Walkway to School Street – Please refer to our response to the Planning Department’s similar comment appearing on our memo of 10/14 (their comment 2).
- Item 24 – Potential drainage easement to 111 – 113 School Street: Understood. We will consult Counsel and take appropriate action.
- Items 25 - Agreed
- Item 27 – Foundation depth: The site Plan is accurate at 4 feet. The architectural cross section is incorrect. It will be revised accordingly when all comments/changes are in.

ACTON HISTORIC DISTRICT COMMISSION

**Acton Town Hall
472 Main Street
Acton, MA 01720**

October 20, 2004

Acton Board of Appeals
Town Hall
472 Main Street
Acton, MA 01720

To the Board:

The Historic District Commission has reviewed the revised plan that is before you for the development of a new parcel at 68 River Street, South Acton under a Comprehensive Permit in accordance with the provisions of M.G.L. c. 40B Sect. 20-23. This parcel is within the South Acton Local Historic District. We have the following comments to offer:

Although it appears that the Mass. Historical Commission staff has made a finding of "no adverse effect" on the South Acton Ch. 40 C Local Historic District, they did not contact the Acton HDC to discuss the project, nor, according to MHC staff member Ryan Maciej, did they visit the property or the neighborhood.

The Historic District Commission met with the applicants in December, 2003 and January, 2004 while their plans were being developed, and at that time discussed with them in what ways the project would or would not be compatible with the surrounding South Acton Historic District. We appreciate their attempt to base at least the overall massing, scale and a few details of the buildings on some of the historic structures in the Acton area. We also understand the severe cost restrictions inherent in this type of proposal. At that time, however, we noted that in the crowded and formal siting, the preponderance of vinyl and other synthetic materials, and in the arrangement and design of many of the architectural features and details, the four proposed buildings would be incompatible with the district and nearby historic properties.

Site plan. We note that the siting of the buildings as shown on the present site plan has been revised since the plans we saw last winter. While in January the HDC suggested that the orientation of the buildings should not be all in the same direction, the current nearly symmetrical arrangement has a rigidity which is just as formal as the previous one, even to the extent of conveying a rather institutional feeling that is quite out of keeping with the South Acton neighborhood. That rigid quality is enhanced, rather than relieved, by the very formal landscaping plan. The trash bins will not be effectively screened by the three andromeda bushes shown around them. A less obtrusive location should be found for them.

Architectural plans and elevations. While the current site-plan packet includes elevation drawings for the two front buildings, we have seen no elevations for the two rear buildings since we looked at preliminary plans last January. The site plan makes it clear that their exterior appearance will not be exactly the same as the two front buildings. *We strongly recommend that elevation drawings of the two rear buildings be submitted before the project is approved.*

The end- and side elevations submitted for the two front structures appear to belong to two different types of buildings. The gable-end "front" and "rear" views show wide cornerboards and rakeboards and large 2-over-2-sash double-hung windows. By contrast, the "left" and "right" elevations have small 6-over-6's and casement windows set into wide expanses of wall surface. The resulting lack of character on those walls is especially unfortunate since it appears from the site plan that the "left" wall is the one that will be facing toward the center of the property. Although no drawings of trim details are included, it appears that the windows on those two long sides will lack the trim details (such as the molded window caps of the 2/2s) on the end elevations, and that any wall trim at their eaves or corners will be either much narrower than that on the ends, or non-existent. And while the gable-end cornice returns on the front and rear elevations are appropriate to the stated design objectives, they are not shown on the very oversized dormers, which seem to come from a totally different type of building. Discrepancies like these beg for the hand of a professional architect who might, for instance, specify 2/2's throughout the building and coordinate the proportions of windows and trim—beneficial changes that should not have a detrimental effect on the project cost.

The applicants have requested a waiver from the Acton 40B Rules and Regulations specifying a registered architect. For all the above reasons, the need for a professional architect on this project is obvious. *We strongly recommend against granting this waiver.*

Landscape plan. The applicants have also requested a waiver from the requirement that a landscape plan be done by a registered professional landscape architect. Again, it is glaringly obvious that one has not been used, and the planting plan submitted makes it clear why this requirement is a sound one. The planting plan is unnecessarily formal, unimaginative, and in its use of non-native plant material is totally out of keeping with the character of the South Acton district. To provide just one example, we don't understand the reasons for what eventually will become a barrier of tall spruces along the street. Is this meant to hide the property? Block out the light? Block noise from vehicles on a minor road like River Street? If the buildings must be sited the way they are shown, then at least some relief to the symmetry might be provided by making the landscaping less formal, and by providing more indigenous and traditional New England plantings, especially more deciduous trees and shrubs. Would it not be advisable to plant a shade tree or two in the interior of the property, between the buildings? *We strongly recommend against granting this waiver.*

We believe that these suggestions will greatly enhance the quality of the design of this project at a cost that should not be contrary to the goals of the LIP application.

Sincerely,

Anne Forbes,
Historic District Commission
cc: Paul Gaboury
Garry Rhodes, Acton Building Commissioner

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

October 21, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place

CC: Acton Historic District Commission

We received a copy of a memo from the Acton Historic District Commission today regarding our project. We have reviewed their comments and offer the following replies.

Mass Historical Commission did not visit the site:

Response: This is true. We filed a Project Notification Form with the Mass. Historical Commission because this was required of the Franklin Place project and because the property is in the historic district. It was logical to assume one would be required. The official that responded is the State's Archaeologist. We can only infer that their primary interest and the purpose of the Project Notification process is to assess a site for archaeological importance.

Vinyl and other synthetic materials

Response: In our discussions this is restricted to front doors, siding and windows. The AHDC preferred wooden door, cedar and true divided lite windows. The incremental cost of this was in excess of \$60,000 for the project. We did commit to putting wooden doors on the street facing units and will do so unless the Energy Star certification prevents that. Except for the vinyl siding and insulated steel doors there are no other synthetic materials used on the exterior.

Structures were based on "a few details on the buildings on some of the historic structures in Acton"

Response: In fact the elevations were entirely based on the historical structure we provided to the AHDC at our meeting in January. The structure received the highest rating in the October 2003 visual preference survey. Only a few modifications were made to achieve the goals of the units – primarily the use of gables and positioning of a side door.

Site Plans revised

Response: The site plan was revised after our January 20th presentation and after discussions with the ACHC and the direct abutters. All expressed the same concerns with the original layout. We believe, when we returned to the AHDC in February, the current layout was displayed. Nevertheless, both the ACHC and the direct abutters approve of the current layout.

Trash bins screened by andromeda

Response: This is incorrect. The trash bins are surrounded by cedar fencing (as per our earlier response to the Health Dept. comments) and by arborvitae not andromeda. Arborvitae is a very effective screening shrub. Short of having separate bins per building or unit, the current central location is the most convenient to all residents. Nevertheless, we would be happy to move them and invite input on that.

Architectural Plans & Elevations:

Rear structure elevations were not submitted.

Response: This is true. They are complete and are available. We did not include them because; except for the porches and the placement of the doors and gables the elevations submitted are identical to the one submitted. Our plan was to submit all elevations and floor plans for each structure at the time a building permit is applied for.

As to the closeness of the elevation designs, if one removes the porch from the left front building (building 3) and rotates it 90° it would be identical to the building (#4) behind it except that the side door would move to the opposite side. The same is true for buildings 2 & 1. The gables were placed to face the grassy area. The sliders faced private (per structure) back yards.

Two front structures are not identical

Response: True. The only difference is the placement of the doors and gables. Window pediments are reserved for the street facing elevations (Porch end) and are excluded from the other sides of the structures.

Gables: The gables were added to the structure to permit a 3rd floor bedroom and bath. An example of these gables can be found on the home at #5 Chapman. Because two units are encased in the structures, two gables (vs. one at 5 Chapman) are necessary.

Overall Response: The historic design is focused on the street facing elevation. Spruce trees will eventually effectively screen the right and left sides and rear structures. Spruce Trees were selected in consultation with the direct abutters.

Professional Architect:

Response: As indicated in our memo to the BOA dated October 19th, we have engaged a registered architect to review our plans. He has not recommended any exterior changes.

Landscape Plan waiver: “it is glaringly obvious” ... a professional landscape architect has not been used.

Response: The plan submitted was based to a very great degree on the Franklin Place and Harris Village landscape plans. If one were to compare the three, one would find the components were very similar. Kennedy’s Landscaping prepared the initial layout. After review with the direct abutters, some changes were made. It is for these reasons that the expense of a professional architect is unnecessary.

We have not toured the historic district to identify indigenous species the AHDC would prefer. However, we are happy to favorably consider any substitutions the AHDC would recommend and invite them to do so.

Tall Spruce along River Street: The direct abutters, particularly the resident facing the property on the other side of River Street, requested these plantings.

Shade Trees: The landscaping plan shows a maple tree behind Building 2 & 3.



TOWN OF ACTON
P.O. Box 681
Acton, Massachusetts, 01720
Telephone (978) 263-4776
Fax (978) 266-1408

Acton Community Housing Corporation
Nancy Tavernier, Chairman

October 27, 2004

Board of Appeals
Town of Acton
Acton, MA

Re: Fort Pond Brook Place application for a Comprehensive Permit

Dear Board Members,

As you instructed, we have met with Paul Gaboury and Glen Kaufmann to discuss our earlier comments to you (dated October 1st, 2004). Paul and Glen have agreed to our request to reduce the selling prices of the affordable units dollar-for-dollar by the payment of any portion of the sewer betterment fees from other funding sources. In this case, it will come from the CPA Community Housing Fund. We expect to provide a total of \$15,000 from the Fund to help buy down the two affordable units by \$7,500 each. The direct payment to the Sewer Enterprise Fund of \$7,500 each will be applied toward the total sewer betterment for the affordable units thereby lowering the cost to the developers by that amount. This payment would allow Paul and Glen to reduce the selling price of the affordable units from \$187,000 to \$179,500.

Sincerely,

Nancy Tavernier
Chairman
Acton Community Housing Corporation



ACTON HOUSING AUTHORITY

68 Windsor Avenue

P.O. Box 681

Acton, MA 01720-0681

(978) 263-5339 fax (978) 266-1408

TDD# 1-800-545-1833 ext. 120

November 12, 2004

TO: Board of Appeals
From: Acton Housing Authority
RE: Fort Pond Brook Place
Date: November 10, 2004

Dear Board Members:

The Acton Housing Authority (AHA) has been contacted by the developers of Fort Pond Brook, Paul Gaboury and Glen Kaufmann and they have agreed to offer one (1) condo unit for purchase to the Acton Housing Authority.

In structuring formal language i.e. Right of First Refusal or Option to Purchase, I contacted the State's Department of Housing & Community Development (DHCD) and they have recommended that the Town's agreement with the developers state they will offer one (1) unit at \$325,000, the price stated in their Comprehensive Permit Application to the Board of Appeals and in their Local Initiative Program's application to the Department of Housing and Community Development. The AHA will be exempt from paying any real estate commission.

Should you have any questions regarding this communication I will be at the Board of Appeal's Public Hearing for Fort Pond Brook Place on November 18, 2004.

Sincerely,

Naomi E. McManus
Executive Director



EQUAL HOUSING OPPORTUNITY

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

November 12, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place
Memo from the Acton Housing Authority to the Board of Appeals dated November 12th, 2004

CC: Acton Housing Authority

At our initial meeting with the Board on October 21st, the Acton Housing Authority (AHA) requested the right of first refusal or option to purchase a market priced unit. In our memo of October 19, 2004 we indicated we agreed with this, saying:

- *AHA requests the right of first refusal/Option to purchase a market unit.*
 - *Response: We agree to do this. The price of the unit will be the greater of the last market unit sold, an offer for the unit from a third party or the price indicated in our submission to DHCD.*

Today we received a copy of the AHA's memo to the Board dated November 12th. In it they stated:

In structuring formal language i.e. Right of First Refusal or Option to Purchase, I [Naomi E. McManus, Executive Director, AHA] contacted the State's Department of Housing & Community Development (DHCD) and they have recommended that the Town's agreement with the developers state they will offer one (1) unit at \$325,000, the price stated in their Comprehensive Permit Application to the Board of Appeals and in their Local Initiative Program's application to the Department of Housing and Community Development.

We **will not** agree to sell the AHA a unit at the "budgeted" price. The budgeted price was established early in the 2nd quarter, 2004. The units will not be ready for sale, very likely until late in second or the third quarter, 2005. It is unreasonable and unrealistic to expect a developer to commit to a price of a "market" unit a year and a half before it is ready for occupancy. We are happy to give the AHA an option to purchase, but not at the expense of realizing potential profits resulting from market forces.

Thus we offer the following language to the Board:

The developers have agreed to grant Acton Housing Authority an Option to Purchase a unit. The price will be the advertised selling price in effect at the time the Acton Housing

Authority's offer is made or a competing bid, whichever is greater. The developer has agreed to inform the AHA when there is only one market unit remaining for sale.

TOWN OF ACTON
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Acton, Massachusetts, 01720
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Fax (978) 266-1408

Acton Community Housing Corporation
Nancy Tavernier, Chairman

November 18, 2004

Board of Appeals
Town of Acton
Acton, MA

Dear Board members:

The Acton Community Housing Corporation (ACHC) has previously voted to support the Comprehensive Permit Application by Acton residents Paul Gaboury and Glen Kaufmann for an affordable housing development at 68 River St., known as Fort Pond Brook Place.

As a follow-up to the Hearing for Fort Pond Brook on October 21, the ACHC submitted a letter clarifying the intention of the ACHC to use \$15,000 for sewer capital costs that will directly lower the price of the affordable units.

In addition, ACHC voted to support the efforts of the Acton Housing Authority to have a Right of First Refusal, or Option to Purchase at the market price stated in the LIP and Comprehensive Permit application, net of the Sales Commission. We support the position of the AHA in its 11/12/04 letter submitted to the ZBA.

We would also like to advise the Board that there is a process the developers must follow with the DHCD LIP program if they intend to increase the selling prices of the market units. ACHC would expect to be advised of their intentions to do so.

Thank you for your attention.

Sincerely,

Nancy Tavernier, Chair
Acton Community Housing Corporation

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

November 12, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place
Memo from the Acton Housing Authority to the Board of Appeals dated November 12th, 2004

CC: Acton Housing Authority

At our initial meeting with the Board on October 21st, the Acton Housing Authority (AHA) requested the right of first refusal or option to purchase a market priced unit. In our memo of October 19, 2004 we indicated we agreed with this, saying:

- *AHA requests the right of first refusal/Option to purchase a market unit.*
 - *Response: We agree to do this. The price of the unit will be the greater of the last market unit sold, an offer for the unit from a third party or the price indicated in our submission to DHCD.*

Today we received a copy of the AHA's memo to the Board dated November 12th. In it they stated:

In structuring formal language i.e. Right of First Refusal or Option to Purchase, I [Naomi E. McManus, Executive Director, AHA] contacted the State's Department of Housing & Community Development (DHCD) and they have recommended that the Town's agreement with the developers state they will offer one (1) unit at \$325,000, the price stated in their Comprehensive Permit Application to the Board of Appeals and in their Local Initiative Program's application to the Department of Housing and Community Development.

We **will not** agree to sell the AHA a unit at the "budgeted" price. The budgeted price was established early in the 2nd quarter, 2004. The units will not be ready for sale, very likely until late in second or the third quarter, 2005. It is unreasonable and unrealistic to expect a developer to commit to a price of a "market" unit a year and a half before it is ready for occupancy. We are happy to give the AHA an option to purchase, but not at the expense of realizing potential profits resulting from market forces.

Thus we offer the following language to the Board:

The developers have agreed to grant Acton Housing Authority an Option to Purchase a unit. The price will be the advertised selling price in effect at the time the Acton Housing

Authority's offer is made or a competing bid, whichever is greater. The developer has agreed to inform the AHA when there is only one market unit remaining for sale.

For homeownership projects, profit and developer's fees to all partners and owners will be limited to no more than 20 percent of total development costs. This restriction will be enforced by a certified cost accounting by the developer's accountant(s) at the completion of the project. Any excess profit must be recaptured in the form of an escrow account to write down the cost of the low or moderate-income units upon resale or by payment of the excess amount to the community or to DHCD for the purpose of producing additional low or moderate-income housing.

Allowable Acquisition Costs

The development proforma must reflect a land value based on the lower of (1) last "arm's-length" transaction (if within 3 years) plus reasonable carrying and/or maintenance costs or (2) if a comprehensive permit is used, value under pre-existing zoning, plus reasonable carrying costs. DHCD will recognize only one legitimate land value as defined above, even if the actual purchase price of the land will vary or has varied with the number of units approved through zoning variances, or is contingent upon granting of a comprehensive permit.

Last arm's length transaction is defined as that not involving an identity of interest between the seller and the purchaser or any related party to the purchaser. All developers will be required to provide a certification of the last arm's length transaction.

Reasonable carrying costs related to the land include interest, taxes, insurance, and the costs related to option agreements. If a building or improvement is located on the land, DHCD will recognize reasonable maintenance costs, such as security, utilities, and property maintenance.

Pre-existing zoning is defined as the zoning in place at the earlier of: execution of an option agreement or a purchase and sale agreement (P&S); or preliminary developer designation by a local government.

Total allowable land value, including carrying and maintenance costs, cannot exceed the appraised value under "final" zoning (i.e., the zoning under which the project will be built.)

Developers may pay more than the allowable acquisition costs; however, any such "excess acquisition costs" will be paid at the developer's own expense. In no case may allowable acquisition costs, including carrying and maintenance costs, exceed appraised value.

X-Originating-IP: [146.243.12.157]
Subject: RE: LIP question from Acton
Date: Thu, 11 Nov 2004 11:52:43 -0500
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
Thread-Topic: LIP question from Acton
Thread-Index: AcTIDd4g/5b9JCgbT8WUnoBFotCiugAAEiaA
From: "Contreas, Marilyn \(\OCD\)" <Marilyn.Contreas@state.ma.us>
To: "Tavernier" <ntavern@comcast.net>

When using LIP, the developer can request an amendment to the site eligibility letter to change either or both the affordable and market prices on the proposed units - otherwise, our analysis of profit is based on the conditions stated in the original site eligibility letter - LIP would not grant a price increase unless the town also agreed to it, and we were satisfied that the project stayed within the profit limitations of c. 40B. - i.e. - we have asked for a revised pro forma in some of these instances.

HOpe this is somewhat helpful. Am on the road both Friday 11/12 and Monday 11/15 - followup with email if necessary. Marilyn

-----Original Message-----

From: Tavernier [<mailto:ntavern@comcast.net>]
Sent: Thursday, November 11, 2004 11:45 AM
To: Contreas, Marilyn (OCD)
Cc: achc@acton-ma.gov
Subject: LIP question from Acton

Hi Marilyn,

I have a question about the LIP process involving the pricing of the units, both market and affordable. As part of the filing for the LIP application, as well as the comprehensive permit, the selling prices are firmly stated by the developer and the project pro forma uses these numbers to estimate profit. My question: After ZBA approval of the permit, can the developer increase the selling prices?

