



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1029
TDD: 617.854.1025 | www.masshousing.com

9/26
BOJ
Planning
ACHC
ZBA
Garry

SEP 25 2002

September 23, 2002

William Shupert, Chairman
Board of Selectmen
Acton Town Hall
472 Main Street
Acton, MA 01720

Please send
any comments to
the Board

RE: Franklin Place, Acton, MA
PE-60

Dear Mr. Shupert:

The Massachusetts Housing Finance Agency (MassHousing) has received a Project Eligibility application under the Housing Starts program for Franklin Place located in Acton, MA.

To ensure a thorough review of the application, we are soliciting comments from the Town of Acton regarding this development. Any comments submitted should focus on the level of contact that the developer has had with the Town of Acton to explain the details of the proposed development and any issues or concerns the Town of Acton may have with the proposed development.

Please send your written comments to MassHousing by October 23, 2002. MassHousing will issue a decision as to the acceptability of the site and the general consistency of this development with the guidelines of the Housing Starts program. If you have any questions, please contact me at (617) 854-1335.

Sincerely,

Richard J. Herlihy
Richard J. Herlihy
Development Officer

Cc: Chron.file

FRANKLIN PLACE LLC
C/O MCO & ASSOCIATES, INC.
62 GREEN ROAD
BOLTON, MASSACHUSETTS 01740
978-779-0113

3/24/

September 20, 2002

Department of Housing & Community Development
Office of the Director
1 Congress Street - 10th Floor
Boston, MA 02114

RE: MHFA Housing Starts - Notification
Franklin Place, Acton, MA

Dear Director:

Pursuant to Section 760 CMR 31.01 please be advised that an application for funding through the MHFA Housing Starts Program has been filed with MassHousing as of September 18, 2002 regarding a proposed 40 unit affordable condominium development entitled "Franklin Place" in Acton, MA.

Sincerely,

Mark C. O'Hagan
MCO & Associates, Inc.
For Franklin Place LLC

CC: Acton Board of Selectmen
Town Hall - Main Street
Acton, MA 01720

Richard Herlihy
MassHousing
1 Beacon Street
Boston, MA 02108



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1029
TDD: 617.854.1025 | www.masshousing.com

9/26
Planning
ACHC
ZBA
Gerry
SEP 25 2002

September 23, 2002

William Shupert, Chairman
Board of Selectmen
Acton Town Hall
472 Main Street
Acton, MA 01720

Please send
any comments to
the Board

RE: Franklin Place, Acton, MA
PE-60

Dear Mr. Shupert:

The Massachusetts Housing Finance Agency (MassHousing) has received a Project Eligibility application under the Housing Starts program for Franklin Place located in Acton, MA.

To ensure a thorough review of the application, we are soliciting comments from the Town of Acton regarding this development. Any comments submitted should focus on the level of contact that the developer has had with the Town of Acton to explain the details of the proposed development and any issues or concerns the Town of Acton may have with the proposed development.

Please send your written comments to MassHousing by October 23, 2002. MassHousing will issue a decision as to the acceptability of the site and the general consistency of this development with the guidelines of the Housing Starts program. If you have any questions, please contact me at (617) 854-1335.

Sincerely,

Richard J. Herlihy
Richard J. Herlihy
Development Officer

Cc: Chron.file



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1029
TOD: 617.854.1025 | www.masshousing.com

November 8, 2002

Mark C. O'Hagan
MCO & Associates, Inc.
62 Green Road
Bolton, MA 01740

Re: Franklin Place, Acton
PE-60
Project Eligibility (Site Approval) Application

Dear Mr. O'Hagan:

This letter is in response to your application for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B and 760 CMR 30-31 (the "Comprehensive Permit Rules") under the Housing Starts Program (the "Program") of the Massachusetts Housing Finance Agency ("MassHousing"). The proposal is to build 40 condominiums (the "Project") on approximately 4.8 acres of land on 520 Main Street, Acton (the "Site"). The land is currently undeveloped and located in a residential area on Route 27.

This letter is intended to be a written determination of Project Eligibility (Site Approval) in accordance with the Comprehensive Permit Rules, establishing fundability by a subsidizing agency under a low and moderate-income housing subsidy program.

MassHousing staff has performed an on-site inspection of the Site and reviewed the pertinent information submitted by the applicant for the Project in accordance with the Comprehensive Permit Rules. As a result of our review, we have made the following findings: (1) the proposed housing design is generally appropriate for the Site; (2) the proposed Project appears financially feasible within the housing market in which it will be situated based on comparable sales figures; (3) an initial pro forma has been reviewed and the Project appears financially feasible on the basis of estimated development costs; and (4) the developer meets the general eligibility standards of the Program. In addition, it appears that the applicant will be eligible to form an entity or use an existing entity to act as a limited dividend organization in connection with an application for MassHousing financing and a Comprehensive Permit under the Program.

Page 2

Mr. Mark C. O'Hagan

RE: Franklin Place Page 2 of 4- MHFA #PE-60

Staff has also determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to final approval. These requirements include the following:

1. The developer must offer a minimum of 25% of the units as affordably priced housing units enabling families with a gross annual income of 80% of the area median income to qualify to purchase the unit under generally accepted mortgage loan underwriting standards.

The most recent income limits as published by the U.S. Department of Housing and Urban Development (HUD) indicate that 80% of the current median family income for Acton is \$59,360.

2. The affordable units will be governed by a Deed Rider ensuring the units remain affordable to future buyers, for a minimum of 30 years.
3. The developer must be a limited dividend organization and agree to limit the profit on the development to not more than 20% of the project's total development costs.
4. The developer must enter into a Regulatory Agreement with MassHousing and the Town of Acton stating specific requirements that must be met to comply with the Comprehensive Permit Rules.
5. The developer must comply with MassHousing's Acquisition Value Policy, which is attached as Exhibit "A".

The following issues should be addressed and fully explored in the public hearing process:

1. Whether or not the development will comply with all statutory and regulatory restrictions and conditions relating to protection of drainage, wetlands, vernal pools and wildlife habitats and nearby conservation areas, if applicable to this Site, except to the extent waived by the municipality.
2. Whether or not the development will comply with Title V regulations regarding the design and construction of individual wells, septic systems and wastewater treatment plants if applicable to this Site, except to the extent waived pursuant to Title V.

Page 3

Mr. Mark C. O'Hagan

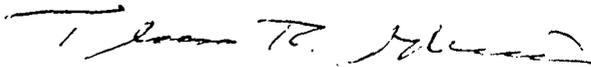
RE: Franklin Place Page 3 of 4- MHFA #PE-60

This approval is expressly limited to the development of no more than 40 homeownership units under the Program, with not less than 10 of such units designated as affordable homeownership units for low and moderate income persons or families under the terms of the Program. It is not a commitment or guarantee of MassHousing's financing and does not constitute a site plan or building design approval. Should you consider the construction of additional units, you will be required to submit a new Project Eligibility (Site Approval) application for review by MassHousing.

This approval will be effective for a period of two years from the date of this letter. Should construction not commence within this period or should the effective period of this letter not be extended in writing by MassHousing, it shall be considered to have expired and no longer be in effect. In addition, we are requiring that MassHousing be notified at the following times throughout this two year period: (1) when the applicant applies to the local ZBA for a comprehensive permit, (2) when the ZBA issues a decision, and if applicable, (3) when any appeals are filed.

If you have any questions concerning this letter, please contact Richard Herlihy at 617-854-1335.

Sincerely,



Thomas R. Gleason
Executive Director

CC: Ms. Jane Wallis Gumble, Director, DHCD
Mr. William Shupert, Chairman - Acton Board of Selectmen

Exhibit "A"

Acquisition Value Policy

The maximum permissible acquisition value which can be included in the Development Budget for a Construction Loan application will be limited to the lesser of:

- a. the "as is" appraised market value of the land and improvements, as estimated by the MassHousing Home Ownership Department at the time of loan commitment, and subject to confirmation by an MassHousing-commissioned independent appraisal prior to loan closing; or
- b. the purchase price of the land and improvements in the last arm's length transaction, if any, within the last three years, plus (i) reasonable and verifiable costs of property improvements made subsequent to the above acquisition and/or (ii) reasonable and verifiable carrying costs related to the land and improvements, such as interest, taxes and insurance.

Special Restrictions for Comprehensive Permit Developments

In addition to the above-noted acquisition policy, developments which have received a comprehensive permit will be subject to the following restriction:

Economic benefits of the comprehensive permit shall accrue to the development and shall not be used to substantiate an acquisition cost that is unreasonably greater than the current appraised fair market value under existing zoning without a comprehensive permit in place.