Thank you for your attention.

Nancy Tavernier, Chair
Acton Community Housing Corporation

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

November 18, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place

Memo from the Acton Community Housing Corporation to the Board of Appeals dated November 18th, 2004

CC: AHA, ACHC

We received a copy of a memo from the ACHC addressed to the Board indicating their support of the Acton Housing Authority's request for an Option to Purchase a market unit. We addressed this issue in our memo to the Board dated November 12th.

In this memo the ACHC indicated "We would also like to advise the Board that there is a process the developers must follow with the DHCD LIP program if they intend to increase the selling prices of the market units." We are aware of this and will be submitting all changes of any kind to our original LIP application to DHCD after the Board approves our application for a comprehensive permit - as is customary. One of these changes will be a change to the market unit selling price.

The ACHC raised an entirely new issue in their memo. They specified that the price quoted in the AHA's memo would be further reduced by the sales commission had it been sold to another buyer.

Normally this would be a reasonable request and would be akin to the sewer cost offset. On Page 16 of our LIP application (final tab in our binder) "Notes to the Project Feasibility" which was signed by the Chairperson of the ACHC, we indicate that as with LIP Consulting and day-to-day construction management, Glen Kaufmann and I will be taking on the task of marketing and selling the units in lieu of third parties. This was also specifically discussed and reviewed during our presentation to the Board of Selectmen and no objections were raised.

At present we have no plans to use third party realtors at this time. The amount of effort required to sell the units will not vary whether it is six units or five and thus we fully expect to be compensated as noted and thus we cannot agree to this new demand/condition.

Because Glen Kaufmann is a licensed broker, we will not contract with a "broker" to list the property. If, however, we allow co-brokers to sell the units for the typical 2 ½% commission, we will deduct that amount from the market price the DHCD has been notified of at that time. Further, we would agree to deduct the full 5% commission on the condition that AHA sign a purchase and sale agreement for the market price the DHCD has been notified of at that time and makes a non-refundable deposit of \$150,000 within 30 days of the issuance of the building permit.

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

November 30, 2004

Re: Fort Pond Brook Place: AHA –Option to Purchase

CC: Betty McManus, Acton Housing Authority

Applicant and Betty McManus, Executive Director, Acton Housing Authority met today to discuss their request for what was originally termed a “Right of First Refusal/Option to Purchase”.

At our previous meeting with the Board, the issue of market price and terminology were discussed. After our meeting today both parties agreed to the following language, which supercedes all previous correspondence and discussions on the subject.

“Applicant [Developer] agrees to grant Acton Housing Authority an option to purchase one market unit at the price being marketed by the Applicant” [at the time the option is exercised]

This language eliminates the terms “Right of First Refusal” and dictates the price at which the option can be exercised. [Use of the DHCD as a price reference point has proven impractical as they do not exercise any approval power over the market price after the project is approved (Per Marilyn Contreas, Interim Coordinator of the Local Initiative Program, DHCD.)]

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

December 1, 2004

CC: AHA, ACHC

Re: Fort Pond Brook Place: Discount on purchase of a market unit by Acton Housing Authority

In its memo of November 18th the Acton Community Housing Corporation added a stipulation to its support of the Acton Housing Authority's request for an Option to Purchase a market rate nit. That stipulation, which the Acton Housing Authority had not previously requested, stated that the price of the market unit bought by AHA would be "net of sales commission".

We met with Betty McManus, Executive Director of the AHA and members of the ACHC today and came to a consensus that, should AHA purchase a market unit, we would deduct 2 ½% of the purchase price from the total.

It is our understanding that on behalf of the AHA, Ms. McManus agreed to this compromise and the ACHC voted to endorse AHA's decision. We expect both to notify the Board to this effect.



TOWN OF ACTON
P.O. Box 681
Acton, Massachusetts, 01720
Telephone (978) 263-4776
Fax (978) 266-1408

Acton Community Housing Corporation
Nancy Tavernier, Chairman

December 6, 2004

Board of Appeals
Town of Acton
Acton, MA

Re: Fort Pond Brook Place application for a Comprehensive Permit

Dear Board Members,

On December 2, members of the ACHC voted to support the position taken by the Acton Housing Authority in regard to the Option to Purchase a market unit at Fort Pond Brook Place.

This is the specific language the ACHC voted to support:

“Should the Acton Housing Authority decide to purchase a unit in the future the developers have agreed to make available a market rate unit at the advertised market price less 2 ½% of the sales commission.”

Thank you.

Nancy Tavernier, Chair
ACHC

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

December 1, 2004

CC: AHA, ACHC

Re: Fort Pond Brook Place: Discount on purchase of a market unit by Acton Housing Authority

In its memo of November 18th the Acton Community Housing Corporation added a stipulation to its support of the Acton Housing Authority's request for an Option to Purchase a market rate nit. That stipulation, which the Acton Housing Authority had not previously requested, stated that the price of the market unit bought by AHA would be "net of sales commission".

We met with Betty McManus, Executive Director of the AHA and members of the ACHC today and came to a consensus that, should AHA purchase a market unit, we would deduct 2 ½% of the purchase price from the total.

It is our understanding that on behalf of the AHA, Ms. McManus agreed to this compromise and the ACHC voted to endorse AHA's decision. We expect both to notify the Board to this effect.

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

November 30, 2004

Re: Fort Pond Brook Place: AHA –Option to Purchase

CC: Betty McManus, Acton Housing Authority

Applicant and Betty McManus, Executive Director, Acton Housing Authority met today to discuss their request for what was originally termed a “Right of First Refusal/Option to Purchase”.

At our previous meeting with the Board, the issue of market price and terminology were discussed. After our meeting today both parties agreed to the following language, which supercedes all previous correspondence and discussions on the subject.

“Applicant [Developer] agrees to grant Acton Housing Authority an option to purchase one market unit at the price being marketed by the Applicant” [at the time the option is exercised]

This language eliminates the terms “Right of First Refusal” and dictates the price at which the option can be exercised. [Use of the DHCD as a price reference point has proven impractical as they do not exercise any approval power over the market price after the project is approved (Per Marilyn Contreas, Interim Coordinator of the Local Initiative Program, DHCD.)]

Fort Pond Brook Place

68 River Street, LLC

Town of Acton
Cheryl Frazier
Board of Appeals Secretary
Zoning Board of Appeals

November 18, 2004

Re: Application for a Comprehensive Permit for Fort Pond Brook Place

Memo from the Acton Community Housing Corporation to the Board of Appeals dated November 18th, 2004

CC: AHA, ACHC

We received a copy of a memo from the ACHC addressed to the Board indicating their support of the Acton Housing Authority's request for an Option to Purchase a market unit. We addressed this issue in our memo to the Board dated November 12th.

In this memo the ACHC indicated "We would also like to advise the Board that there is a process the developers must follow with the DHCD LIP program if they intend to increase the selling prices of the market units." We are aware of this and will be submitting all changes of any kind to our original LIP application to DHCD after the Board approves our application for a comprehensive permit - as is customary. One of these changes will be a change to the market unit selling price.

The ACHC raised an entirely new issue in their memo. They specified that the price quoted in the AHA's memo would be further reduced by the sales commission had it been sold to another buyer.

Normally this would be a reasonable request and would be akin to the sewer cost offset. On Page 16 of our LIP application (final tab in our binder) "Notes to the Project Feasibility" which was signed by the Chairperson of the ACHC, we indicate that as with LIP Consulting and day-to-day construction management, Glen Kaufmann and I will be taking on the task of marketing and selling the units in lieu of third parties. This was also specifically discussed and reviewed during our presentation to the Board of Selectmen and no objections were raised.

At present we have no plans to use third party realtors at this time. The amount of effort required to sell the units will not vary whether it is six units or five and thus we fully expect to be compensated as noted and thus we cannot agree to this new demand/condition.

Because Glen Kaufmann is a licensed broker, we will not contract with a "broker" to list the property. If, however, we allow co-brokers to sell the units for the typical 2 ½% commission, we will deduct that amount from the market price the DHCD has been notified of at that time. Further, we would agree to deduct the full 5% commission on the condition that AHA sign a purchase and sale agreement for the market price the DHCD has been notified of at that time and makes a non-refundable deposit of \$150,000 within 30 days of the issuance of the building permit.

Betty McManus

From: "Tavernier" <ntavern@comcast.net>
To: "Nancy Tavernier" <ntavern@comcast.net>; "Kevin McManus" <KevinM@NEHE.com>; "Betty McManus" <ahabetty@attglobal.net>; "Dan Buckley" <DJB01720@hotmail.com>; "Bob Whittlesey" <rbwhittlesey@verizon.net>; "Ryan Bettez" <bettezfamily@yahoo.com>; "Pam Shuttle" <pam.shuttle@state.ma.us>; "Bernice Baran" <Bara437853@aol.com>
Sent: Thursday, November 18, 2004 10:39 AM
Subject: comments on Fort Pond to ZBA

This the letter I submitted to the ZBA for tonight's hearing on Fort Pond Brook

Acton Community Housing Corporation
Nancy Tavernier, Chairman

November 18, 2004

Board of Appeals
Town of Acton
Acton, MA

Dear Board members:

The Acton Community Housing Corporation (ACHC) has previously voted to support the Comprehensive Permit Application by Acton residents Paul Gaboury and Glen Kaufmann for an affordable housing development at 68 River St., known as Fort Pond Brook Place.

As a follow-up to the Hearing for Fort Pond Brook on October 21, the ACHC submitted a letter clarifying the intention of the ACHC to use \$15,000 for sewer capital costs that will directly lower the price of the affordable units.

In addition, ACHC voted to support the efforts of the Acton Housing Authority to have a Right of First Refusal, or Option to Purchase at the market price stated in the LIP and Comprehensive Permit application, net of the Sales Commission. We support the position of the AHA in its 11/12/04 letter submitted to the ZBA.

We would also like to advise the Board that there is a process the developers must follow with the DHCD LIP program if they intend to increase the selling prices of the market units. ACHC would expect to be advised of their intentions to do so.

Thank you for your attention.

Sincerely,

Nancy Tavernier, Chair
Acton Community Housing Corporation

11/18/2004

**DECISION UPON APPLICATION OF 68 RIVER STREET, LLC
FOR A COMPREHENSIVE PERMIT**

I. APPLICANT AND PUBLIC HEARING

A public hearing of the Acton Board of Appeals (the "Board") was held in the Town Hall on Thursday, October 21, 2004 on the application of 68 River Street, LLC (the "Applicant") for a comprehensive permit under Massachusetts General Laws Chapter 40B, §§ 20-23 (the "Act") to build low or moderate income housing in a development of 8-unit condominium development (the "Project") located at 111-113 School Street in Acton and identified as Lot 37 on Assessor's Map H3A. The Board held continued public hearings on November 19, 2004, December 7, 2004 and December 21, 2004. The Board closed the hearing on December 21, 2004 and conducted deliberations on that date.

Sitting as members of the Board throughout the hearings were Jonathan Wagner, Member; Kenneth Kozik, Member and Cara Voutselas, Alternate Member.

The Applicant was represented at all hearings by Paul Gaboury and Glen Kaufmann, members of 68 River Street, LLC.

II. THE PROJECT

1. The project consists of .7426 acres of land located at 111-113 School Street in Acton (Tab "Application & Develop. Impact Rpt." Exhibit A-1).

2. Lot 37, now known as 111-113 School Street, will be subdivided and be known as 68 River Street (the "Site").

3. On September 18, 2004 the Applicant submitted an application for a Comprehensive Permit to build an 8-unit condominium development consisting of four 2-unit duplex structures. (Exhibit A-1)

4. Each of the 8 units will have 3 bedrooms, 2.5 baths and consist of 1,672 net square feet of living area. (Tab "Application and Develop. Impact Rpt." Exhibit A-1)

5. The Site is located within the R-2 Single Family Residential Zoning District, Historic District and Groundwater Protection District 4. (Tab "Application and Develop. Impact Rpt." Exhibit A-1)

6. The Plan for the project is entitled "Comprehensive Permit Plan for Fort Pond Brook Place, River Street, Acton, Massachusetts" dated September 9, 2004, revised November 2, 2004,

and further revised November 29, 2004 designed by Stamski and McNary, Inc., Acton, Massachusetts, scale: 1"=1,200', and consists of four sheets. (Exhibit A-3)

III. JURISDICTIONAL REQUIREMENTS

7. Pursuant to Massachusetts General Laws Chapter 40b, §§ 20-23 and regulations promulgated by the Department of Housing and Community Development Housing Appeals Committee, an applicant for a comprehensive permit must fulfill three jurisdictional requirements:

(a) Status of Applicant

8. The applicant must be a public agency, a non-profit organization, or a limited dividend organization. The Applicant proposes to satisfy this criterion by forming a limited dividend organization which agrees to legally bind itself to limit the profit it derives from the comprehensive permit development. Limitation of profits will be accomplished by execution a Regulatory Agreement between the Applicant, the subsidizing agency and the Town of Acton. The Regulatory Agreement will limit the Applicant's profit from the development to 20% of the development costs. The Board has incorporated conditions to ensure the execution of the Regulatory Agreement as well as the monitoring and enforcement of the limitations contained therein.

(b) Public Subsidy Requirement

9. Chapter 40B requires that the project be fundable by a subsidizing agency under a low and moderate income housing subsidy program. The Applicant has submitted a project eligibility letter dated June 18, 2004 and revisions dated July 12, 2004 from the Massachusetts Department of Housing and Community Development Local Initiative Program, a public agency that provides below market financing for affordable housing development. (Exhibit A-4). The Board finds that these letters satisfy the regulations.

(c) Site Control Requirement

10. An applicant must hold legal title, or sufficient legal right to acquire title to the property in question. The property is currently owned by 111-113 School Street, LLC. The Applicant has submitted a letter dated November 1, 2004 from 111-113 School Street, LLC agreeing to transfer ownership to 68 River Street, LLC upon approval of the comprehensive permit by the Board (Exhibit A-4). The Board finds that 68 River Street, LLC has sufficient legal right to acquire title to the Site.

IV. REQUESTED WAIVERS FROM LOCAL BY-LAWS AND REGULATIONS

A. Acton Board of Appeals Rules and Regulations for Comprehensive Permits, adopted May 17, 2004

11. Section 3.14.8 Landscape Plan Sheet – The Applicant requests a waiver from the requirement that it submit a Landscape Plan Sheet stamped by a Registered Professional Architect. The Applicant has submitted a plan developed by a professional landscape designer

(Tab 3.14.8 Exhibit A-1) and has worked closely with abutters and the Acton Historical District Commission to provide appropriate landscaping for the Site. The Board grants the waiver from section 3.14.8.

12. Section 3.17 Development Schedule - This section requires that the Applicant schedule the completion of the affordable units ahead of the issuance of the building permits for the last market rate units. The Applicant states that construction for all four proposed structures will occur simultaneously. The Board grants a waiver from section 3.17 with the condition that the certificate of occupancy for the first affordable unit will be issued prior to the certificate of occupancy for the third market rate unit and the certificate of occupancy for the second affordable unit shall be issued prior to the certificate of occupancy for the sixth market rate unit.

B. Acton Zoning Bylaw

13. Section 3.1 Table of Principle Uses and Section 3.3 Residential Uses – Sections 3.1 and 3.3 are zoning provisions relating to housing density. Section 3.1 restricts multi-family housing in the R-2 Residential District and requires site plan approval. Section 3.3 does not allow the construction of more than one residential building on a Lot. Housing density is a legitimate planning, health and safety concern to be addressed by the Board in the context of a comprehensive permit application. The Town’s Master Plan has designated five areas, including South Acton Village, as growth centers for residential development. The Board also recognizes that less than 3% of the Town’s housing units currently qualify as low and moderate housing for the purposes of Chapter 40B. The Board notes that the proximity to the South Acton Village District and the commuter rail service make the Site appropriate for the development of affordable housing. The Board therefore, grants waivers from sections 3.1 and 3.3 of the Acton Zoning Bylaw.

Comment: is this the right number?

14. Section 5 Dimensional Regulations and the Table of Standard Dimensional Regulations

- (a) *Section 5.2.4* – This section requires a minimum front yard setback of 30 feet. The Applicant proposes front yard setbacks of 26 feet for Building #2 and 12 feet for Building #3.
- (b) *Section 5.2.5* – This section requires a minimum side yard setback of 10 feet. The Applicant requests that Building #1 be located 8 feet from the side lot line.

15. The Site is approximately .7426 acres in size. Considerations including safety, engineering and aesthetics dictate the placement of the buildings on the Site. Recognizing the need for low and moderate income housing, the physical limitations of the Site and the aforementioned considerations, the Board grants a waiver from Section 5.2.4 and Section 5.2.5.

V. CONCLUSORY FINDINGS

16. Based on the evidence presented by the Applicant, local boards and officials and interested parties at the public hearings, the Board finds as follows:

- (a) Acton does not presently have sufficient low or moderate income housing to meet Chapter 40B's minimum criteria, after which the Town would have its normal powers to apply its own bylaws, requirements and regulations to this application.
- (b) The proposed 8-unit project will, when conforming to the conditions set forth in this Decision, adequately provide for traffic circulation, storm water drainage, sewerage and water without an undue burden on the occupants of the Project or on the surrounding neighborhood or the Town.
- (c) The proposed 8-unit Project will, when conforming to the conditions set forth in this Decision, not be a threat to the public health and safety of the occupants of the Project, the neighborhood or the Town.
- (d) The proposed 8-unit Project on the Site is supported by the evidence, and as conditioned below, (i) is consistent with the Master Plan, (ii) is not rendered uneconomic by the terms and conditions of this Decision, (iii) represents a reasonable balance of the regional need for low and moderate income housing against important local planning concerns, and (iv) is consistent with the local needs within the meaning of Massachusetts General Laws, Chapter 40B, Section 20.
- (e) The following waivers from local bylaws and regulations are granted subject to the terms and conditions set forth herein:

(1) Zoning Bylaws

Section 3.1 Table of Principle Uses – waiver to allow multi-family housing in a R-2 Residential District and waiver from site plan approval requirement;

Section 3.3 Residential Uses – waiver to allow construction of more than one residential building on a lot

Section 5.2.4 – waiver from the minimum front yard setback requirement of 30 feet.

Section 5.2.5 – waiver from the minimum side yard setback requirement of 10 feet.

(2) Comprehensive Permit Rules and Regulations

Section 3.14.8 – waiver from requirement that the Landscape Plan Sheet be stamped by a registered Landscape Architect

Section 3.17 Development Schedule – waiver from requirement of completion of affordable units before issuance of building permits for market rate units.