This restriction will be applied regardless of ownership transfers which might take place during the development process.



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

Tel: 617.854.1000 | Fax: 617.854.1029
Tdd: 617.854.1025 | www.masshousing.com

November 8, 2002

Mark C. O'Hagan
MCO & Associates, Inc.
62 Green Road
Bolton, MA 01740

Re: Franklin Place, Acton
PE-60
Project Eligibility (Site Approval) Application

Dear Mr. O'Hagan:

This letter is in response to your application for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B and 760 CMR 30-31 (the "Comprehensive Permit Rules") under the Housing Starts Program (the "Program") of the Massachusetts Housing Finance Agency ("MassHousing"). The proposal is to build 40 condominiums (the "Project") on approximately 4.8 acres of land on 520 Main Street, Acton (the "Site"). The land is currently undeveloped and located in a residential area on Route 27.

This letter is intended to be a written determination of Project Eligibility (Site Approval) in accordance with the Comprehensive Permit Rules, establishing fundability by a subsidizing agency under a low and moderate-income housing subsidy program.

MassHousing staff has performed an on-site inspection of the Site and reviewed the pertinent information submitted by the applicant for the Project in accordance with the Comprehensive Permit Rules. As a result of our review, we have made the following findings: (1) the proposed housing design is generally appropriate for the Site; (2) the proposed Project appears financially feasible within the housing market in which it will be situated based on comparable sales figures; (3) an initial pro forma has been reviewed and the Project appears financially feasible on the basis of estimated development costs; and (4) the developer meets the general eligibility standards of the Program. In addition, it appears that the applicant will be eligible to form an entity or use an existing entity to act as a limited dividend organization in connection with an application for MassHousing financing and a Comprehensive Permit under the Program.

Page 2

Mr. Mark C. O'Hagan

RE: Franklin Place Page 2 of 4- MHFA #PE-60

Staff has also determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to final approval. These requirements include the following:

1. The developer must offer a minimum of 25% of the units as affordably priced housing units enabling families with a gross annual income of 80% of the area median income to qualify to purchase the unit under generally accepted mortgage loan underwriting standards.

The most recent income limits as published by the U.S. Department of Housing and Urban Development (HUD) indicate that 80% of the current median family income for Acton is \$59,360.

2. The affordable units will be governed by a Deed Rider ensuring the units remain affordable to future buyers, for a minimum of 30 years.
3. The developer must be a limited dividend organization and agree to limit the profit on the development to not more than 20% of the project's total development costs.
4. The developer must enter into a Regulatory Agreement with MassHousing and the Town of Acton stating specific requirements that must be met to comply with the Comprehensive Permit Rules.
5. The developer must comply with MassHousing's Acquisition Value Policy, which is attached as Exhibit "A".

The following issues should be addressed and fully explored in the public hearing process:

1. Whether or not the development will comply with all statutory and regulatory restrictions and conditions relating to protection of drainage, wetlands, vernal pools and wildlife habitats and nearby conservation areas, if applicable to this Site, except to the extent waived by the municipality.
2. Whether or not the development will comply with Title V regulations regarding the design and construction of individual wells, septic systems and wastewater treatment plants if applicable to this Site, except to the extent waived pursuant to Title V.

Page 3

Mr. Mark C. O'Hagan

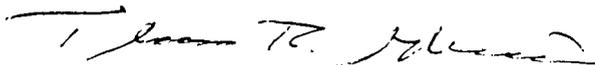
RE: Franklin Place Page 3 of 4- MHFA #PE-60

This approval is expressly limited to the development of no more than 40 homeownership units under the Program, with not less than 10 of such units designated as affordable homeownership units for low and moderate income persons or families under the terms of the Program. It is not a commitment or guarantee of MassHousing's financing and does not constitute a site plan or building design approval. Should you consider the construction of additional units, you will be required to submit a new Project Eligibility (Site Approval) application for review by MassHousing.

This approval will be effective for a period of two years from the date of this letter. Should construction not commence within this period or should the effective period of this letter not be extended in writing by MassHousing, it shall be considered to have expired and no longer be in effect. In addition, we are requiring that MassHousing be notified at the following times throughout this two year period: (1) when the applicant applies to the local ZBA for a comprehensive permit, (2) when the ZBA issues a decision, and if applicable, (3) when any appeals are filed.

If you have any questions concerning this letter, please contact Richard Herlihy at 617-854-1335.

Sincerely,



Thomas R. Gleason
Executive Director

CC: Ms. Jane Wallis Gumble, Director, DHCD
Mr. William Shupert, Chairman - Acton Board of Selectmen

Exhibit "A"

Acquisition Value Policy

The maximum permissible acquisition value which can be included in the Development Budget for a Construction Loan application will be limited to the lesser of:

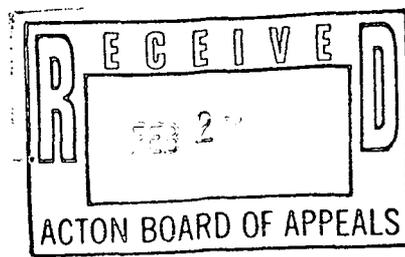
- a. the "as is" appraised market value of the land and improvements, as estimated by the MassHousing Home Ownership Department at the time of loan commitment, and subject to confirmation by an MassHousing-commissioned independent appraisal prior to loan closing; or
- b. the purchase price of the land and improvements in the last arm's length transaction, if any, within the last three years, plus (i) reasonable and verifiable costs of property improvements made subsequent to the above acquisition and/or (ii) reasonable and verifiable carrying costs related to the land and improvements, such as interest, taxes and insurance.

Special Restrictions for Comprehensive Permit Developments

In addition to the above-noted acquisition policy, developments which have received a comprehensive permit will be subject to the following restriction:

Economic benefits of the comprehensive permit shall accrue to the development and shall not be used to substantiate an acquisition cost that is unreasonably greater than the current appraised fair market value under existing zoning without a comprehensive permit in place.

This restriction will be applied regardless of ownership transfers which might take place during the development process.



FRANKLIN PLACE

Acton, Massachusetts

AN AFFORDABLE RESIDENTIAL COMMUNITY

AMENDED PETITION FOR COMPREHENSIVE PERMIT

February 27, 2003

Submitted to:

*Acton Zoning Board of Appeals
Town Hall - 472 Main Street
Acton, Massachusetts 01720*

Submitted by:

*Franklin Place Partners LLC
178 Great Road
Acton, MA 01720*

FRANKLIN PLACE

Acton, Massachusetts

TABLE OF CONTENTS

Updated February 27, 2004

1. Amended Application Form
2. Information Requested in Petition Application
 - Location Map*
 - Building Tabulation Sheet*
 - Existing Conditions & Site Development Narrative*
 - Housing Characteristics & Site Considerations ...*
 - Sections Update ...*
3. Architectural Drawings
 - Building Elevations and Floor Plans*
 - Building Specifications*
4. Pro Forma Financial Review
5. List of Requested Exemptions
6. Additional Information
 - Affordability Analysis*
 - HUD 2004 Median Income Limits (MassHousing)*
 - Preliminary Condominium Budget*
7. Site Development Plans (Large Scale Attached)
 - Cover with LOCUS*
 - Existing Conditions Plan*
 - Layout Plan*
 - Site Development Plan – with Grading & Utilities*
 - Site Development Plan – Detail Sheets*
 - Preliminary Septic Design*
8. Landscape Plan (Attached)
9. Revised Drainage Analysis (Attached)

AMENDED

Date Received
TOWN CLERK
Apr. 4 2003
By: [Signature]



TOWN OF ACTON
MASSACHUSETTS

RECEIVED
Date Received
BOARD OF APPEALS
APR 4 2003
ACTON BOARD OF APPEALS

BOARD OF APPEALS
(FORM 6)

PETITION FOR A COMPREHENSIVE PERMIT TO CONSTRUCT SUBSIDIZED HOUSING

APRIL 4 2003

I/We hereby petition the Board of Appeals for a public hearing and comprehensive permit to construct subsidized housing as authorized by Chapter 774, Acts of 1969, Massachusetts General Laws (Chapter 40B, Sections 20-24).