VI. CONDITIONS

For the foregoing reasons the Board grants the application of 68 River Street, LLC for a comprehensive permit for the Project under Chapter 40B, subject to each and every one of the following conditions:

A. General Conditions

- A1. This Decision shall be appended to the Plan and shall be recorded at the Middlesex South District Registry of Deeds. This Decision shall become effective upon recording. Proof of recording shall be forwarded to the Board prior to issuance of a building permit or the start of construction.
- A2. The Applicant shall comply with all local rules and regulations of the Town of Acton and its boards and commissions unless expressly waived herein or as otherwise addressed in these conditions.
- A3. The Applicant shall pay all fees of the Town of Acton imposed generally in respect of construction projects and for the purposes of monitoring compliance of the Projects building construction and occupancy in accordance with this Comprehensive Permit.
- A.4. The Applicant shall copy the Board and the Building Commissioner on all correspondence between the Applicant and any federal, state or Town official, board or commission that concerns the conditions set forth in this Decision.
- A.5. The Applicant shall comply with the State Building Code and any local regulations or fees of the Building Commissioner. The Applicant shall pay all required fees for all such building permits including any fees charged for inspections and permits.
- A.6. The Applicant shall obtain temporary easements or written permission from any abutting property owner if, during the course of construction, it becomes necessary to enter upon abutting land for construction or planting.
- A.7. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant and the Applicant's successors and assigns for as long as the Project and the use of the land does not strictly and fully conform with the requirements of the Acton Zoning Bylaw; and reference to these conditions shall be incorporated in the Master Deed and in each Unit Deed recorded for the Project and for any unit in the Project.
- A.10. This Decision permits the construction, use and occupancy of 8 housing units on the Site. The construction and use of the Site shall be in conformity with the Plan, and there shall be no further subdivision of the Site, or the creation of additional housing units or any other structures or infrastructure except that which is showing the Plan, without further approval of the Board in the form of an amendment to this Decision.

B. Submission Requirements

B.1. This Comprehensive Permit shall lapse at the end of six months next following the date on which this Decision is filed with the Acton Town Clerk (which period shall be extended for a period equal to the duration of any appeals taken from this Decision by any person other than the Applicant), unless the Applicant has submitted to the Board prior to that time written evidence satisfactory to the Board:

- (a) From a public or private financing institution, or institutions, a written commitment to provide the major portion of the financing required for the construction of the Project as conditionally approved by this Decision; and
- (b) From a federal or state subsidizing agency that both the Project, as conditionally approved by this Decision, and the Site are acceptable and qualify for and will receive financial assistance under a program administered by that agency to assist the construction of low or moderate income housing, within the meaning of the Act.

B.2. Pre-construction Submissions: Before the Applicant begins any construction of the buildings and units in the Project, the Applicant shall have

- (a) Delivered to the Board the organizational papers of the non-profit or limited dividend organization which will construct the Project and a certified copy of any determination by the federal or state subsidizing agency that the organization qualifies as a non-profit or limited dividend organization within the meaning of the Act and what the limitation on dividend is. If that entity is 68 River Street, LLC, it shall forthwith perfect, maintain and provide to the Board proof of its status as a limited dividend or non-profit organization under the provisions of M.G.L. c.40B, sec.21;
- (b) Obtained, and filed with the Board a copy of any approvals from the Acton Board of Health which may be required under any statute, code, or rule and regulation affecting public health not otherwise preempted by Chapter 40B, to the extent not otherwise expressly covered by this Decision;
- (c) Obtained, and filed with the Board a copy of the final Order of Conditions or Superceding Order of Conditions under the Wetlands Protection Act, as to any portion of the Site subject to the Wetlands Protection Act, in respect of the Site and the Project; and
- (d) Delivered to the Board final architectural drawings for all buildings shown on the Plan, providing a scaled depiction of the front, rear and side elevations.
- (e) Delivered to the Board a copy of the recorded deed transferring title of the Site from 111-113 School Street, LLC to 68 River Street, LLC.

B.3. As Built Plans: Prior to the occupancy or use of the final building constituting a part of the Project, the Applicant shall submit to the Board an "As Built Plan" showing all pavement, buildings, drainage structures and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. The plans

shall be signed by a registered land surveyor or civil engineer, certifying that the Project as built conforms to and complies with the conditions of this Comprehensive Permit.

B.4. As Built Utilities Plan: An accurate as built utilities plan and profile, showing actual in-ground installation of all utilities, shall be submitted to the Department of Public Works after completion of construction.

C. Site Development Construction Conditions

C.1. The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the Project. Members of the Board shall be allowed access to the Site to observe and inspect the site and construction progress until such time as the Project has been completed.

C.2. The Applicant shall submit a “progress submittal,” including design drawings, with the Acton Building Commissioner when the project is 50% complete. Progress submittals shall include any and all updated or revised design calculations supplementing the original design plans. The Building Commissioner’s and the Board’s input and guidance are critical at these milestones. The Applicant may proceed to the next milestone unless the Board finds substantial deviations from this Decision and the Plan, in which case the Board shall give notice to the Applicant and the Applicant shall not proceed until the deviations are resolved. The Applicant will be expected to provide a prompt and timely written response to any comments or questions posed by the Board or Building Commissioner at each milestone.

C.3. The Applicant shall be responsible to ensure that nuisance conditions do not exist in and around the site during the construction operations. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.

C.4. Hours – The hours of operation for any construction activities on-site shall be between 7:00 am and 7:00 pm, Monday through Friday, 8:00 am and 5:00 pm on Saturdays, and no work shall be allowed on-site on Sundays or on Holidays as recognized by the Commonwealth of Massachusetts.

C.5. The Applicant shall implement dust control operations, in an approved manner, whenever necessary or whenever directed by the Building Commissioner or the Town Engineer, even though other work on the project may be suspended as a result thereof. Methods of controlling dust shall meet all air pollutant standards as set forth by federal and state regulatory agencies.

C.6. The Applicant shall implement measures to ensure that noise from project construction activities does not exceed acceptable levels, as set forth by federal and state regulatory agencies. The Applicant shall cease any excessively loud activities when directed by the Building Commissioner.

C.7. The Applicant shall implement necessary controls to ensure that vibration does not create a nuisance or hazard for property abutters.

C.8. The Applicant shall implement necessary traffic safety controls to ensure a safe and convenient vehicular access in and around the site. Any traffic problems that occur as a result of site operations and construction shall be mitigated immediately at the expense of the Applicant. Additional traffic mitigation measures may be required as necessary, or as directed by the Building Commissioner.

C.9. The Applicant is responsible for the sweeping, removal of snow and sanding of internal roadways permitting access to residents and emergency vehicles during construction and until the Condo Association has been legally established.

C.10. Burial of any stumps or debris on site is expressly prohibited. Localized burial of stones and/or boulders is prohibited to prevent the creation of voids from soil settlement over time.

C.11. Upon the request of the Building Commissioner, soil material to be used as backfill for pipes, roads and/or structures (i.e., soil detention basins) shall be tested at the expense of the Applicant, by a firm selected by the Board. Testing of said backfill shall be performed in conformance with standards and frequencies established by the Building Commissioner.

C.12. Utilities, including but not necessarily limited to electric, cable and telephone shall be located underground.

C.13. No building areas shall be left in an open, unstabilized condition for longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.

C.14. Construction vehicles shall be parked on site and off River Street at all times.

C.15. A licensed blasting professional shall do all blasting on the site after proper pre-blast inspections have been conducted and all required permits have been obtained from the Acton Fire Department.

D. Legal Requirements

D.1 Any sale or transfer of rights or interest in all or any part of the Site shall include a condition that successors are bound to the terms and conditions of this Comprehensive Permit. This Comprehensive Permit may not be transferred to a person other than the Applicant, or to an entity of which the Applicant controls less than 50%, without the written approval of the Board and the execution of any instruments or documents that may be required for the perpetual enforcement of this Comprehensive Permit pursuant to Town Counsel's direction. The scope of the Board's review of a proposed transfer shall be limited to the review of the transferee's qualifications, experience, and capacity.

D.2 The Applicant and/or subsequent Owner(s) shall be bound by all conditions and requirements set forth in this Comprehensive Permit.

D.3 In setting the percentages of beneficial interest in the condominium common areas in the Condominium Master Deed, the Applicant shall ensure that the percentages assigned to the Affordable Units reflect the fair market value of the Affordable Units, taking into account the affordable housing restrictions that encumber said Units.

Comment: Garry is checking w/ Betty

D.4 The roadways, utilities, drainage systems, and all other infrastructure shown in the Plan shall remain private and the Town of Acton shall not have, now or ever, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and trash collection.

E. **Landscaping Conditions:** Landscaping shall be completed in accordance with the Landscaping Plan...

Comment: Jon, you were going to add language for me

F. Affordability Requirements

F.1 Two (2) of the units within the Project shall be made available for purchase by households whose aggregate income is no greater than 80% of the area median income as published by the Department of Housing and Urban Development for the Boston Primary Metropolitan Statistical Area (the "Affordable Units").

F.2 **Sale Prices:** The Affordable Units shall be sold to qualified households at prices deemed affordable to four-person households earning 80% of the area median income. The maximum sale prices for the Affordable Units shall be reviewed and approved by the Massachusetts Department of Housing and Community Development (the "DHCD") at the time of lottery for the selection of buyers of the Affordable Units. Any modification or deviation from the designation of units as originally proposed and reviewed by the DHCD shall be subject to approval by the DHCD.

F.3 **Selection of Buyers for Affordable Units:** The Applicant shall obtain the DHCD approval of a buyer selection plan for the sale of the Affordable Units prior to putting the Affordable Units on the market. Buyers shall be selected through a fair lottery process (the "Lottery"). To the maximum extent permitted by law, first preference for the purchase of one of the two Affordable Units shall be given to households that meet one or more of the following "Acton Connection" preference criteria:

- (a) Currently a legal resident of the Town of Acton. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as an Acton resident with the Acton Town Clerk pursuant to G.L. c. 51, § 4 and would be considered a resident under the United States Census Bureau's guidelines. ("Usual residence" has been defined as the place where the person lives and sleeps most of the time. This place is not necessarily the same as the person's voting residence or legal residence. Also, non-citizens who are living in the United States are included, regardless of their immigration status.)
- (b) a son or daughter of an Acton resident.
- (c) An employee of the Town of Acton, the Acton Water District, the Acton public Schools, the Acton-Boxborough Regional School District, and has been

an employee for a period of at least six months at the time of the Affordable Unit Lottery application deadline.

- (d) Currently or privately employed within the Town of Acton and has been so employed for a period of at least six months at the time of the Affordable Unit lottery application deadline

The selection of purchasers for the Affordable Units, including the administration of the Lottery, shall be administered by a consultant retained by the Applicant, subject to the Monitoring Agent's approval. The Lottery shall be implemented pursuant to a Lottery Plan developed by the lottery consultant and approved by the Monitoring Agent. The Monitoring Agent shall oversee the lottery. The Applicant shall deposit a sum not to exceed \$500 into a municipal account established pursuant to G. L. c. 44, §53G to cover the Monitoring Agent's expenses in overseeing the Lottery.

Selected purchasers shall complete a first-time homebuyer course within three months of purchasing an affordable unit. The DHCD shall make available a list of such courses for purchasers to attend.

Income eligibility shall be governed by the rules and regulations of the Local Initiative Program, or in default, the rules and standards employed by the Department of Housing and Urban Development in the selection of income-eligible tenants for publicly subsidized housing.

Disputes concerning income qualification and Acton Connection qualification shall be resolved in the first instance by Acton Community Housing Corporation. A party aggrieved by qualification-related decision of the Acton Community Housing Corporation may appeal the decision to the Board for a final determination.

The provisions of this section are intended to complement and not to override or supersede any applicable fair marketing regulations of the Department of Housing and Community Development, the Massachusetts Commission Against Discrimination, the Local Initiative Program, or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

F.4 Phasing-In of Affordable Units: The certificate of occupancy for the first Affordable Unit will be issued prior to the certificate of occupancy for the third market rate unit and the certificate of occupancy for the second Affordable Unit shall be issued prior to the certificate of occupancy for the sixth market rate unit.

F.5 Perpetual Affordability Restriction: Prior to the issuance of any building permits, a Regulatory Agreement, in a form acceptable to Town Counsel and the DHCD shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) 25% of the units in the Project will be sold and resold subject to a Deed Rider, in a form acceptable to Town Counsel, and (b) the Project Owner's profit shall be limited to 20% of the total development cost of the Project as defined by the Regulatory Agreement and applicable regulations. The Deed Rider shall be attached to and recorded with the Deed for each and every Affordable Unit in the Project at the time of each sale

and resale, and the Deed Rider shall restrict each such Affordable Unit pursuant to this Decision in perpetuity in accordance with the requirements of M. G. L. c. 184, §§ 31-33. After obtaining the Board's final approval of the Regulatory Agreement and Deed Rider, the Applicant shall use its best efforts to obtain any necessary governmental approvals for such a deed restriction to last in perpetuity, including without limitation the approval of the Department of Housing and Community Development (formerly the Executive Office of Communities and Development) ("DHCD"), if required pursuant to M. G. L. c. 184, s 32 or other law. The Applicant shall submit to the Board written evidence of the Applicant's efforts to secure approval of the perpetual restriction and all responses thereto. The absence of a response shall not be deemed a denial of the request to approve the perpetual restriction.

In any event, as this Decision grants permission to build the Project under the comprehensive permit statute, G. L. c. 40B, §§20 -23 (the "Act"), and as the Applicant has obtained the benefits of a comprehensive permit, the Project shall remain subject to the restrictions imposed by the Act so long as the Project is not in compliance with the Town of Acton's zoning requirements which otherwise would be applicable to the Site and the Project but for the comprehensive permit's override of local bylaws to promote affordable housing. Accordingly, this Decision and the Deed Rider shall restrict each such Affordable Unit so long as the Project is not in compliance with the Town of Acton's zoning bylaw, so that those units continue to serve the public interest for which the Project was authorized. It is the express intention of this Decision that the period of affordability shall be the longest period allowed by law. In no event shall the period of affordability be less than ninety-nine years.

In the event that the Applicant shall submit to the Board written evidence of the Applicant's efforts to secure governmental approval of the perpetual restriction, the written denial thereof, and the grounds for denial; the Applicant shall (a) submit to the Board a proposed alternative form Deed Rider which, when approved by the Board and Town Counsel, shall be submitted to DHCD for such approval, and (b) grant to the Town of Acton or its designee in the Deed Rider a right of first refusal, in a form mutually acceptable to counsel for the Applicant and to Town Counsel, covering each Affordable Unit in the Project which shall be triggered upon the expiration of the affordability period.

F.6 Profit Cap: To conform to the intent of the Act that profits from the Project be reasonable and limited, the Applicant shall be limited to an overall profit cap of twenty percent (20%) of total development costs of the Project, as accepted by the DHCD (the "Profit Cap"). The Applicant shall cause a certified public accountant ("CPA") to review the financial records of the Project to determine whether the Applicant has conformed to the Profit Cap requirements of this Comprehensive Permit Decision. The CPA shall submit to the Board and the DHCD a CPA certification that either the Applicant has conformed to the Profit Cap, or certifying the actual profit from the development. If the Applicant has exceeded the 20% Profit Cap, the Applicant shall donate the excess profit above the Profit Cap to the Town of Acton to be used in the discretion of the Board of Selectmen for the express purpose of promoting, encouraging, creating, improving or subsidizing the construction or rehabilitation affordable housing in the Town of Acton.

In determining whether the Applicant has conformed to the Profit Cap requirements of this Comprehensive Permit Decision, the CPA shall be required to certify that (a) the total profit to the Applicant does not exceed twenty percent (20%) of total development costs of the Project, exclusive of development fees; (b) the Applicant has not made unreasonable or excessive payments (i.e. payments in excess of reasonable industry standards applicable to an arm's length transaction) to the Applicant or to its parents, subsidiaries, affiliates, successors, and assigns, or to their respective partners, limited partners, shareholders, managers, or other owners, or to the relatives of the same in connection with work performed on the Project in order to artificially inflate the costs of development of the Project; (c) there have been no commissions charged on the affordable units which are required to be sold pursuant to a lottery selection process as provided by this Comprehensive Permit; and (d) the CPA has been provided access by the Developer to any reasonable financial information necessary to make these determinations and to verify whether the income and expenses of the Project, including without limitation land acquisition costs, construction costs, landscaping costs, and other expenses, represent fair market value for such items, with particular attention to those arrangements between parties with overlapping ownership to owners of the Applicant;

All costs of enforcement of this Profit Cap condition, including legal fees incurred by the Board and/or the Town of Acton, shall be borne by the Applicant.

F.7 Regulatory Agreement: Prior to applying for a building permit for the Project, the Applicant shall submit to the Board a copy of a fully executed Regulatory Agreement between the Applicant and the Town of Acton, in a form mutually satisfactory to counsel for the Applicant and the Town, to be recorded with the Master Deed, governing the protection and administration of the Affordable Units covered by this Decision which shall include, without limitation, provisions to (1) designate an entity acceptable to the Board to monitor the selection-of the purchasers of the Affordable Units in the Project, and (2) designate an entity acceptable to the Board to ensure that the Affordable Units continue as such in accordance with the requirements of this Decision. If for any reason the designated entity shall fail or refuse to administer the Affordable Units or shall cease to exist, the Applicant shall notify the Board and the Board shall designate another entity to administer those units.

G. Option to Purchase:

The Applicant will make available to the Acton Housing Authority (the "AHA") a market rate unit designated by the Applicant. The unit will be made available to the AHA at the time of designation at the then advertised market price. The Applicant will notify the AHA in writing at the time Applicant commences marketing the market rate unit and the AHA will have a period of sixty (60) days from the date of notice to complete the purchase of the designated unit.

H. Surety & Covenants

H.1 As security for the completion of the infrastructure related to the Project as

shown on the Approved Plan, including, but not limited to, the roadway, sidewalks, parking areas, common areas, recreational areas, drainage facilities, utilities, landscaping, and [any other specific infrastructure shown on the plan] (the "Infrastructure"), the release of occupancy permits for all housing units and the sale of all housing units in the development shall be subject to the following restriction:

a. No occupancy permit for a unit in any building shall be issued, and no sale of any unit shall be permitted, until: (1) the base and binder course for the driveway and parking areas shown on the Plan has been installed; (2) all Infrastructure described herein and as shown on the Plan has been constructed or installed so as to adequately serve said building, provided however, that the final coat of pavement for the driveway and parking areas need not be installed in order to obtain occupancy permits for the first 2 buildings constructed; and (3) all conditions of this Comprehensive Permit that require action or resolution by the Applicant prior to the issuance of occupancy permits have been completed to the satisfaction of the Building Commissioner. The roadway, common parking areas, individual driveways and all remaining Infrastructure must be fully completed and installed prior to the issuance of occupancy permits and the sale of any units in the 3rd building constructed.

I. Drainage Conditions

I.1 Stormwater shall be managed in accordance with the Massachusetts Stormwater Policy Manual dated March, 1997 as prepared by the Massachusetts Department of Environmental Protection and Massachusetts Office of Coastal Zone Management.

I.2 All stormwater drainage basins shall be located as to facilitate the maintenance and operation of the basins or drainage utility.