Organization: Name FRANKLIN PLACE LLC

Address: 9/0 NORTHWEST DEVELOPMENT
178 GREAT ROAD
ACTON, MA 01720

CHECK ONE*

Public Agency _____

Non Profit _____

Limited Dividend

Location: 520 MAIN STREET, ACTON

Last recorded plan: Date _____ Book No. _____ Page No. _____
Town Atlas Sheet No. E4 Parcel No. 45

OFFICE USE ONLY

Petition with 19 copies? _____

Location map? _____

Site/Plot plan with 19 copies? _____

Sewage disposal plan with 19 copies? _____

Construction plan with 19 copies? _____

Checklist with 19 copies? _____

List of abutters and other interested parties? _____

Fee - \$200.00? _____

Next Hearing Date? _____ No

Respectfully submitted

Signed [Signature]
(Petitioner)

Name FRANKLIN PLACE PARTNERS LLC
Address 178 GREAT ROAD
ACTON MA 01720

Phone # 978-268-6166

Signed [Signature]
(Owner of Record)

Name WILLIAM BALDUF

Address RR1 - P.O. Box 806
ROBINSON ROAD
MADRID, MA 04966

Phone No. 207-689-5115

*Certified copies of organization papers must be submitted with this petition.

ADDITIONAL INFORMATION

No. of Buildings Proposed 6
No. of Units Per Proposed Building 2
Total No. of Units Proposed 12
No. of Efficiency Units 0
One Bedroom Units 0
Two Bedroom Units 0
Three Bedroom Units 12
Four (Or More) Bedroom Units 0

Height of Building Proposed less than 5
No. of Proposed Units, Max 2.45

Major Appliances:
Total Number 36
Gas 12
Electric 24
Other _____

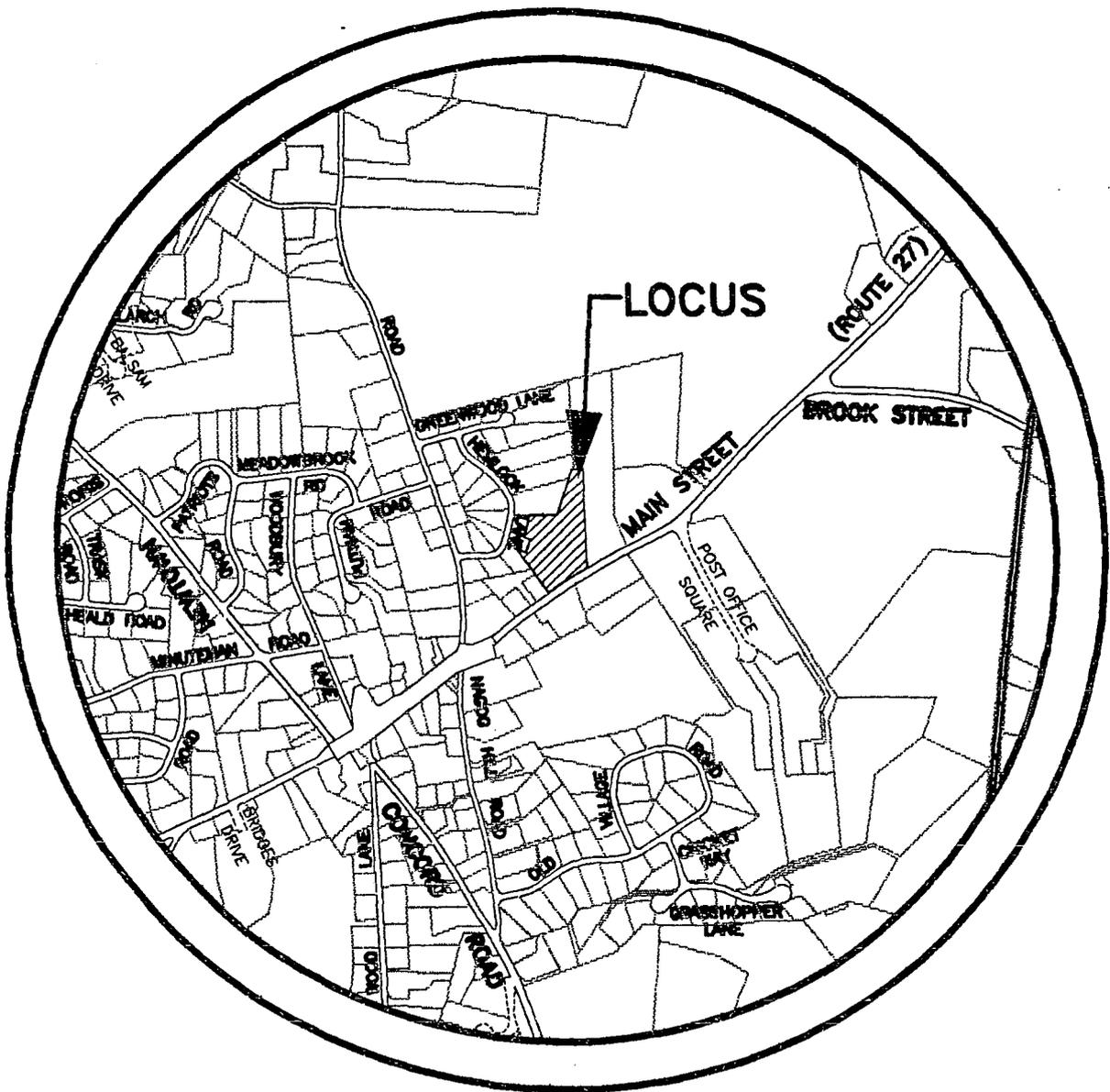
Estimated gallonage per day of sanitary disposal 3,960 gpd
Basis for estimate 110 gpd per Bedroom
36 Bedrooms x 110 gpd = 3,960 gpd