I.3 The Applicant shall maintain and repair the drainage structures and stormwater management system on the Site located outside the proposed roadway layout as shown on the Plans until such time as the Applicant either (1) sells the Site to a new Applicant subject to these responsibilities or (2) assigns or otherwise transfers these responsibilities to the Condo Association. The stormwater management system includes, but is not necessarily limited to detention basins, retention basins, sediment forbays, and water quality swales. A plan for the maintenance of the stormwater management system shall be provided for in the Condo Association bylaws.

J. Parking and Garages

J.1 The Project shall provide for on-site parking as shown on the Plan, and each Affordable Unit and each comparable Market Rate Unit shall have the same reasonable access to on-site parking.

J.2 No on-site parking shall be sold to, rented to, licensed to or otherwise conveyed to persons who are not occupants of premises located on the project Site.

J.3 All parking spaces shall conform to the requirements of the Acton Zoning

Bylaw, Section 6.7.

K. Outdoor Lighting:

All outdoor lighting shall be installed in accordance with the Landscape Plan.

L. Wetlands Setbacks:

{The Applicant shall comply with the Order of Conditions dated ????

Comment: I know I must have it, but cannot locate it. Can either of you supply date

M. Material Changes

If, between the date this Decision is filed in the office of the Acton Town Clerk and the completion of the Project, the Applicant desires to change in a material way and/or to a significant degree the proposed Project as reflected in and approved by this Decision, such changes shall be governed by 760 CMR 31.03(3). In no case shall the Applicant be allowed to implement a Project change that increases the number of units, changes the mix of affordable and market rate units, or increases the height of the buildings on the Site, without submitting a new application and undergoing a new public hearing and decision process.

N. Expiration Date

If construction authorized by a comprehensive permit has not begun within three years of the date on which the permit becomes final, the permit shall lapse. The permit shall become final on the date that the written decision is filed in the office of the town clerk if no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of.

O. Notice to Abutters

At least seven days prior to the start of construction, the Applicant shall provide written notice to the Board and to the residential abutters of the Project of the anticipated construction start date and the anticipated construction schedule.

XI. CONCLUSION

The Application for a comprehensive permit for the Project is granted for the reasons stated above subject to the conditions provided herein.

This concludes the Decision of the Board

THE ACTON ZONING BOARD OF APPEALS

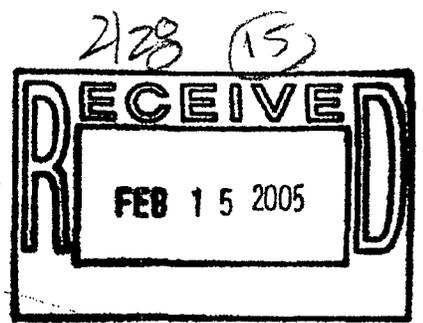
Jonathan Wagner, Chairman

Kenneth Kozik, Member

Cara Voutselas, Alternate Member

DATED:

ANDERSON & KREIGER LLP



DANIEL C. HILL
dhill@andersonkreiger.com

February 14, 2005

Mr. Don Johnson
Town Manager
Town of Acton
472 Main Street
Acton, MA 01720

NOTE TO BOS -
COUNSEL HAS NEGOTIATED CHANGES IN
THE STANDARD DHCD DOCUMENTS AND
HAS THOROUGHLY REVIEWED THESE FINAL
DOCUMENTS. I AM ASSURED THAT THESE
ARE READY AND APPROPRIATE FOR YOUR
SIGNATURES.

Re: Fort Pond Brook Place Comprehensive Permit

Dear Don:

Enclosed for the Board of Selectmen's review and execution are the following documents in the above-referenced matter:

- (1) Regulatory Agreement;
- (2) Monitoring Services Agreement; and
- (3) Sewer Agreement.

As you know, this project was permitted by the Zoning Board of Appeals with the endorsement of the Board of Selectmen under the Department of Housing and Community Development's Local Initiative Program ("LIP"). The Regulatory Agreement and the Deed Rider attached thereto reflect changes that we made to DHCD's standard forms to strengthen the Town's enforcement authority. Our requested changes were approved by DHCD staff, and these documents may now be used as forms for all future LIP projects in Acton. DHCD does not mandate that LIP projects be subject to a monitoring agreement. During the public hearing on the comprehensive permit application, however, the developer agreed to have the Acton Community Housing Corporation ("ACHC") monitor the affordability aspects of the development.

These documents were drafted to reflect the anticipated appointment by the Board of Selectmen of the ACHC as Monitoring Agent for this project. For the Board's convenience, I have prepared a motion to effectuate the appointment of the ACHC. All three documents must also be signed by the ACHC following its appointment as Monitoring Agent. Please note that the execution of the Regulatory Agreement and the Sewer Agreement must be notarized. The Monitoring Services Agreement and the Sewer Agreement are to be signed by the full Board of Selectmen; the Regulatory Agreement need only be signed by the chairman, authorized by vote

Mr. Don Johnson
February 14, 2005
Page 2

of the full board. DHCD requires a copy of the minutes from the meeting of the Board of Selectmen, evidencing that the Board authorized the chairman to sign the Regulatory Agreement.

Once these documents have been fully executed, you should return the Regulatory Agreement to the developer for recording at the Registry of Deeds. You should also instruct the developer to record the Sewer Agreement (to save the Town the recording fees). You should require the developer to return Registry-stamped copies of all recorded documents to the Town with a copy to me. The original executed Monitoring Services Agreement should be kept by the Board of Selectmen in its files. Please send me copies of all executed documents by email, so that my files are complete.

If you have any questions, please contact me.

Very truly yours,



Daniel C. Hill

DCH/flc
Enclosures
cc: Garry Rhodes (by email and mail)

G:\DOCS\ACT\40B-RiverStreet\L\johnson001.doc

MOTION:

Moved that the Board of Selectmen:

- (1) appoint the Acton Community Housing Corporation (AACHC@) as the Town of Acton's monitoring agent under a proposed Monitoring Services Agreement (substantially in the form attached) with 68 River Street, LLC, to be executed under the comprehensive permit issued by the Acton Board of Appeals pursuant to Chapter 40B of the Massachusetts General Laws for the development of mixed-income housing at 68 River Street in Acton;
- (2) pursuant to Chapter 143 of the Acts and Resolves of 1996, authorize the ACHC to: (a) acquire and hold interests in real and personal property, including affordable housing restrictions, and to sell, lease, convey, mortgage, or encumber the same; (b) enter into contracts with consultants, accountants, and any other agents, employees and contractors; and (c) receive and hold such funds as may be appropriated from time-to-time by the Town of Acton and other funds from any source, and to expend or utilize the same, all as may be necessary and appropriate to carry out its functions and perform its obligations as Monitoring Agent under said Agreement; and
- (3) authorize the Chairman of the Board of Selectmen, or the Acting Chairman of the Board of Selectmen, to execute the Regulatory Agreement and Monitoring Services Agreement for the Chapter 40B development at 68 River Street in Acton, in the forms approved by Town Counsel on February 14, 2005.

MONITORING SERVICES AGREEMENT

This Monitoring Services Agreement (this "Agreement") is made as of the 28 day of Feb, 2005, by and between 68 River Street, LLC a Massachusetts limited liability company having an address at 14 Newtown Road, Acton, MA 01720 ("Developer"), the Acton Community Housing Corporation, having an address at 472 Main Street, Acton, Massachusetts 01720 ("Monitoring Agent"), and the Town of Acton, having an address at 472 Main Street, Acton, Massachusetts 01720 (the "Municipality").

RECITALS

WHEREAS, the Developer intends to construct a housing development known as Fort Pond Brook Place at a .7426-acre site located at 68 River Street in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project"), under Chapter 40B of the Massachusetts General Laws (the "Act"); and

WHEREAS, the Board of Selectmen of the Municipality and the Developer have made application to Department of Housing and Community Development ("DHCD") to certify that the Project is a valid Comprehensive Permit Project within the Local Initiative Program of DHCD (the "LIP Program") and therefore that the Developer is qualified to apply to the Municipality's Board of Appeals for a comprehensive permit pursuant to the Act; and

WHEREAS, the Board of Appeals has issued a comprehensive permit for the Project (the "Comprehensive Permit"), and DHCD has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project; and

WHEREAS, pursuant to the Comprehensive Permit and the Regulatory Agreement among DHCD, the Municipality and the Developer of even date herewith (the "Regulatory Agreement"), the Project is to consist of a total of eight (8) condominium units, of which two (2) units (the "Affordable Units") will be sold at prices specified in the Regulatory Agreement to Eligible Purchasers (as defined herein); and

WHEREAS, the Affordable Units will be subject to deed riders governing the resale of the units in perpetuity (the "Affordability Requirement"); and

WHEREAS, pursuant to the Comprehensive Permit and the Regulatory Agreement, the Developer may not receive profit in excess of twenty percent (20%) of total development costs of the Project (the "Limited Dividend Requirement"); and

WHEREAS, pursuant to requirements of the Regulatory Agreement and the Comprehensive Permit, the Developer has agreed to retain the Monitoring Agent to perform monitoring and enforcement services regarding compliance of the Project with the Affordability Requirement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Monitoring Services. Monitoring Agent shall monitor the compliance of the Project with the Affordability Requirement as more fully described herein. The parties agree that DHCD will monitor compliance with the Limited Dividend Requirement.

(a) Affordability Requirement. (i) Initial Sales. The Developer agrees to deliver to the Monitoring Agent a proposed Marketing Plan (as defined in the Regulatory Agreement) for the Monitoring Agent's approval. Prior to the sale of the Affordable Units, the Developer agrees to deliver to the Monitoring Agent the income and asset certifications of the proposed Eligible Purchasers, and the proposed deeds and deed riders with respect to initial sales of Affordable Units as required under the Regulatory Agreement (the "Initial Sales Data"). The Monitoring Agent agrees to forthwith review the Initial Sales Data and determine the substantive compliance of the Project with the Affordability Requirement. The Monitoring Agent shall also ensure substantive compliance with the approved Marketing Plan and lottery process. Upon completion of its review of Initial Sales Data, the Monitoring Agent will deliver to DHCD and the Municipality a copy of such data together with the Monitoring Agent's determination of whether the Affordability Requirement has been met.

(ii) Resales. The Monitoring Agent also agrees to monitor resales of Affordable Units (including review of income and asset certifications, deeds and deed riders) for compliance with the terms of the Deed Rider, and issuance of certifications, as appropriate, approval of resales and the payment of recapture amounts to the Municipality. The Monitoring Agent shall also locate and select, or provide assistance to the Municipality in locating and selecting, Eligible Purchasers, including without limitation, ensuring compliance with the approved Marketing Plan and lottery process.

(c) Supplemental Monitoring Services. The Monitoring Agent shall provide reasonable supplemental monitoring on its own initiative in order to ensure to the extent practicable (i) the compliance by the Developer with the Affordability Requirement, and (ii) the compliance by the owners of the Affordable Units with the requirements of the Deed Rider, including without limitation the owner-occupancy requirement and the Resale Restrictions. The services hereunder shall not include any construction monitoring. The services hereunder shall include follow-up discussions with the Developer and/or owners of the Affordable Units, if appropriate, after an event of noncompliance.

2. Monitoring Services Fee. (a) The Monitoring Agent shall receive a fee of \$500.00 from the Developer at the time of execution of this Agreement. Such fee shall constitute payment for the services of the Monitoring Agent with respect to compliance by the Developer with the Affordability Requirement. As provided

in the Deed Rider with each Affordable Unit, the Monitoring Agent shall receive a Resale Fee of two and one-half percent (2.5%) of the Maximum Re-sale Price, to be paid by the buyer of the Affordable Unit at each closing as a condition precedent to closing for the services with respect to monitoring each subsequent sales transaction for compliance with the Resale Restrictions and the other terms of the Deed Rider. Such fee shall be payable for all transfers of Affordable Units, including those to an Eligible Purchaser or any other purchaser. If the Monitoring Agent's fee is not paid at the time of closing, the Monitoring Agent shall be entitled to payment from the purchaser of the Affordable Unit and to bring an action and seek an attachment of the interest of the purchaser in the Affordable Unit. Neither DHCD nor the Municipality shall have any responsibility for payment of any fee to Monitoring Agent hereunder.

3. Enforcement Services. In the event of any violation of the substantive or reporting requirements of the Regulatory Agreement or a failure by the Developer to take appropriate actions to cure a default under the Regulatory Agreement, the Monitoring Agent shall have the right, with the prior consent of the Municipality, to take appropriate enforcement action against the Developer, including, without limitation, legal action to compel the Developer to comply with the requirements of the Regulatory Agreement. The Regulatory Agreement provides for payment by the Developer of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the Developer there under and grants to the Monitoring Agent a lien on the Project to secure payment of such fees and expenses. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing the Regulatory Agreement against the Developer and to assert a lien on the Project to secure payment by the Developer of such fees and expenses.

In the event of a violation of the provisions of a Deed Rider, the Monitoring Agent shall have the right, with the prior consent of the Municipality, to take appropriate enforcement action against the unit owner or the unit owner's successors in title, including, without limitation, legal action to compel the unit owner to comply with the requirements of the Deed Rider. The Deed Rider will provide for payment by the unit owner of fees and expenses (including legal fees) of the Monitoring Agent in the event enforcement action is taken against the unit owner thereunder and will grant to the Monitoring Agent a lien on the unit, junior to the lien of any institutional holder of a first mortgage on the unit to secure payment of such fees and expenses. The Monitoring Agent shall be entitled to seek recovery of its fees and expenses incurred in enforcing a deed rider against the unit owner and to assert a lien on the relevant unit to secure payment by the unit owner of such fees and expenses.

The Monitoring Agent shall not be entitled to seek any compensation or reimbursement from DHCD or the Municipality in connection with the enforcement services under this Section, it being understood that the Monitoring Agent shall look solely to the reimbursement rights described above for payment of the Monitoring Agent's costs and expenses. Nothing in this Agreement shall be construed to require the Monitoring Agent to expend more than \$20,000, which amount shall be indexed to fluctuations in the Consumer Price Index for Urban Wage Earners and Clerical Workers

maintained by the United States Department of Labor (the "CPI"), in enforcing the provisions of the Regulatory Agreement or to take any particular enforcement action against the Developer.

4. Term. The monitoring services are to be provided for so long as there is any Affordable Unit subject to a Deed Rider containing the Resale Restrictions, or there is any Affordable Unit which is owned by the Municipality. The term of this Agreement shall end on the date six (6) months after the latter to occur of the latest expiration date of the term of the Deed Rider attached to any of the Affordable Units or the date the Municipality no longer owns any Affordable Unit.

5. Responsibility of Monitoring Agent. The Monitoring Agent shall not be held liable for any action taken or omitted under this Agreement so long as it shall have acted in good faith and without gross negligence.

6. Successor Monitoring Agent. Should the Monitoring Agent be dissolved or become incapable of fulfilling its obligations during the term of this Agreement, or if the Monitoring Agent consistently fails to exercise reasonable care and diligence in carrying out its responsibilities under this Agreement (any of the foregoing a "Termination Event"), the Municipality shall have the right to appoint a successor to serve as Monitoring Agent for the remaining term of this Agreement.

7. Indemnity. The Developer agrees to indemnify and hold harmless the Monitoring Agent, DHCD and the Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, DHCD or the Municipality by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent, DHCD or the Municipality acting in bad faith and with gross negligence.

8. Applicable Law. This Agreement, and the application or interpretation hereof, shall be governed by the laws of The Commonwealth of Massachusetts.

9. Binding Agreement. This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

10. Headings. All paragraph headings in this Agreement are for the convenience of reference only and are not intended to qualify the meaning of the paragraph.

11. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to monitoring of the Project with the Affordability Requirement, whether oral or written, including without limitation, all correspondence between the parties and between counsel for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto.

12. Definitions. Any capitalized term used and not defined herein shall have the same meaning as set forth in the Regulatory Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

DEVELOPER:

68 River Street, LLC

By: Paul Gaboury, Manager
Paul Gaboury, Manager

Glen Kaufmann, Manager
Glen Kaufmann, Manager

MONITORING AGENT:

Acton Community Housing Corp.

By: Nancy E. Tavernier
Nancy Tavernier

Title: Chair

TOWN OF ACTON:

By its Board of Selectmen

F. Dore Hunter, Chairman
F. Dore Hunter, Chairman

Peter K. Ashton
Peter K. Ashton

William H. Shupert, III
William H. Shupert, III

Walter M. Foster
Robert A. Johnson
Robert A. Johnson

X

Exhibit A

A certain parcel of land located on River Street in Acton, Middlesex County, Massachusetts, shown as Lot 1 on a plan entitled "Plan of Land in Acton, Massachusetts" prepared for 111-113 School Street, LLC, Scale 1" =20'," by Stamski and McNary, Inc. dated March 29, 2004, containing 32,346 square feet, more or less, according to said plan recorded with Middlesex South District Registry as Plan # of 2005.

For Grantors' title see deed dated January 12, 2004 recorded at Book 41766, Page 472 at the Middlesex South Registry of Deeds.

AGREEMENT

THIS AGREEMENT is made this 28 day of Feb, 2005, by, between and among the following parties:

- The Town of Acton, a municipal corporation, having its principal office at Town Hall, 472 Main Street, Acton MA 01720 (the “Town”), acting by and through the Acton Board of Selectmen for itself and as the Sewer Commissioners of the Town (the “Board”);
- 68 River Street, LLC, a Massachusetts limited liability corporation with a principal place of business at 114 Newtown Road, Acton, MA 01720, by its members Paul Gaboury and Glen Kaufmann, on behalf of itself and its successors and assigns (the “River Street LLC”);
- 111-113 School Street, LLC, a Massachusetts limited liability corporation with a principal place of business at 114 Newtown Road, Acton, MA 01720, by its members Glen Kaufmann and Donna Kaufmann, on behalf of itself and its successors and assigns (the “School Street LLC”); and
- Acton Community Housing Corporation, a municipal community housing corporation, having its principal office at Town Hall, 472 Main Street, Acton MA 01720 (“ACHC”).

WHEREAS the River Street LLC proposes to build low or moderate income housing in a development of 8-unit condominium development (the “Project”) located at 111-113 School Street in Acton and identified as Lot 37 on Assessor’s Map H3A (the “Project Site”).

WHEREAS the Project Site is currently owned by the School Street, LLC (the “Owner”) and is to be transferred to the River Street LLC upon approval of the comprehensive permit for the Project.

WHEREAS the Town has recently completed construction of the Fort Pond Brook Sewage Treatment Plant and its associated public sewer lines and facilities (the “Town Sewer”).

WHEREAS the River Street LLC proposes to connect the Project to the Town Sewer.

WHEREAS the Town and the Board have respectively adopted a sewer Bylaw and Sewer Use Regulations applicable to sewer connections and sewer use in the Town of Acton, copies of which are attached as Exhibits A (the “Bylaw”) and B (the “Regulations”).

WHEREAS the Board is authorized by Section D.10.2 of the Bylaw to assess sewer betterments in accordance with the Uniform Unit Method.

WHEREAS the Board is authorized by Section D.10.5 of the Bylaw to “establish reasonable fees pursuant to G.L. c. 83, § 17, to cover costs of construction of common sewers and other facilities required to serve land not previously served by the sewer system and not previously assessed to the owner of such land.”

WHEREAS the Board has adopted a Sewer Privilege Fee Schedule, a true copy of which is attached as Exhibit C (the “Sewer Privilege Fee Schedule”).

WHEREAS the Board is in the process of assessing final sewer betterments pursuant to the Bylaw and the Regulations for land benefited by the Town Sewer.

WHEREAS, final approval of the Project may occur before or after final sewer betterments are issued.

WHEREAS as part of its approval process before the Department of Housing and Community Development (“DHCD”), the River Street LLC seeks a commitment from the Board that the River Street LLC will be allowed to connect the Project to the Town Sewer.

WHEREAS the Board is willing to provide that commitment in return for the commitments by River Street LLC and School Street LLC as set forth herein

WHEREAS ACHC is willing to subsidize payment of a portion of the final sewer betterment assessment or sewer privilege fee applicable to the two affordable units in the Project on the terms and conditions set forth herein.

NOW THEREFORE, for one dollar and other adequate consideration the receipt and sufficiency of which are hereby acknowledged, the Town, the Board, the River Street LLC, the Schools Street LLC, and ACHC agree as follows:

1. **Permits and Approvals**

The River Street LLC shall apply for all necessary governmental licenses, permits, approvals or other relief required for the Project and the connection of the Project to the Town Sewer (“Governmental Approvals”). The River Street LLC shall pay for all costs and expenses incurred in connection with applying for, obtaining and maintaining all necessary Government Approvals the Project and the connection of the Project to the Town Sewer.

2. **Construction of the Sewer Connection for the Project**

Upon receipt of all necessary Government Approvals the Project and the connection of the Project to the Town Sewer, the River Street LLC shall construct the Project and the connection of the Project to the Town Sewer in accordance with the Government Approvals. The River Street LLC shall pay for all costs and expenses of the construction of the Project and

the connection of the Project to the Town Sewer in accordance with the Town's specifications.

3. **Payment of Final Sewer Betterment Assessment**

Section D.10.2.b.2 of the Bylaw provides in relevant part that, "Multi-family units with three or more bedrooms shall be assessed on the basis of one sewer unit per dwelling unit. Each owner of a condominium or cooperative dwelling unit in a multi-family residential building shall be assessed only for his or her dwelling unit." The River Street LLC and the School Street LLC agree that, if the final comprehensive permit for the Project is issued before the Town issues final sewer betterment assessments for the Town Sewer, then the Project Site shall be assigned eight (8) Sewer betterment Units ("SBU") and each SBU shall be assessed the standard dollar amount per SBU established by the Board when the Town issues final sewer betterment assessments for the Town Sewer (the "per SBU charge"). The River Street LLC and the School Street LLC agree that they shall either timely pay in full, or incorporate in the Master Deed for the Project's condominium documents a binding obligation for the unit owners to timely pay its proportional share of, the final sewer betterment assessment so issued. The River Street LLC and the School Street LLC agree that they shall not seek an abatement of the final sewer betterment assessment so issued.

4. **Payment of Sewer Privilege Fee in Lieu of Betterment**

In the alternative, the River Street LLC and the School Street LLC agree that, if the final comprehensive permit for the Project is issued after the Town issues final sewer betterment assessments for the Town Sewer, then the Project Site shall be assessed a Sewer Privilege Fee in accordance with the Sewer Privilege Fee Schedule. In that assessment, the Project Site shall be assigned eight (8) Sewer betterment Units ("SBU"), which shall be multiplied by the ordinary "per SBU charge" for properties within the sewer betterment district. Added to this number shall be the usual sewer connection fee for each new connection to the sewer. The River Street LLC and the School Street LLC agree that they shall either timely pay in full, or incorporate in the Master Deed for the Project's condominium documents a binding obligation for the unit owners to timely pay its proportional share of, the Sewer Privilege Fee so assessed. The River Street LLC and the School Street LLC agree that they shall not seek an abatement of the Sewer Privilege Fee so assessed.

5. **Sewer Use Charges**

The River Street LLC and the School Street LLC agree that they shall incorporate in the Master Deed for the Project's condominium documents a binding obligation for the unit owners to timely pay any and all sewer use charges and other costs and assessments in accordance with the General Laws and the Bylaw and Regulations.

6. **Obligations Run With the Land**

The River Street LLC and the School Street LLC agree that the Town may record this Agreement in the chain of title for the Project Site and that the obligations of the River Street LLC and the School Street LLC set forth in this Agreement shall run with the land and be binding upon River Street LLC and the School Street LLC and their respective successors and assigns. In so recording, the Town need not record the Exhibits to this Agreement for said recording to be valid notice of this Agreement and its Exhibits. In the event the Registry and/or Registration office requires changes to the form of this Agreement to render it recordable, the River Street LLC and the School Street LLC shall cooperate with the Town and shall forthwith take all actions reasonably required by the Town to render this Agreement or notice hereof recordable.

7. **ACHC Subsidy**

Upon the issuance of a certificate of occupancy for each of two affordable housing units in the Project, ACHC agrees that it will pay to the Town \$7,500 toward that affordable unit's final sewer betterment assessment or Sewer Privilege Fee, as applicable. In the alternative, in the event that the River Street LLC has, prior to that time, paid in full the affordable unit's final sewer betterment assessment or Sewer Privilege Fee, as applicable, then ACHC shall (upon receipt of satisfactory proof of said payment therefor), reimburse the River Street LLC the sum of \$7,500 toward that affordable unit's final sewer betterment assessment or Sewer Privilege Fee, as applicable. In no case shall ACHC's obligation under this paragraph exceed a total of \$15,000.

8. **Miscellaneous**

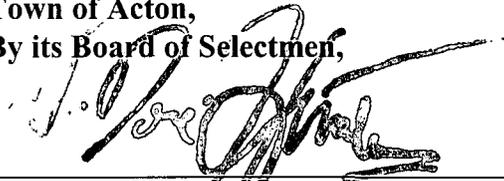
Binding Effect. The terms and covenants of this Agreement shall run with the land comprising the Project Site and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. The provisions of this Agreement shall be binding upon all the parties having or acquiring any right, title or interest in any of the Project Site. Each owner of the Project Site or any portion thereof or interest therein, by accepting delivery of a deed to the Project Site, or any portion thereof or interest therein, subject to this Agreement, agrees and covenants that the terms and conditions of this Agreement are reasonable and agrees to be bound thereby.

Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

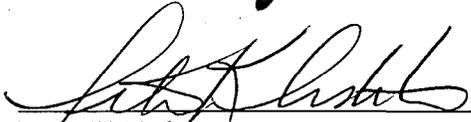
Authorization. This Agreement has been duly authorized by all necessary actions of the River Street LLC and the School Street LLC and the signators below are duly authorized to execute this Agreement on behalf of the River Street LLC and the School Street LLC, respectively.

WHEREFORE the parties have set their hands and seal to this Agreement on this _____ day of _____, 2005.

**Town of Acton,
By its Board of Selectmen,**



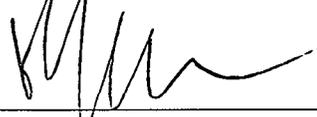
F. Dore' Hunter, Chairman



Peter K. Ashton



William H. Shupert, III

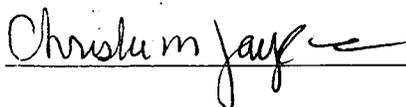
Walter M. Foster


Robert A. Johnson

TOWN ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this 28 day of Feb, 2005, before me, the undersigned Notary Public, personally appeared each of the foregoing named members of the Board of Selectmen of the Town of Acton, proved to me through satisfactory evidence of identification, which was: examination of known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the foregoing named members of the Board of Selectmen of the Town of Acton, a municipal corporation.



(official signature and seal of notary)

68 River Street, LLC

Paul Gaboury MANAGER

BY GLEN KAUFMANN IS MANAGER

LLC ACKNOWLEDGMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this 18 day of Feb, 2005, before me, the undersigned Notary Public, personally appeared Paul Gaboury and Glen Kaufmann, proved to me through satisfactory evidence of identification, which were known to me, to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that each signed it voluntarily for its stated purpose as a Member of 68 River Street, LLC

David Mykura (official signature and seal of notary)

My commission expires Sept 24, 2008

Acton Community Housing Corporation

Nancy E. Tavernier

ACHC ACKNOWLEDGEMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this 18 day of Feb, 2005, before me, the undersigned Notary Public, personally appeared the foregoing named official of the Acton Community Housing Authority, proved to me through satisfactory evidence of identification, which was: examination of Known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Cheryl W. Payne (official signature and seal of notary)

My commission expires Sept 26, 2008

EXHIBIT A – SEWER USE BYLAW

CHAPTER D

ADMINISTRATIVE PROVISIONS

D10. Sewer Assessment Bylaw

D 10 Sewer System

1. Allocation of Cost of Sewer System. *The entire cost of laying out, constructing and operating a system for the collection, treatment and disposal of sewage for all or any part of the Town shall be borne by the land benefited by such system, in accordance with the following provisions, except that costs incurred in connection with the planning and construction of the sewer collection and treatment facility for Middle Fort Pond Brook Sewer District, for archeological studies, paving of roads, engineering peer reviews, police details, traffic studies, and land acquisition, amounting in total to \$1,336,600, shall be allocated to taxpayers at large; and except for such costs as the Town Meeting, by a two-thirds vote, at a town meeting subsequent to this November 15, 1999 Special Town Meeting, shall allocate to taxpayers at large.*

2. Assessment by Uniform Unit Method.

- a. *The Town, acting through its Sewer Commissioners, shall assess the owners of all land abutting any way in which there is a public sewer line constructed by the Town, by the uniform unit method, as authorized by G.L. c. 83 §15.*
- b. *The Sewer Commissioners shall establish sewer assessment units, as follows:*
 - (i) *The owner of land used for a single family residence shall be assessed on the basis of one sewer unit. The owner of undeveloped land zoned for single family residential use shall be assessed on the basis of the maximum number of single family residences which may be constructed on such land as of right under the zoning requirements then in effect, without approval of the further subdivision of such land under the Subdivision Control Law.*
 - (ii) *The owner of land used for multi-family residential use, shall be assessed on the basis of .67 times the number of dwelling units presently existing on such land, provided each unit has fewer than three bedrooms as defined by Title V. Vacant land zoned for multi-*

family use shall be assessed on the basis of .67 times the maximum number of units which can be constructed as of right under the zoning then in effect, without approval of further subdivision of such land under the Subdivision Control Law. Multi-family units with three or more bedrooms shall be assessed on the basis of one sewer unit per dwelling unit. Each owner of a condominium or cooperative dwelling unit in a multi-family residential building shall be assessed only for his or her dwelling unit.

- (iii) The owner of land used or zoned for business use, including land in the Village, Office, Business districts, except land in such districts actually used for residential or other purposes, shall be assessed on the basis of a number of sewer units calculated by multiplying the maximum floor area ratio (FAR) permitted as of right under the zoning requirements then in effect times the lot area and dividing the result by 4000, in accordance with the following formula.

$$\text{Number of Sewer Units} = \frac{\text{Maximum FAR} \times \text{Lot Area}}{4000}$$

- (iv) The owner of land used or zoned for industrial use shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.
- (v) The owner of land used or zoned for other purposes not specified in the foregoing sections, including , but not limited to, institutional and non-profit uses, shall be assessed on the basis of a number of sewer units to be determined by the Sewer Commissioners, taking into account the expected daily sewage flow from such land based on Title V design flows.

3. **User Fees for Land Not Subject to Assessment.** The Sewer Commissioners shall establish just and reasonable fees for the use of the public sewer system by the owner of any land, including public land, not liable to assessment, which fee shall be based on the avoided cost of construction of sewage disposal facilities to serve such land.

4. **Assessment Rates.** The Sewer Commissioners shall establish the assessment rate for land within the Middle Fort Pond Brook sewer area, based on total construction costs for the sewerage system serving such area, including all costs of land acquisition, engineering and design, financing and construction,

BYLAWS of the TOWN of ACTON

Updated April 2001

divided by the total number of existing and potential sewer units within such area. In establishing such rate, the Sewer Commissioners shall apportion the total construction costs between costs required to serve the Middle Fort Pond Brook area and costs required to serve future areas within the Town and shall assess owners within the Middle Fort Pond Brook area only such costs as are reasonably necessary to serve such area, after deducting any construction costs to be recovered pursuant to Section 3 from users of the system not subject to assessment.

5. Sewer Privilege Fees. The Sewer Commissioners may establish reasonable fees pursuant to G.L. c. 83, § 17 to cover costs of construction of common sewers and other facilities required to serve land not previously served by the sewer system and not previously assessed to the owner of such land. Any such fee shall be reduced to the extent the landowner pays such expenses, in accordance with G.L. c. 83, § 22.

6. Annual User Fees. The Sewer Commissioners may from time to time establish just and equitable annual user charges to cover the cost of maintenance, repairs and operation of the sewer system.

7. Rules and Regulations Concerning Sewer Assessments. The Sewer Commissioners may adopt such reasonable rules and regulations with respect to the calculation of sewer assessments or fees as may be necessary or appropriate to implement the provisions of this bylaw.

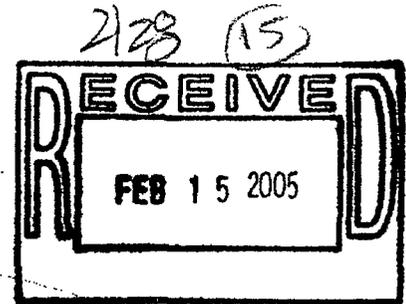
8. Applicability of General Laws. Except as provided herein or in any special legislation applicable to the Town, the provisions of the General Laws relative to the assessment, apportionment, division, re-assessment, abatement and collection of sewer assessments and to liens therefore and interest thereon shall apply to assessments made hereunder.

9. Rules and Regulations Concerning Use of Sewer System. The Sewer Commissioners may establish rules and regulations concerning the use of the public sewer system, including but not limited to, rules and regulations prohibiting the deposit of any harmful or deleterious substance into the system, for regulating connections to the system and establishing civil penalties for violation of such rules.

EXHIBIT B – SEWER USE REGULATION

EXHIBIT C – SEWER PRIVILEGE FEE SCHEDULE

ANDERSON & KREIGER LLP



DANIEL C. HILL
dhill@andersonkreiger.com

February 14, 2005

NOTE TO BOS -
COUNSEL HAS NEGOTIATED CHANGES IN
THE STANDARD DHCD DOCUMENTS AND
HAS THOROUGHLY REVIEWED THESE FINAL
DOCUMENTS. I AM ASSURED THAT THESE
ARE READY AND APPROPRIATE FOR YOUR
SIGNATURES.

Mr. Don Johnson
Town Manager
Town of Acton
472 Main Street
Acton, MA 01720

Re: Fort Pond Brook Place Comprehensive Permit

Dear Don:

Enclosed for the Board of Selectmen's review and execution are the following documents in the above-referenced matter:

- (1) Regulatory Agreement;
- (2) Monitoring Services Agreement; and
- (3) Sewer Agreement.

As you know, this project was permitted by the Zoning Board of Appeals with the endorsement of the Board of Selectmen under the Department of Housing and Community Development's Local Initiative Program ("LIP"). The Regulatory Agreement and the Deed Rider attached thereto reflect changes that we made to DHCD's standard forms to strengthen the Town's enforcement authority. Our requested changes were approved by DHCD staff, and these documents may now be used as forms for all future LIP projects in Acton. DHCD does not mandate that LIP projects be subject to a monitoring agreement. During the public hearing on the comprehensive permit application, however, the developer agreed to have the Acton Community Housing Corporation ("ACHC") monitor the affordability aspects of the development.

These documents were drafted to reflect the anticipated appointment by the Board of Selectmen of the ACHC as Monitoring Agent for this project. For the Board's convenience, I have prepared a motion to effectuate the appointment of the ACHC. All three documents must also be signed by the ACHC following its appointment as Monitoring Agent. Please note that the execution of the Regulatory Agreement and the Sewer Agreement must be notarized. The Monitoring Services Agreement and the Sewer Agreement are to be signed by the full Board of Selectmen; the Regulatory Agreement need only be signed by the chairman, authorized by vote

Mr. Don Johnson
February 14, 2005
Page 2

of the full board. DHCD requires a copy of the minutes from the meeting of the Board of Selectmen, evidencing that the Board authorized the chairman to sign the Regulatory Agreement.

Once these documents have been fully executed, you should return the Regulatory Agreement to the developer for recording at the Registry of Deeds. You should also instruct the developer to record the Sewer Agreement (to save the Town the recording fees). You should require the developer to return Registry-stamped copies of all recorded documents to the Town with a copy to me. The original executed Monitoring Services Agreement should be kept by the Board of Selectmen in its files. Please send me copies of all executed documents by email, so that my files are complete.

If you have any questions, please contact me.

Very truly yours,



Daniel C. Hill

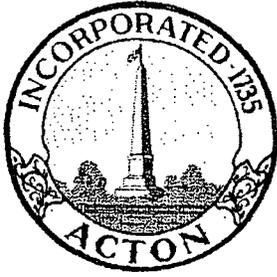
DCH/flc
Enclosures
cc: Garry Rhodes (by email and mail)

G:\DOCS\ACT\40B-RiverStreet\LJohnson001.doc

MOTION:

Moved that the Board of Selectmen:

- (1) appoint the Acton Community Housing Corporation (AACHC@) as the Town of Acton's monitoring agent under a proposed Monitoring Services Agreement (substantially in the form attached) with 68 River Street, LLC, to be executed under the comprehensive permit issued by the Acton Board of Appeals pursuant to Chapter 40B of the Massachusetts General Laws for the development of mixed-income housing at 68 River Street in Acton;
- (2) pursuant to Chapter 143 of the Acts and Resolves of 1996, authorize the ACHC to: (a) acquire and hold interests in real and personal property, including affordable housing restrictions, and to sell, lease, convey, mortgage, or encumber the same; (b) enter into contracts with consultants, accountants, and any other agents, employees and contractors; and (c) receive and hold such funds as may be appropriated from time-to-time by the Town of Acton and other funds from any source, and to expend or utilize the same, all as may be necessary and appropriate to carry out its functions and perform its obligations as Monitoring Agent under said Agreement; and
- (3) authorize the Chairman of the Board of Selectmen, or the Acting Chairman of the Board of Selectmen, to execute the Regulatory Agreement and Monitoring Services Agreement for the Chapter 40B development at 68 River Street in Acton, in the forms approved by Town Counsel on February 14, 2005.