The following items make up an acceptable petition for a comprehensive permit to construct subsidized housing:

*AMENDED PACKAGE
SEE TABLE OF CONTENTS*

- _____ Petition with 19 copies
- _____ Location map (Scale 1200 feet = 1 inch).
- _____ Site/Plot plan with 19 copies - Maximum size 24" x 36"¹
Horizontal scale: 40 feet = 1 inch, if area is greater than 2 acres.
20 feet = 1 inch, if area is less than 2 acres.
- _____ Vertical scale: 5 foot intervals.
- _____ Sewage plan with 19 copies.
- _____ Construction plan with 19 copies.
- _____ Certified copies of organization papers.
- _____ Additional items as described in Instructions to Appellant (VI E 5) including checklist.
- _____ List of abutters.
- _____ List of abutters and other interested parties.
- _____ Fee - \$200.00.

¹ Must include boundaries of areas, date of preparation, natural features, North point, scale and professional engineer or land surveyor seal.



LOCATION MAP

SCALE: 1" = 1200'

FRANKLIN PLACE

Acton, Massachusetts

Building Tabulation Plan

Updated February 27, 2004

Unit & Land Coverage Data

Total Number of Units:	12
Total Number of Buildings:	6
Total Site Area	214,228 Sq Ft. (100 % of Site)
Total Land Coverage by Buildings:	20,280 Sq Ft. (9.5 % of Site)
Roadway & Parking Area Land Coverage:	20,776 Sq Ft. (9.7 % of Site)
Open Space/Landscaped Area	173,172Sq Ft. (80.8 % of Site)

Breakdown of Units – Affordable vs. Market Rate

Type of Unit (Design)	# of Units	# of Bedrooms	# of Baths	Gross Square Feet	Sales Price	Condominium Fee
Affordable Units	3	3	2.5	2,000	\$195,000	\$95/month
Market Units	9	3	2.5	2,000	\$519,900	\$250/month

FRANKLIN PLACE

Acton, Massachusetts

Existing Conditions & Site Development Narrative

Updated February 27, 2004

The site is located at 520 Main Street (Route 27), 1.5 miles north of Route 2. It is zoned Residence A-2 (20,000 square foot lots) and is within an Affordable Housing Overlay District.

The total parcel consists of 4.9 acres, of which, approximately 90% of the land is buildable with a small percentage of wetland areas. The site currently has an older cottage that will be demolished. The site substantially wooded and is generally level with the street, has small upward grade, and slopes off away from the street towards the middle & rear of the property. There is a lower lying wetland area on the South side of the parcel that separates this property from other residences. The wetland line has been delineated in accordance with the Acton Conservation Commission and we will file a Notice of Intent to seek an order of conditions for the development.

The site is located in a transitional position, having commercial activities adjacent to the north and residential property adjacent to the South and to the West. We believe the multi family design is appropriate as a transition between these varying uses and the site is within an affordable housing overlay district.

The site development plan included with this report shows the location of buildings, driveway and parking areas. All paved areas will be asphalt. There is an existing sidewalk along Main Street.