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Don P. Johnson
Town Manager

February 28, 2005

Ms. Marilyn Contreas
Department of Housing and Community Development
100 Cambridge Street
Boston, MA 02114

RE: Acton/Fort Pond Brook Place

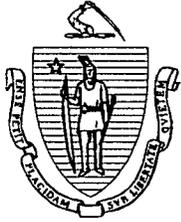
Dear Ms. Contreas,

In accordance with the provisions set forth in paragraph 6 of the **Regulatory Agreement and Declaration of Restrictive Covenants for Ownership Project**, for Fort Pond Brook Place, please be advised that the developer's Marketing Plan, including, but not limited to, the buyer selection and local preference provisions, have been reviewed and approved by the Board of Selectmen of the Town of Acton.

Further, the Town of Acton, acting through the Acton Community Housing Corporation, will perform those aspects of the Marketing Plan, a copy of which is attached hereto, which are the responsibilities of the Town of Acton.

Sincerely,
Town of Acton,

By: F. Doré Hunter,
Chairman, Board of Selectman



Commonwealth of Massachusetts
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

2/15/06 Granted extension
to 9/06

January 24, 2006

Mr. Paul Gaboury
River Street LLC
12 Assabet Crossing
Acton, MA 01720

Re: Acton – Fort Pond Brook Place
Local Initiative Program End of Project Accounting

Dear Mr. Gaboury,

As you are aware, M.G.L. Chapter 40B requires any for-profit developer using a comprehensive permit to qualify as a limited dividend organization. ***The Local Initiative Program regulations require such a developer to qualify as a limited dividend organization by agreeing to limit profit to all partners and owners to no more than twenty percent (20%) of the total development cost.*** The Local Initiative Program also requires that any excess profit be paid to the municipality for the purpose of producing additional low or moderate income housing and preserving such housing.

Now that your project is complete or approaching completion, we wish to remind you that you must submit to the municipality and DHCD a Certified Cost and Income Statement for the project prepared by a certified public accountant. The details of this requirement are set forth in the Local Initiative Program Regulatory Agreement among 68 River Street LLC, the Town of Acton, and DHCD dated 3/2/2005.

Attached you will find a sample format for your Certified Cost and Income Statement, which should include the following:

- Independent Accountant's Report narrative from a certified public accountant
- LIP End of Project Accounting Form
- Analysis of Total Sales Revenue
- Analysis of Private Contributions

Allowable expenses for the project may include:

1. Acquisition

The lesser of (1) purchase price of the site in the last arms-length transaction if within three years of the date of the site eligibility letter from DHCD, or (2) the appraised value of the site under prior by-right zoning at the time of purchase, or by the date of the site eligibility letter from DHCD, whichever is later. The value added to a site by a comprehensive permit is not an acceptable project cost.

2. Hard Costs

- All reasonable direct expenses incurred in carrying the site through completion of development.
- All reasonable direct expenses incurred in constructing the project.
- All reasonable fees and service expenses directly related to constructing the project.

3. Soft Costs

- All reasonable direct expenses incurred in constructing and marketing the project (brokerage fees should not be assessed to affordable units without consent of DHCD).
- Developer fees consisting of direct administrative expenses incurred during the term of the project development. These expenses may not include:
 - i. Overhead expenses not directly related to development of the project.
 - ii. Salaries or other compensation paid to the project owners, partners, sponsors or organizational principals.
 - iii. Fees to project sponsors who perform professional services on behalf of the development in excess of reasonable market value for those services.

The Certified Cost and Income Statement should be submitted to DHCD and the municipality ***no later than 90 days after the sale of the final unit.***

If you have any questions about the Certified Cost and Income Statement, please contact Elsa Campbell at (617) 573-1321. We will be happy to assist you in reviewing these requirements. Thank you for your cooperation.

Sincerely,



Catherine Rader
Associate Director

Cc: Peter Ashton, Chairman , Acton Board of Selectmen

SAMPLE

LOCAL INITIATIVE PROGRAM
End of Project Cost Accounting

	Total Costs	Cost Per Unit	Payment to Related Party? (Y/N)
<u>DEVELOPMENT ITEMS:</u>			
(a) Site Acquisition (lesser of purchase price or appraised value)	\$ _____	\$ _____	
<u>HARD COSTS:</u>			
(b) Site Preparation	\$ _____	\$ _____	
(c) Landscaping	\$ _____	\$ _____	
(d) Residential Construction	\$ _____	\$ _____	
(e) <u>TOTAL HARD COSTS</u>	\$ _____	\$ _____	
<u>SOFT COSTS:</u>			
(f) Permits / Surveys	\$ _____	\$ _____	
(g) Architectural	\$ _____	\$ _____	
(h) Engineering	\$ _____	\$ _____	
(i) Legal	\$ _____	\$ _____	
(j) Insurance	\$ _____	\$ _____	
(k) Security	\$ _____	\$ _____	
(l) Developer's Overhead Expense	\$ _____	\$ _____	
(m) Construction Manager	\$ _____	\$ _____	
(n) Property Manager	\$ _____	\$ _____	
(o) Construction Interest	\$ _____	\$ _____	
(p) Financing / Application Fees	\$ _____	\$ _____	
(q) Utilities	\$ _____	\$ _____	
(r) Maintenance (unsold units)	\$ _____	\$ _____	
(s) Accounting	\$ _____	\$ _____	
(t) Marketing	\$ _____	\$ _____	
(u) <u>TOTAL SOFT COSTS</u>	\$ _____	\$ _____	
(V) <u>Total Development Costs (e+u)</u>	\$ _____	\$ _____	

PROFIT ANALYSIS

Should Conform to Information Above

Sources:

(A) Affordable Sales	\$ _____
(B) Market Sales	\$ _____
(C) Public Grants	\$ _____
(D) Total Sales plus Grants (A+B+C)	\$ _____

Uses:

(E) Total Development Costs	\$ _____
(F) Total Profit (D-E)	\$ _____
(G) Percentage Profit (F-E)	\$ _____

LOCAL INITIATIVE PROGRAM
Analysis of Total Sales Revenue

<u>Unit #</u>	<u>Unit Type</u>	<u>Date Closed</u>	<u>Sales Price</u>	<u>Affordable</u>	<u>Moderate</u>	<u>Market</u>
			\$	\$	\$	\$

Total Sales Revenue

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

Acton Town Hall

472 Main Street

Acton, Massachusetts, 01720

Telephone (978) 263-9611

TO: Steve Graham
FROM: Nancy Tavernier, Chair
SUBJECT: Fort Pond Brook Place betterment contribution
DATE: February 21, 2006
Cc: Doug Halley, Paul Gaboury

Enclosed please find a Treasurer's check made out to the Town of Acton for \$7500 to be held in escrow until the sale of the second affordable unit at Fort Pond Brook Place is completed. At that time, the check should be delivered to the Town of Acton to the attention of Doug Halley, Health Director. The ACHC is using CPA funds to make a partial payment to the Town for the sewer privilege fee for the affordable units, in exchange for a lowered selling price of the affordable units to \$179,500.

Thank you.

Fort Pond Brook Place Condominiums

*c/o Mosaic Partners, LLC
12 Assabet Crossing
Acton, MA 01720
(978) 461-0197*

XXXX NAME XXXXX
XXXXADDRESSXXXXXXXX
XXCITY, MA, ZIP XXXXX

XXXX DATE XXXXXX

Dear XXXXXXXX,

Attached is the information you requested regarding the Fort Pond Brook Place affordable housing initiative in Acton, Massachusetts. Fort Pond Brook Place Condominiums is will be under construction soon and it is anticipated that the affordable town homes will be completed and ready for occupancy by Fall, 2005.

All affordable town homes will be sold by lottery as outlined in the attached package. Please review the enclosed information packet in detail and complete all of the yellow pages and supply the documents requested in the application (like pay stubs) and return them to Fort Pond Brool Place Lottery, P.O. Box XXXX, Acton, MA 01720

A Public Information Meeting will be held **XXXXX date XXXXXX** at XXXX p.m. at the XXXXXXXXXXXX. A second Public Information Meeting will be held **XXXXX date XXXXXX** at XXXX p.m. at the XXXXXXXXXXXX. At these meetings a short presentation explaining the lottery process will be made and you will be able to view scale models of the townhouse units and the floor plans. This will be followed by a question and answer session.

Assistance will be available to help you complete the application. If you do choose to use this service you must bring your latest pay stub and the last two years federal tax returns (all family members).

Applications must be submitted by XXX p.m. on **XXXXXXXXXXXXXXXXXX**. The lottery will be held on Thursday, **XXXXXXXXXXXXXXXXXX**, XXX p.m. at the XXXXXXXXXXXX. We anticipate having the first town homes ready for occupancy **XXXXXXXXXXXXXXXXXX**.

The lottery for the two available town homes will be held at the Acton Town Library, XXXXXXXXXXXXXXXX at 7:00 p.m. Although not required, all applicants are encouraged to attend.

Thank you for your interest in affordable housing at **FORT POND BROOK PLACE**. If you have questions and cannot attend the public meeting meeting, please contact Paul Gaboury at 978-461-0197 or email us at fortpondbrookplace@fiam.net.

Sincerely,

Paul M. Gaboury
Fort Pond Brook Place Condominiums

FORT POND BROOK PLACE CONDOMINIUMS

The Fort Pond Brook Place town home condominiums are located in the South Acton Historic District. The development contains eight town homes in four buildings which are designed to appear as a late 1800's farm house. Each townhouse has:

- 1,672 square feet of living space
- 3 Bedrooms
- 2 ½ Baths
- Kitchen with Microwave, oven and a dishwasher
- Central Air Conditioning, hot air heat and central vacuum
- Hardwood flooring on the first floor; carpeting in the bedrooms and closets, tile in the bathrooms
- Two parking spaces

Two units have been designated for sale under the states affordable housing program. These units will be sold for \$187,000 each. Buyers will be selected by lottery.

Guidelines to participate in the lottery

If you wish to enter the lottery for a chance to be selected to purchase one of these two town homes you must meet **all** of the following guidelines:

- Either be a first time home buyer or have not owned a home in the previous 3 years
- Have no more that \$50,000 in assets such as savings, checking and brokerage accounts and stocks and bonds but excluding your automobile(s) and personal items such as clothing and home furnishings.
- Be able to secure a 30 year fixed rate mortgage
- Be able to put 5% or \$9,350 down
- Have an annual household income of not more that \$66,150. "Household" means you, your spouse and children. This income limit is \$71,450 for households of 5 persons and \$76,750 for households with 6 persons.

The town homes will be sold in accordance with policies and guidelines established by the Acton Community Housing Corporation and the Massachusetts Department of Housing and Community Development. **Preference is given to families of two or more individuals.** One of the two townhouses is reserved for qualifying:

- Current Town of Acton residents and their children
- Town of Acton employees including the Acton Water District employed for a minimum of six months
- Those employed **in** the Town of Acton for the past six months.

Please note that homes purchased under these policies and guidelines are sold at a substantial discount from other town homes in the development. For example, the price for the Fort Pond Brook Place affordable town home is \$187,000. The market units will be sold for \$325,000 or more.

Deed restrictions are used to maintain the affordability of the town homes for future buyers while permitting the owner to share in the appreciation of the town home. Thus, if you were to sell your home in three years, for example, you would not be able to sell it at the going market price. the State of Massachusetts and the Town of Acton would determine the price of the unit.

The Lottery for FORT POND BROOK PLACE CONDOMINIUMS

There will be two (2) town homes available at Fort Pond Brook Place Condominiums. The two town homes are to be distributed through two lottery pools, each with one town home available. The following are the two pools.

<u>Pool</u>	<u>Qualifications</u>	<u># of Town Homes</u>
Local	Applicants which must meet local requirements	1
Open Pool	All applicants (<i>Includes Local</i>)	1

Applicants will be in *all* the pools in which they qualify. Local applicants would have two opportunities with the Local and Open pools.

All of the applicants for a given pool will be pulled at the time of the lottery. This will establish the rankings for the distribution of the town homes. **For example**, if there are 40 local applicants, the first one (1) selected from the pool would have an opportunity to purchase a town home, and the remaining 39 applicants would establish the waiting list if the winner drops out.

If you have been selected for a town home you must meet with one or more lottery representatives to review your application in detail and to verify the information you have provided.

Please be advised that the **official income verification will be repeated** shortly before closing to verify that you are still eligible. You will need to provide recent pay stubs at that time.

Town Homes are assigned

It is important for all applicants to understand that specific town homes are attached to specific lottery rankings based upon the projected availability of the completed town house. Applicants will not have a choice of town home locations, style or schedules. You will not be able “pass” on a town home and wait for the next town home.

If you choose not to take the available town home that is designated to you, you will go to the bottom of the list and will not have another opportunity to purchase a home in Fort Pond Brook Place.

First time homebuyer course

You **must** also attend a “first time homebuyer education course” help by the Acton Community Housing Corporation. A schedule of these events will be provided to the top five lottery winners.

Summary

We hope this helps explain the process by which the town homes will be distributed. . We greatly appreciate your participation and wish you the best of luck in the lottery process.

Fort Pond Brook Place

River Street, Acton

Name
Address

TWO AFFORDABLE TOWN HOMES AVAILABLE IN ACTON

The Acton Housing Authority has provided us with your contact information so that we could make you aware of an opportunity to acquire an affordable town home here in Acton. Fort Pond Brook Place, the Town of Acton, and the Acton Community and Housing Corporation (ACHC) are pleased to inform you that the construction of the Fort Pond Brook Place three bedroom town homes has begun. Two of the 8 units will be offered to families with moderate incomes. Buyers of the two units will be selected by lottery. We expect the units to be available for occupancy in the fall.

Families wishing to place themselves on the mailing list should provide their contact information by email at FortPondBrookPlace@verizon.net (preferred) or by mail at FPBP, 12 Assabet Crossing, Acton, MA 01720. Should you feel you meet the guidelines below we also recommend you attend a public meeting June 17th at 7:30 in Room 204 of the Town Hall.

Guidelines to participate in the lottery

If you or someone you know wishes to enter the lottery for a chance to be selected to purchase one of these two town homes you must meet **all** of the following guidelines:

- Either be a first time home buyer or have not owned a home in the previous 3 years
- Have no more that \$50,000 in assets such as savings, checking and brokerage accounts and stocks and bonds but excluding your automobile(s) and personal items such as clothing and home furnishings.
- Be able to secure a 30 year fixed rate mortgage
- Be able to make a down payment of 5% or \$8,975.
- Have an annual household income not exceeding: (see below)

Household Size	3	4	5	6
Max. Allowable Income	\$59,550	\$66,150	\$71,450	\$76,750

The town homes will be sold in accordance with policies and guidelines established by the Acton Community Housing Corporation and the Massachusetts Department of Housing and Community Development. Preference is given to families of 4 or more individuals. One of the two town homes is reserved for families that are:

- Current Town of Acton residents and their children
- Town of Acton employees including employees of the Acton Water District, Acton Public Schools, Acton-Boxborough Regional High School that are employed for a period of six months before the application deadline
- Employed in the Town of Acton for a minimum of six months before the application deadline

Please note that homes purchased under these policies and guidelines are sold at a substantial discount from other town homes in the development. The price for a Fort Pond Brook Place affordable town home is \$179,500.

Deed restrictions are used to maintain the affordability of the town homes for future buyers while permitting the owner to share in the appreciation of the town home. For example, if you were to sell your home in three years you would not be able to sell it at the going market price. The State of Massachusetts and the Town of Acton would determine the price of the unit. The price would reflect a modest appreciation.

Lottery Overview

The two town homes are to be distributed through two lottery pools, each with one town home available. The following are the two pools.

<u>Pool</u>	<u>Qualifications</u>	<u># of Town Homes</u>
Local	Applicants which must meet local requirements	1
Open Pool	All applicants (<i>includes Local</i>)	1

Applicants will be in *all* the pools in which they qualify. Local applicants would have two opportunities - the Local and Open pools.

All of the applicants for a given pool will be pulled at the time of the lottery. This will establish the rankings for the distribution of the town homes. **For example**, if there are 40 local applicants, the first one selected from the pool would have an opportunity to purchase a town home, and the remaining 39 applicants would establish the waiting list if the winner drops out.

If you have been selected for a town home you must meet with one or more lottery representatives to review your final application in detail and to verify the information you have provided.

Please be advised that the official income verification will be repeated shortly before closing to verify that you are still eligible. You will need to provide recent pay stubs at that time.

Town Homes are assigned

It is important for all applicants to understand that specific town homes are attached to specific lottery rankings based upon the projected availability of the completed town house. Applicants will not have a choice of town home locations, style or schedules. You will not be able “pass” on a town home and wait for the next town home.

If you choose not to take the available town home that is designated to you, you will go to the bottom of the list and will not have another opportunity to purchase a home in Fort Pond Brook Place.

First time homebuyer course

If you are selected as a Lottery winner you must attend a “first time homebuyer education course”. It is advisable for the top six lottery winners to take the course as soon as possible. A schedule of these can be found at the Citizens Housing and Planning Association (CHAPA) website (http://www.chapa.org/housing_workshops00.htm) or by calling 617-742-0820. Upon completion you will receive a Certificate that you will be required to submit.

Questions?

Please address questions to: FortPondBrookPlace@verizon.net or ahc@acton-ma.gov

FORT POND BROOK PLACE

LOTTERY APPLICATION

DEADLINE: Postmarked by **XX/XX/XXXX**

For Office Use Only: Date Received: ____ / ____ / ____ Eligible Pool(s): (Local) (Open) Registration No: _____
--

Name: _____

(Street Address) _____ (City) _____ (State) _____ Zip _____

Home Telephone: _____ Work Telephone: _____ SS#: _____

Email: _____ Marital Status: Married Single Divorced Separated

Have you or any member of your household ever owned a home? YES / NO

If YES, when did you sell it? _____

Local Preference Eligibility Criteria: Please check the appropriate category below:

- I have been employed by the Town of Acton, Acton-Boxborough Regional School District or Acton Water District for past 6 months
- I am a current Acton resident
- I am a child of current Acton resident
- I have been employed in Acton for past 6 months

Application Fee

There is a \$25 application fee to participate in the lottery. Check or money order must be payable to "ACHC" and returned with the completed application. Your application will not be accepted or processed without the application fee. Credit cards are not accepted. Checks returned for insufficient funds will disqualify the application.

Future verification

All applications will be verified for residency approximately two months prior to closing to verify that you are still eligible.

Application Submission Cut-off Date

Your application, all requested documentation (like pay stubs) and signed, notarized Affidavit & Disclosure Forms must be mailed to Fort Pond Brook Place Lottery, P.O. Box XXXX, Acton, MA 01720. **All applications must be post-marked on or before XXXXXXXXXX to be considered.** Applications postmarked after this date will not be considered.

Other Requirements

The top six lottery winners from each pool must provide a letter from their bank indicating they are pre-qualified for a mortgage loan. Assistance in obtaining this letter will be provided.

The top six lottery winners from each pool **must** also attend a "first time homebuyer education course". A schedule of these can be found at the Citizens Housing and Planning Association (CHAPA) website (http://www.chapa.org/housing_workshops00.htm) or by calling 617-742-0820.