FRANKLIN PLACE

Acton, Massachusetts

Report Regarding Housing Characteristics and Site Specific Considerations (“Report”)

Updated February 27, 2004

Based upon the most recent Subsidized Housing Inventory Listing issued by The Department of Housing and Community Development (DHCD) dated April 24, 2002, (attached) the Town of Acton currently has only 2.07% of its housing stock determined to be affordable. Although the Town has recently issued a Comprehensive Permit for 12 homes to be constructed, the rate is still well below the established Statutory Minima of 10%.

Based upon the attached US Census data sheet regarding the Town of Acton, we can assume a total of 1,325 family households that are currently in Rented Housing. This number of households would be further reduced based upon financial criteria since there are income maximums (program based) and minimums (necessary to secure a mortgage). Based upon the attached sheet for Income groups in greater Boston (1990) the percentage of qualified families is estimated to be 26%. However, this uses older data and the income range has expanded to \$66,080. Based upon this we established a conservative estimate that 35% of the renter family households in Acton are qualified as low and moderate income homebuyers.

This would establish the number of qualified low & moderate income families in Acton as 463.

(Total Renter Occupied Housing Units = 1,793 households)
(% of Households that are Family Households is 73.9 %; $1,793 \times .739 = 1,325$ households)
(30% anticipated to be financially qualified = $1,325 \times .35 = 463$ households)

Given that the Town is below the 10% statutory minima it is assumed by DHCD that the local needs of low and moderate income families have not been met. Additionally, a review of the Towns surrounding Acton show that no abutting Towns are close to the 10% threshold. This establishes that regional needs for affordable housing are not being met.

Franklin Place has addressed all health and safety considerations:
The buildings have been designed to meet all applicable building codes;
The development will connect to the municipal water;
A shared septic system in Compliance with Title V has been designed for approval;

Drainage calculations have been submitted for review by Town engineers to ensure compliance with storm water management policy;
The site is located close to all major routes and the site plan provides for direct access parking and garaging for vehicles.

The site has been designed with building types that meet the needs of a variety of buyer needs, including empty nesters, small families and handicapped & disabled individuals and families. The petitioner did previously meet with the Acton Community Housing Corp (ACHC) to seek support and endorsement for the project.

The Open Space on the site is a combination of wetland areas as well as landscaped space and wooded buffers from Main Street. Abutting residential homes and neighborhoods are generally separated from this site by a wooded, wetland area. The site is located on Main Street only about 1.5 miles from Route 2, allowing quick access to all major travel routes and shopping options and is close to all municipal services and community offerings.

The environmental impact of the parcel is marginal. An order of conditions will be amended to meet the design of the updated, reduced plan. We have meet setback guidelines established by the Conservation Commission in relation to the stream located on site. A shared septic system has been designed and we will seek approval from the local Board of Health.

This site was considered as an excellent opportunity for affordable housing based largely upon its proximity to Town amenities, commuting opportunities, availability of municipal water and Acton's need for quality affordable housing.

FRANKLIN PLACE

Acton, MA

Franklin Place Comprehensive Permit Application Sections Updated

Updated February 27, 2004

In a Spring 2003 memo the Acton Planning Board stated they felt certain sections of the original application were incomplete. Although these items are addressed generally within the amended application, we have updated this memo to ensure that all items are specifically addressed.

Section VI.E.5.d.vi.

The section asks about the relationship of the proposed development to open space within the parcel as well as open space recreation in the area of the development which would be available to residents.

As has been discussed the parcel is in close proximity to the Town center area which includes the Library, Town Hall and the playground adjacent to the library. The Acton Arboretum is also within walking distance. The Town Common as well as the park at the intersection of Main Street and Nagog Hill Road are additional areas for recreation. Given the reduced density of the project there is also an increased amount of space for recreation in and around the residential units.

The site is located within the center of Acton and residents will have access to all local and regional recreational activities as current Acton residents do.

The current use of the site is as a vacant single family home which will be demolished. The parcel is located within an affordable housing overlay district within the Town of Acton Zoning districts

Section VI.E.5.d.vii.

The site is located within an affordable housing overlay district. However, our plan does not conform with the specific requirements of the local plan. Under the local plan there could potentially be 9 to 10 units of housing with one or two affordable units for the benefit of the Town. The current proposal provides for slightly more units along with a proportionate increase in the amount of affordable housing units.