FINANCIAL WORKSHEET

Amounts **must** include every household member.

Household Income

Annual Employment Income (From Reverse Side)..... (1)

Other Annual Income (From Page 3) (2)

Total Annual Income: (1+2)

Household Debts

Total Monthly Installment Loans (3)

You do not need to include any installment loans that have less than 10 payments remaining.

Household Revolving Credit (Credit Cards for all household members)

Total Credit Card balance (4)

5% of the total Multiply (4) times 0.05 .. (5)

TOTAL MONTHLY OBLIGATIONS: (3 + 5) ..

-- FOR INTERNAL USE ONLY --

Principal & Interest \$ _____

Real Estate Taxes \$ _____

Private Mortgage Insurance \$ _____

Association Fee \$ _____

Total projected monthly housing expense:)... \$ _____ (A)

Total Monthly Income reported \$ _____ (B)

Total Monthly Obligations reported \$ _____ (C)

Monthly Housing Ratio: _____ (A) / (B) (Should NOT exceed 30%)

Total Obligations Ratio: _____ (C) / (A) (Should NOT exceed 38%)

EMPLOYMENT STATUS

ALL employed household members must complete this

Attach a current pay stub for each listing

First, Last Name: _____

Employer: _____ Phone No: _____

(Street Address) (City) (State) Zip

Approximate hire date (Month / Year)	Annual Wage (base)	Other employment income (overtime, bonus etc) Annual	Total Annual Employment Income
/		+	=

First, Last Name: _____

Employer: _____ Phone No: _____

(Street Address) (City) (State) Zip

Approximate hire date (Month / Year)	Annual Wage (base)	Other employment income (overtime, bonus etc) Annual	Total Annual Employment Income
/		+	=

First, Last Name: _____

Employer: _____ Phone No: _____

(Street Address) (City) (State) Zip

Approximate hire date (Month / Year)	Annual Wage (base)	Other employment income (overtime, bonus etc) Annual	Total Annual Employment Income
/		+	=

GRAND TOTAL - ANNUAL EMPLOYMENT INCOME

(Insert Grand Total on the top of Page 2)

COPY AND USE ADDITIONAL SHEETS IF NECESSARY

ABOUT YOUR HOUSEHOLD

Household Composition (Only those to be living in the town home including the applicant)

First & Last Name	Relationship (ex. Son)	Age	Employed?
	Applicant		Yes / No
			Yes / No

You are requested to fill out the following section in order to assist us in fulfilling affirmative action requirements. Please be advised that you should complete this based upon household members that will be living in the town home as listed above. Please **check** the appropriate categories:

Category	Number of household members (as listed above)*	Category	Number of household members (as listed above)*
White		Asian American	
Black		Native American	
Hispanic		Other (Specify)	

* (enter 1 for one, 2 for two, etc.)

SIGNATURES:

The undersign warrants and represents that all statements herein are true. It is understood that the sole use of this application is to establish the preliminary requirements for placement into a lottery to have an opportunity to purchase an affordable town home at Fort Pond Brook Place in Acton, MA. I (we) understand if selected all information provided shall be verified for accuracy at the time of bank application.

Signature _____ Date: _____
Applicant(s)

Signature _____ Date: _____
Co-Applicant

--FOR INTERNAL USE ONLY --

Based upon the preliminary information provided it is my judgment that the applicant should be allowed to participate in the lottery for affordable town homes at Fort Pond Brook Place in Acton, MA. If selected all information provided shall be verified for accuracy at the time of bank application.

Signature _____ Date: _____
Certifying Agent

Affidavit & Disclosure Form (Required – Must be notarized)

I/We understand and agree to the following conditions and guidelines regarding the distribution of the affordable town homes at Fort Pond Brook Place Condominiums through the NEF program in Acton, MA:

1. The total annual household income for my/our household including all of its members does not exceed:
CIRCLE ONE

Household Size	2	3	4	5	6
Max. Allowable Income	\$52,950	\$59,550	\$66,150	\$71,450	\$76,750

2. I/We certify that my/our household assets total \$ _____, (cash, savings, checking, insurance proceeds, brokerage accounts, stocks, bonds, etc as noted on the application).
3. I/We have not individually or jointly owned a single family home, town home, condo or co-op as a principal residence within the past three (3) years.
4. The household size listed on the application form includes only and all the people that will be living in the residence.
5. All data supplied on the application is true and accurate to the best of my/our knowledge and can be verified if requested.
6. If selected for the purchase of a town home, all data supplied to the bank for mortgage purposes can be reviewed by the Town of Acton Community Housing Corporation or their designated agent and 68 River Street, LLC and Cambridge Savings Bank as needed, to verify application data.
7. I/ We understand that if selected I/we will be offered a specific town home. I/ We will have the option to accept the available town home, or to reject the available town home. If I/ we reject the available town home I/ we understand that I/we will move to the bottom of the waiting list and will likely not have another opportunity to purchase an affordable town home at Fort Pond Brook Place.
8. Program requirements are established by the Town of Acton Community Housing Corporation and are subject to periodic revision. I/ We agree to be bound by whatever program changes that may be imposed at any time throughout the condominium unit acquisition process even if such changes result in my/our disqualification from that process. If any program conflicts arrive, I/ we agree that any determination made by the Town of Acton Community Housing Corporation is final.
9. I/ We understand that by being selected in the lottery, the Town of Acton Community Housing Corporation does not guarantee that I/ we will be able to purchase a condominium unit. I/ We understand that the submission of any incorrect or misleading information or the failure to disclose any pertinent financial information may result in the rejection of my application by 68 River Street, LLC, or the Town of Acton Community Housing Corporation and the elimination of my ability to purchase a condominium unit through this program.
10. I/ We understand that it is my/our obligation to secure the necessary mortgage for the purchase of the town home through the designated bank and all expenses, including closing costs and down payments, are my/our responsibility.

11. I/We understand that if I/we are selected to purchase a condominium unit, I/we intend to occupy the unit as my/our year-round residence and I/we must continue to meet all eligibility requirements of the Town of Acton Community Housing Corporation during the lottery process.
12. I/ We have completed an application and have reviewed and understand the process that will be utilized to distribute the available town homes at Fort Pond Brook Place. I/ We agree to comply with applicable regulations including the affordable and resale regulations.
13. The undersigned authorized 68 River Street, LLC, the Acton Community Housing Corporation and Cambridge Savings Bank to verify any and all income, assets and other financial information, all household, resident location and workplace information of the undersigned and directs any employer or financial institution to release any information to 68 River Street, LLC, the Acton Community Housing Corporation and Cambridge Savings Bank for the purpose of determining eligibility in the lottery process to purchase and affordable condominium unit at Fort Pond Brook Place, 68 River Street, Acton, Massachusetts.

PRINT First & Last Name	Signature	Date

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF _____, _____, 200__

On this _____ day of _____, 20 __, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

 Notary public
 Print Name:
 My Commission Expires:

Return your Application, a \$25.00 application fee made out to ACHC, pay stubs, and the notarized Affidavit & Disclosure Form to:

Fort Pond Brook Place Lottery, P.O. Box XXXX, Acton, MA 01720

Fort Pond Brook Place

Acton, Massachusetts

Marketing Program

Introduction

The marketing program and minority outreach for "Fort Pond Brook Place" in Acton, Massachusetts will be grass roots in nature with a strong focus on the local market. In the immediate market area including the towns of Acton, Boxborough, Littleton, Concord, Stow, Maynard and Sudbury there is an underserved population of working families in need of quality, affordable homes. As home prices in these communities continue to appreciate at a rapid pace and the availability of suitable properties has become more difficult, we are pleased to have the opportunity to build two new, quality homes for distribution to income eligible households through the Local Initiative Program (LIP).

The homes will be distributed based on the criteria established by the Commonwealth of Massachusetts Department of Housing and Community Development (DHCD). We expect the two townhouse units will be distributed to two applicant pools. These will be for those applicants qualified under Acton's Local Preference criteria (one unit) and those to the Open Pool (one unit).

The objective of the marketing program is to identify a sufficient pool of applicants for the two available affordable homes. Based upon the lottery results, all applicants would be assigned their proper rank in the appropriate pool. This will enable us to quickly determine who would have the first opportunity to purchase a town home.

What follows is a list of activities and materials we intend to utilize to assist in our marketing of the two homes, processing of the applicants and our attempts to reach out to the local community's minority population.

Local Pool

1. The Acton Community Housing Corporation has an active list of 130 Local and Open Pool prospects.
2. To validate and extend the Local Pool prospect list we will be disseminating information directly to the attached list of Town officials and entities, church and other groups. (See Exhibit A). If allowed, the opportunity will also be posted on the Town of Acton website.
3. The Local Pool requires that one of the affordable units be made available to those with a connection to Acton, defined as households with at least one member who meets any of the following criteria:
 - Currently a legal resident of the Town of Acton. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as an Acton resident with the Acton Town Clerk pursuant to G.L. c. 51, &4 and

would be considered a resident under the United States Census Bureau's guidelines. ("Usual residence" has been defined as the place where the person lives and sleeps most of the time. This place is not necessarily the same as the person's voting residence or legal residence. Also, non-citizens who are living in the United States are included, regardless of their immigration status.)

- A son or daughter of an Acton resident.
- An employee of the Town of Acton, the Acton public Schools, the Acton-Boxborough Regional School District, and has been an employee for a period of at least six months at the time of the Affordable Unit Lottery application deadline.
- Currently or privately employed within the Town of Acton and has been so employed for a period of at least six months at the time of the Affordable Unit lottery application deadline"

Open Pool

1. Efforts will be made to secure similar lists from surrounding communities and, if available, from recently completed lotteries for other affordable housing projects in the area.
2. Public service announcements under the auspices of the Acton Community Housing Corporation will be distributed to:
 - a. The Beacon
 - b. Action Unlimited, Concord/Marlboro area

Other marketing approaches

1. Postings for display at various locations will be complete with tear-off sheets with instructions on how to contact the Lottery Manager to obtain a lottery information package (email or snail mail).
2. A dedicated email address will be established to facilitate communications.
3. The information package and application form will be available in digital form to facilitate distribution and completion.
4. In accordance with DHCD rules, we will send a notice of the lottery 30 Days prior to the lottery to:
 - a. Metrolist Clearinghouse
 - i. Boston City Hall , PO Box 5996 ,
Boston , MA 02114 -5996
 - b. Citizens Housing & Planning Assoc. (CHAPA) website
 - i. 18 Tremont Street, Suite 401
Boston, MA 02108
Phone/TTY: 617-742-0820
Fax: 617-742-3953

Public Information Meetings

A public information meeting would be held prior to the application deadline to offer a forum to adequately address the questions and/or concerns of the potential applicants or community organizations. These meeting(s) enable us to better assess the strength of the market, to identify potential applicants and create a notification list of these families. The meeting agenda would consist of:

- A general introduction on the available homes
- The LIP program
- Deed restrictions
- The lottery process
- Requirements to participate in the lottery

Information Package

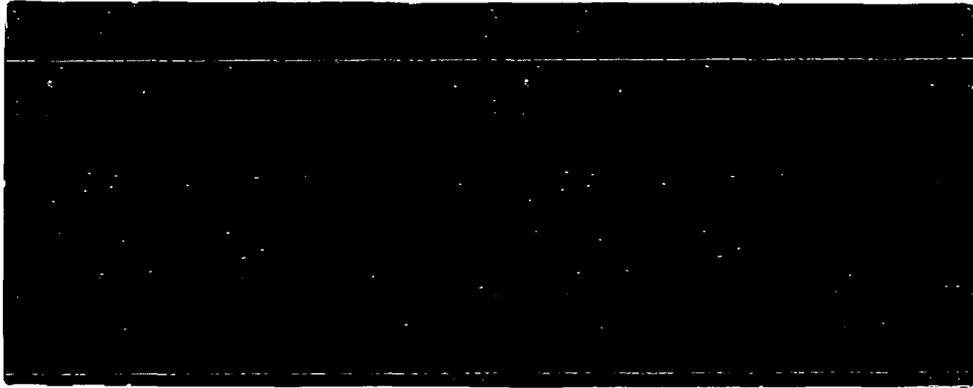
An information package has been created and will be used to accompany a lottery application sent to interested parties.

Exhibit A

Fort Pond Brook Place

Sources for Local Pool Applicants

William Ryan	Acton/Boxborough Regional School	16 Charter Road	Acton, MA
Chief Robert Craig	Acton Fire Department	255 Central St.	Acton, MA
Chief Frank Widmayer	Acton Police Department	Town Hall-472 Main St.	Acton, MA
Don Johnson	Acton Town Manager	Town Hall-472 Main St.	Acton, MA
Director Jean Fleming	Acton Council on Aging	Town Hall-472 Main St.	Acton, MA
	Acton Memorial Library	222 Main St.	Acton, MA
Ed Ellis	Acton Town Clerk	Town Hall-472 Main St.	Acton, MA
	Acton Town Personnel	Town Hall-472 Main St.	Acton, MA
Director Jim Deming	Acton Water District	Massachusetts Ave.	Acton, MA
Church Groups	Acton Congregational Church	12 Concord Rd.	Acton, MA
	Acton Christian Community Church	45 Minot Rod	Acton, MA
	Beth Elohim Congregation	10 Hennessey Drive	Acton, MA
	Faith Evangelical Free Church	54 Hosmer St.	Acton, MA
	West Acton Baptist Church	593 Massachusetts Ave.	Acton, MA
	St. Elizabeth of Hungary Church	89 Arlington St	Acton, MA
	Christian Science Society	267 Central Church	Acton, MA
	South Acton Congregational Church	35 School ST.	Acton, MA
	Church of Good Sheppard	164 Newtown Rd.	Acton, MA
	Mt. Calvary Lutheran Church	472 Massachusetts Ave.	Acton, MA
	St. Matthews United Methodist Church	435 Central St.	Acton, MA
Other Groups	Acton Medical Associates	321 Main Street	Acton, MA
	Acton Post Office	7 Post Office Square	Acton, MA
	Middlesex West Chamber of Commerce	77 Great Rd.	Acton, MA
	Eliot Human Services Community Agencies Building	Old Road to Nine Acres	Concord, MA



Robert C. Alario

Certified Public Accountants

Fort Pond Brook Place

Developed by 68 River Street, LLC
12 Assabet Crossing
Acton, MA 01720

Ms. Elsa Campbell
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

December 6, 2006

Re: Acton – Fort Pond Brook Place
Local Initiative Program **End of Project Accounting**

CC: Nancy Tavernier, Acton Community Housing Corporation, Monitoring Agent
Peter Ashton, Chairman, Acton Board of Selectmen
Acton Board of Appeals

Dear Ms. Campbell,

The project was complete with the final unit sold September 5th. We have completed the various financial reports identified in Ms. Catherine Racer's January 24th, 2006 memo to us. Enclosed you will find the following required documents which have been audited by an independent CPA firm not previously engaged by us, Robert C. Alario, CPA, PC.

- Independent Auditor's Report
- Schedule A - LIP End of Project Accounting Form
- Schedule B - Actual vs. final Project Feasibility Variances
- Schedule C - Analysis of Private Contributions

In addition to the required statements above, we have also attached the "Notes to the Project Feasibility dated February 24th, 2004" which was presented to DHCD, Acton Board of Appeals, the Acton Board of Selectmen and signed by the Acton Community Housing Corporation prior to and within our approved LIP application. It addresses related party expenses anticipated at the outset of the project, specifically performance of functions required of the project by related parties in lieu of using third parties.

Further, we have attached a variance analysis comparing actual results vs. the Project Feasibility budget included in our final application submitted to DHCD and the Acton Board of Appeals. This variance analysis provides a detailed breakdown of Site Development and Residential Construction costs. The narrative below addresses the variances. (Note: The use of the term "budget" is a substitute for "Project Feasibility")

Financial Overview: Actual Results vs. Project Feasibility

The development exceeded the budgeted profit projection by \$138,906 fundamentally due to four factors. Sales revenue exceeded budget by \$49,200¹. Total Residential Construction costs were \$57,575 less than projected. It was unnecessary for us to use the 5% Hard Cost contingency funds - \$78,895. Finally, Soft Costs were \$25,199 higher than budgeted.

Details: Site Preparation was 11.6% over budget largely due to greater ledge removal costs than anticipated. Overall, our budgeted Hard Costs were remarkably accurate. Actual hard costs were only \$21,009 or 1.2% less than budget when the budgeted contingency that was not required is excluded. Certain soft costs were greater than budgeted and a number of others were not budgeted (like sales tax on sales of the units) resulting in full use of the 5% soft cost contingency.

Notable among the Soft cost variances were:

- Permits: Water hook-up permits totaling \$10,400 were not budgeted.
- Legal Expenses: up \$12,679 or 63% largely due to the complexities of creating condominium documents with the various parties and most notably satisfying the requirements of the Lender, Cambridge Savings Bank.
- Construction Management: We budgeted 11 months and it took 12 months to reach 95% completion, at which point charges ceased.
- Insurance costs were \$49,174 or 82% less than budgeted. We identified and made use of a previously unknown low cost insurance/home warranty program.
- Construction Interest exceeded budget largely because of rising interest rates. Also, balances were maintained for a longer time than anticipated.
- Financing/Application fees were more than 150% over budget (\$16,804). These are entirely related to construction financing closing costs from Cambridge Savings Bank. We did not anticipate the \$14,863 in legal fees and expenses the bank incurred and passed through to us. This is over and above direct charges from the bank for origination, appraisal and other fees.
- Lottery Administration and outreach efforts proved more time consuming than anticipated (approximately 160 hours vs. 40 hours)
- Office Supplies were covered by the Soft Cost contingency as were fees and state real estate sales taxes.
 - Costs of creating copies of all documents and plans necessary through the process accounted for 62% of the total office supplies or \$3,963.
 - Fees for filing applications to the State and Town and sales closing fees represent 71% of these fee costs.
 - State real estate taxes on sales of all units were not budgeted and totaled \$11,436.
- Please note that brokerage fees for market units were charged at 5% and that the \$1,334 excess over this amount are third party marketing expenses.

¹ The approved selling price for the two affordable units was reduced from \$187,000 to \$179,500 each because of a \$15,000 subsidy of the Sewer Betterment by the Acton Community Housing Corporation. The Actual Statement listed this as a Public Grant while the Project Feasibility did not break this out. Thus the \$64,000 Sales variance indicated is actually \$49,200.

Related party payments:

68 River Street, LLC was established as the project company. It is owned by Mr. Glen Kaufmann (also owner of Meridian Construction, Inc.) and Mr. Paul Gaboury (also owner of Mosaic Partners, LLC). Both are Members of 68 River Street, LLC.

The attached Notes to the Project Feasibility dated February 24, 2004 details certain functions that Mr. Kaufmann and Mr. Gaboury individually or through their companies were to perform and be compensated for in lieu of using third parties. The document was approved by the Acton Community Housing Corporation and presented to the Acton Board of Selectmen and included in filings with the DHCD and Acton Board of Appeals. The document specified fixed fees to be charged for:

- Brokerage Fees – Mr. Kaufmann is a licensed real estate broker.
- Construction Management – Mr. Kaufmann is a licensed construction supervisor
- LIP Consulting – Mr. Gaboury performs a variety of consulting work through his company.

The logic behind the document was that expenses would be incurred regardless of whether a related or third party performed the work. Thus work in lieu of these third parties deserved to be compensated if done by Mr. Kaufmann or Mr. Gaboury.

Mr. Gaboury managed the Lottery administration and outreach, billing \$125 per hour. This rate is half of that charged by another 40B consultant we approached. Interest on funds provided to the project by Mr. Kaufmann and Gaboury in lieu of use of the construction loan was paid at the same or lower rate as the construction loan. These amounts are detailed in the Notes appearing on the End of Project Accounting.

Should you have any questions, please contact Paul Gaboury at 978-618-1729 or by email at paul.gaboury@verizon.net.

Sincerely,



Paul Gaboury
Glen Kaufmann
Members, 68 River Street, LLC
Developers of Fort Pond Brook Place

February 24, 2004

Notes to the Project Feasibility

The following paragraphs are directed to the issue of the performance of certain tasks necessary for the completion of Fort Pond Brook Place and payment for these services. Specifically, we are referring to real estate sales commissions, local initiative program consulting, and the day-to-day construction supervision of the project.

Current & Future Property Ownership

The property is currently owned by 111-113 School Street, LLC. The 111-113 School Street, LLC is managed by Glen Kaufmann. On approval of the project by the Town of Acton Zoning Board of Appeals, the property will be sub-divided. The area to be developed under this local initiative program (LIP) application will be sold to 68 River Street, LLC. This entity is owned jointly by Meridian Construction Company, Inc. and Mosaic Partners, LLC. Meridian Construction Company, Inc. is owned by Glen Kaufmann, and Mosaic Partners, LLC is owned by Paul Gaboury.

Expenses

The project feasibility pro forma includes expenses for real estate sales commissions, LIP program consulting, and day-to-day construction supervision. These three expenses are customary for any real estate development project and will be incurred regardless of what company or person performs them.

The developer's team, specifically Glen Kaufmann (who is a licensed construction supervisor and a licensed real estate broker), the (LIP) consultant (Mosaic Partners, LLC) and the developer (Meridian Construction Company, Inc.) are capable of marketing the property, providing the LIP consulting necessary for successful completion and approval of the project, and performing day-to-day construction management.

Glen Kaufmann will market and sell the units and will charge the project a reasonable and customary real estate commission of 5% of the selling price of the market units.

Paul Gaboury of Mosaic Partners, LLC will perform all consulting services related to the creation of the LIP application, meeting with all Town and State officials and the public. Mosaic Partners, LLC will charge the project a reasonable and customary consultant fee of \$35,000 for these services. Further, he will also perform day-to-day construction management under the supervision of the developer at a cost of \$8,000 per month through project completion.

These expenses detailed above are a required part of any LIP development. Therefore, it is the intent of the developers to charge these expenses directly to the project as shown on the Fort Pond Brook Place LIP Project Feasibility. The undersigned hereby agree to be bound by the fee limitations set forth above.

Dated: 2/26, 2004

111-113 School Street, LLC

By: [Signature] FOR 111-113 SCHOOL STREET LLC
Its Managing Partner

Mosaic Partners, LLC
[Signature]
Its Managing Partner

The undersigned hereby acknowledge disclosure of the above categories of expenses, and agree that these charge categories by the developer's team are valid expenses for the purpose of project final accounting.

[Signature] 2/26/04
Acton Community Housing Corporation Date

FORT POND BROOK PLACE
 Developed by 68 River Street, LLC
 LOCAL INITIATIVE PROGRAM

Actual vs. Project Feasibility

ACTUAL	Per Project Feasibility	Variance
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DEVELOPMENT ITEMS:

(a) Site Acquisition	\$ 210,200	\$ 210,000	\$ 200
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HARD COSTS:

(b) Site Preparation			
Excavation, grading, all underground structures as per approved site plan	\$ 212,274		
Fill	\$ 27,032		
Blasting	\$ 49,727		
Tree Clearing	\$ 2,900		
Paving	\$ 20,683		
Underground Utilities	\$ 21,081		
Miscellaneous supplies, Police Detail	\$ 1,187		
(b) TOTAL Site Preparation	\$ 334,884	\$ 300,000	\$ 34,884
(c) Landscaping	\$ 25,442	\$ 24,000	\$ 1,442
(d) Residential Construction			
Appliance	\$ 19,630	\$ 15,600	\$ 4,030
Blueboard & Plastering	\$ 74,917	\$ 53,600	\$ 21,317
Doors & Windows	\$ 42,236	\$ 71,000	\$ (28,764)
Electrical	\$ 61,667	\$ 44,700	\$ 16,967
Finishing	\$ 61,401	\$ 63,100	\$ (1,699)
Flooring	\$ 58,630	\$ 81,100	\$ (22,470)
Foundation	\$ 49,553	\$ 73,500	\$ (23,947)
Framing	\$ 261,760	\$ 254,200	\$ 7,560
HVAC	\$ 85,086	\$ 75,900	\$ 9,186
Insulation	\$ 17,815	\$ 34,200	\$ (16,386)
Kitchen/Bath	\$ 70,593	\$ 72,200	\$ (1,607)
Paint	\$ 29,775	\$ 31,000	\$ (1,225)
Plumbing	\$ 75,505	\$ 69,800	\$ 5,705
Roofing (materials only)	\$ 7,717	\$ 33,000	\$ (25,283)
Siding	\$ 57,906	\$ 57,000	\$ 906
Supplies Pick-up Mileage	\$ 1,764	\$ -	\$ 1,764
Dumpster, potty, Misc	\$ 10,410	\$ 14,000	\$ (3,590)
(d) Total Residential Construction	\$ 986,365	\$ 1,043,900	\$ (57,535)
Contingency	\$ -	\$ 78,895	\$ (78,895)
(e) TOTAL HARD COSTS (a+b+c+d)	\$ 1,556,891	\$ 1,656,795	\$ (99,904)

Actual vs. Project Feasibility (Continued)

	ACTUAL	Per Project Feasibility	Variance
SOFT COSTS:			
(f) Permits/Surveys	\$ 17,301	\$ 5,500	\$ 11,801
(g) Architectural	\$ 9,125	\$ 10,000	\$ (875)
(h) Engineering	\$ 47,015	\$ 45,000	\$ 2,015
(i) Legal	\$ 32,679	\$ 20,000	\$ 12,679
(j) Insurance	\$ 10,826	\$ 60,000	\$ (49,174)
(k) Security	\$ -	\$ -	\$ -
(l) Developer's Overhead Expense	\$ -	\$ -	\$ -
(m) Construction Manager	\$ 96,000	\$ 88,000	\$ 8,000
(n) Property Manager	\$ -	\$ -	\$ -
(o) Construction Interest	\$ 57,597	\$ 51,000	\$ 6,597
(p) Financing Application Fees	\$ 26,804	\$ 10,000	\$ 16,804
(q) Utilities	\$ 6,891	\$ 8,000	\$ (1,109)
(r) Maintenance (unsold units)	\$ -	\$ 4,000	\$ (4,000)
(s) Accounting	\$ 10,600	\$ 4,000	\$ 6,600
(t) Marketing & Brokerage Fees	\$ 108,764	\$ 104,970	\$ 3,794
Local Initiative Program Consulting	\$ 35,000	\$ 35,000	\$ -
Lottery Program Administration	\$ 19,997	\$ 5,000	\$ 14,997
Sewer Betterment	\$ 97,745	\$ 105,000	\$ (7,255)
Tax Stamps on Sales	\$ 11,436	\$ -	\$ 11,436
Fees	\$ 8,418		\$ 8,418
Real Estate Taxes	\$ 9,112	\$ 3,000	\$ 6,112
Office Supplies and Services	\$ 6,282		\$ 6,282
Contingency	\$ -	\$ 27,924	\$ (27,924)
(u) TOTAL SOFT COSTS	\$ 611,593	\$ 586,394	\$ 25,199
(V) Total Development Costs (e+u)	\$ 2,168,483	\$ 2,243,189	\$ (74,706)

PROFIT ANALYSIS

Sources:

(A) Affordable Sales	\$ 359,000	\$ 359,000	\$ -
(B) Market Sales	\$ 2,148,600	\$ 2,099,400	\$ 49,200
(C) Public Grants	\$ 15,000		\$ 15,000
(D) Total Sales plus Grants (A+B+C)	\$ 2,522,600	\$ 2,458,400	\$ 64,200

Uses:

(E) Total Development Costs	\$ 2,168,483	\$ 2,243,189	\$ (74,706)
(F) Total Profit (D-E)	\$ 354,117	\$ 215,211	\$ 138,906
(G) Percentage Profit (F-E)	16.3%	9.6%	

Fort Pond Brook Place

Developed by 68 River Street, LLC
12 Assabet Crossing
Acton, MA 01720

Mr. Peter Ashton
Chariman, Acton Board of Selectmen
472 Main Street
Acton, MA 01720

December 6, 2006

Re: Acton – Fort Pond Brook Place
Local Initiative Program **End of Project Accounting**

CC: Nancy Tavernier, Acton Community Housing Corporation, Monitoring Agent
Zoning Board of Appeals

Attached are a cover letter and various documents on the financial results of the Fort Pond Brook Place Local Initiative development submitted to the Department of Housing & Community Development.

Our results have been audited as requested. In the interest of transparency and in order to address anticipated questions, we have included a comparison of our actual results to the Project Feasibility (or budget) submitted to DHCD as part of our LIP application.

We are available at your convenience to appear before the Board of Selectmen to present the results and answer any questions the Board may have. We make the same offer to the Acton Community Housing Corporation and Acton Board of Appeals.

Sincerely,



Paul Gaboury
Glen Kaufmann
Members, 68 River Street, LLC
Developers of Fort Pond Brook Place

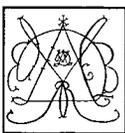
**FORT POND BOOK PLACE
DEVELOPED BY 68 RIVER STREET, LLC
LOCAL INITIATIVE PROGRAM
END OF PROJECT COST ACCOUNTING
SEPTEMBER 30, 2006**

FORT POND BOOK PLACE
DEVELOPED BY 68 RIVER STREET, LLC
LOCAL INITIATIVE PROGRAM
END OF PROJECT COST ACCOUNTING
SEPTEMBER 30, 2006

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ANTHONY J. ALARIO 1941-1989
ROBERT C. ALARIO, CPA/ MBA/ CSEP
ROSEMARY T. KENNEDY, V.P./ EA/ MST/ CSEP
SANDRA B. LAPOINTE, V.P.
KAREN J. SPINELLI, CPA/ V.P.



Robert C. Alario

Certified Public Accountants, PC

75 North Main Street, Leominster, MA 01453

www.robentalario.com

TELEPHONE
978-534-1999
FAX
978-534-0499

INDEPENDENT AUDITORS' REPORT

To the Members of
68 River Street, LLC
Acton, MA 01720

We have audited the accompanying local initiative program end of project cost accounting, the analysis of total sales revenue and the analysis of private contributions of 68 River Street, LLC as of September 30, 2006. The management of 68 River Street, LLC is responsible for the end of project cost accounting and the analysis of total sales revenue. Our responsibility is to express an opinion based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the income and expenses in the Local Initiative Program end of project cost accounting and analysis of total sales revenue and performing such other procedures, as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the schedules referred to above present fairly, in all material respects, the local initiative program end of project cost accounting, the analysis of sales revenue and the analysis of private contributions of 68 River Street, LLC as of September 30, 2006 based on the criteria set forth in the Local Initiative Program Regulatory Agreement among 68 River Street, LLC, the Town of Acton and DHCD dated March 2, 2005 in conformity with accounting principles generally accepted in the United States of America.

This report is intended solely for the information and use of 68 River Street, LLC, the Massachusetts Department of Housing and Community Development and the Town of Acton and is not intended and should not be used by anyone other than these specified parties.

Robert C. Alario
Certified Public Accountant

December 4, 2006

**FORT POND BROOK PLACE
DEVELOPED BY 68 RIVER STREET, LLC
SCHEDULE A - LIP END OF PROJECT COST ACCOUNTING
SEPTMEBER 30, 2006**

	Total Costs	Cost Per Unit	Payment to Related Party	Notes
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DEVELOPMENT ITEMS:

(a) Site Acquisition	\$ 210,200.00	\$ 26,275.00	Y	Price based on a January 21, 2004 Land Appraisal Report submitted with the initial LIP application. Property owned by 111-113 School Street, LLC owned by Glen Kaufmann, Member of 68 River Street, LLC
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HARD COSTS:

(b) Site Preparation	\$ 334,883.58	\$ 41,860.45	N
(c) Landscaping	\$ 25,442.18	\$ 3,180.27	N
(d) Residential Construction	\$ 986,364.79	\$ 123,295.60	N
(e) TOTAL HARD COSTS	\$1,556,890.55	\$ 194,611.32	

SOFT COSTS:

(f) Permits/Surveys	\$ 17,301.04	\$ 2,162.63	N
(g) Architectural	\$ 9,125.00	\$ 1,140.63	N
(h) Engineering	\$ 47,014.77	\$ 5,876.85	N
(i) Legal	\$ 32,678.78	\$ 4,084.85	N
(j) Insurance	\$ 10,826.00	\$ 1,353.25	N
(k) Security	\$ -	\$ -	N
(l) Developer's Overhead Expense	\$ -	\$ -	N

(m) Construction Manager	\$ 96,000.00	\$ 12,000.00	Y	Fixed fee of \$8,000 per month as per "Notes to Project Feasibility" (attached) included in the original and final LIP and Acton Zoning Board of Appeals Application materials and presented to the Board of Selectmen paid to Meridian Construction owned by Glen Kaufmann, Member of 68 River Street, LLC. April, 2005 to March 2006 when construction was approximately 95% complete.
Subtotal	\$ 212,945.59	\$ 26,618.20		

	Total Costs	Cost Per Unit	Payment to Related Party	Notes
Subtotal	\$ 212,945.59	\$ 26,618.20		
(n) Property Manager	\$ -	\$ -	N	
(o) Construction Interest	\$ 57,596.83	\$ 7,199.60	N	Note 1
(p) Financing Application Fees	\$ 26,804.00	\$ 3,350.50	N	
(q) Utilities	\$ 6,890.57	\$ 861.32	N	
(r) Maintenance (unsold units)	\$ -	\$ -	N	
(s) Accounting	\$ 10,600.00	\$ 1,325.00	N	
(t) Marketing & Brokerage Fees	\$ 108,764.25	\$ 13,595.53	Y	Brokers fee of 5% paid to Glen Kaufmann, realtor and Member of 68 River Street, LLC. as per the "Notes to Project Feasibility" (attached) included in the original and final LIP and Acton Zoning Board of Appeals Application materials and presented to the Board of Selectmen
Local Initiative Program Consulting	\$ 35,000.00	\$ 4,375.00	Y	Fixed fee as per the "Notes to Project Feasibility" (attached) included in the original and final LIP and Acton Zoning Board of Appeals Application materials and presented to the Board of Selectmen paid to Paul Gaboury of Mosaic Partners, LLC and Member of 68 River Street, LLC.
Lottery Program Administration	\$ 19,996.60	\$ 2,499.58	Y	Performed by Paul Gaboury, Mosaic Partners, LLC and Member of 68 River Street, LLC @ \$125 per hour. At the outset of the project we contacted Mr. Mark O'Hagen of MCO Housing Services to examine the possibility of engaging him as a consultant on the project. Mr. O'Hagen has extensive experience in this and quoted us a fee of \$250.00 per hour.
Sewer Betterment	\$ 97,744.91	\$ 12,218.11	N	
Tax Stamps on Sales	\$ 11,436.48	\$ 1,429.56	N	
Fees	\$ 8,418.45	\$ 1,052.31	N	Closing, Massachusetts and Town of Acton application fees, Condominium and other fees
Real Estate Taxes	\$ 9,112.42	\$ 1,139.05	N	
Office Supplies and Services	\$ 6,282.40	\$ 785.30	N	
(u) TOTAL SOFT COSTS	\$ 611,592.50	\$ 76,449.06		
(V) Total Development Costs (e+u)	\$2,168,483.05	\$ 271,060.38		

PROFIT ANALYSIS

Sources:

(A) Affordable Sales	\$ 359,000.00
(B) Market Sales	\$2,148,600.00
(C) Public Grants	\$ 15,000.00
(D) Total Sales plus Grants (A+B+C)	\$2,522,600.00

2 units, each at \$187,000 less \$7,500 public grant

Amount contributed by the Acton Community Housing Corp to cover Sewer Betterment fees for the affordable units. Developer reduced the affordable unit price below the allowed amount (\$187,000 LESS \$7,500 = selling price of \$179,500) as a result.

Uses:

(E) Total Development Costs	\$2,168,483.05
(F) Total Profit (D-E)	\$ 354,116.95
(G) Percentage Profit (F-E)	16.33%

Note 1: Funding for the project was provided by Paul Gaboury and Cambridge Savings Bank. Interest on funds loaned by Paul Gaboury, Member, 68 River Street LLC. was charged at cost (Home Equity Loan) at Prime Minus 1 and totaled \$15,098. Loans from Cambridge Savings Bank were charged at Prime Plus 1. In lieu of payment for site acquisition, interest at Prime +1% was paid to Glen Kaufmann, Member of 68 River Street and Owner of 111-113 School Street, LLC, former owner of the property, beginning when ownership was transferred to 68 River Street, LLC on March, 2005. Amount Paid: \$5,895.78 in 2005 and \$2,628.16 in 2006.

**FORT POND BROOK PLACE
DEVELOPED BY 68 RIVER STREET, LLC
SCHEDULE B - ANALYSIS OF TOTAL SALES REVENUE
SEPTMEBER 30, 2006**

Unit	Unit Type	Date Closed	Sales Price		Affordable	Moderate	Market
1	Townhouse	2/24/06	\$ 179,500.00	Note 1	Yes	No	
2	Townhouse	2/24/06	\$ 357,400.00			No	Yes
3	Townhouse	3/23/06	\$ 349,900.00			No	Yes
4	Townhouse	9/5/06	\$ 345,000.00			No	Yes
5	Townhouse	1/19/06	\$ 357,400.00			No	Yes
6	Townhouse	1/19/06	\$ 367,400.00			No	Yes
7	Townhouse	1/27/06	\$ 179,500.00	Note 1	Yes	No	
8	Townhouse	1/19/06	\$ 371,500.00			No	Yes

Note 1 Approved Sales Price \$187,000 less \$7,500 public grant from Acton Community Housing Corporation.

**FORT POND BROOK PLACE
DEVELOPED BY 68 RIVER STREET, LLC
SCHEDULE C - ANALYSIS OF PRIVATE CONTRIBUTIONS
SEPTMEBER 30, 2006**

The Company does not have any private contributions for this project.