Section VI.E.5.d.viii.

This section refers to MEPA Notifications which are not applicable for this project.

Section VI.E.5.d.ix.

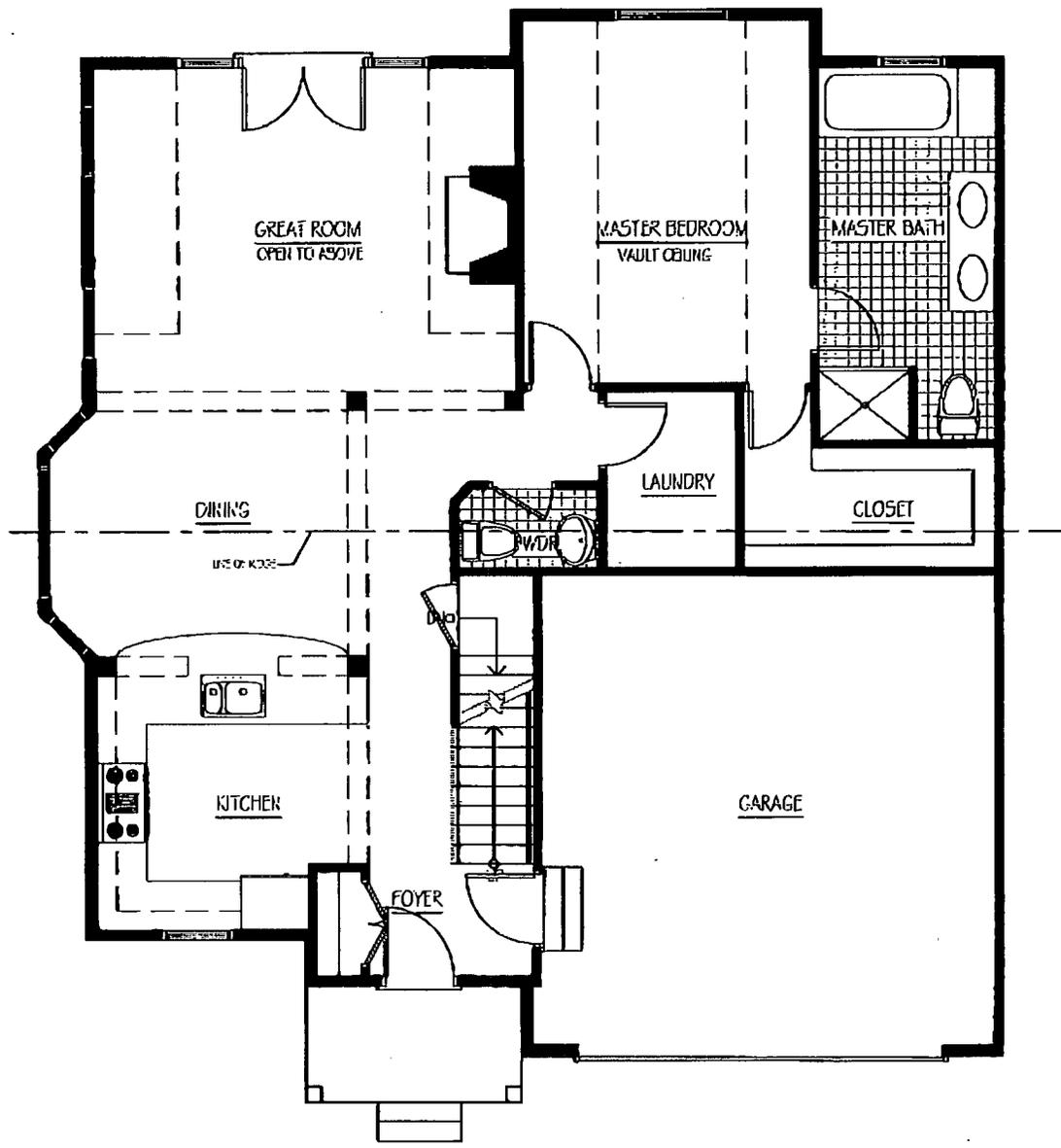
This section refers to the Wetlands Protection Act. We have filed a Notice of Intent with the Acton Conservation Commission.

Section VI.E.5.d.x.

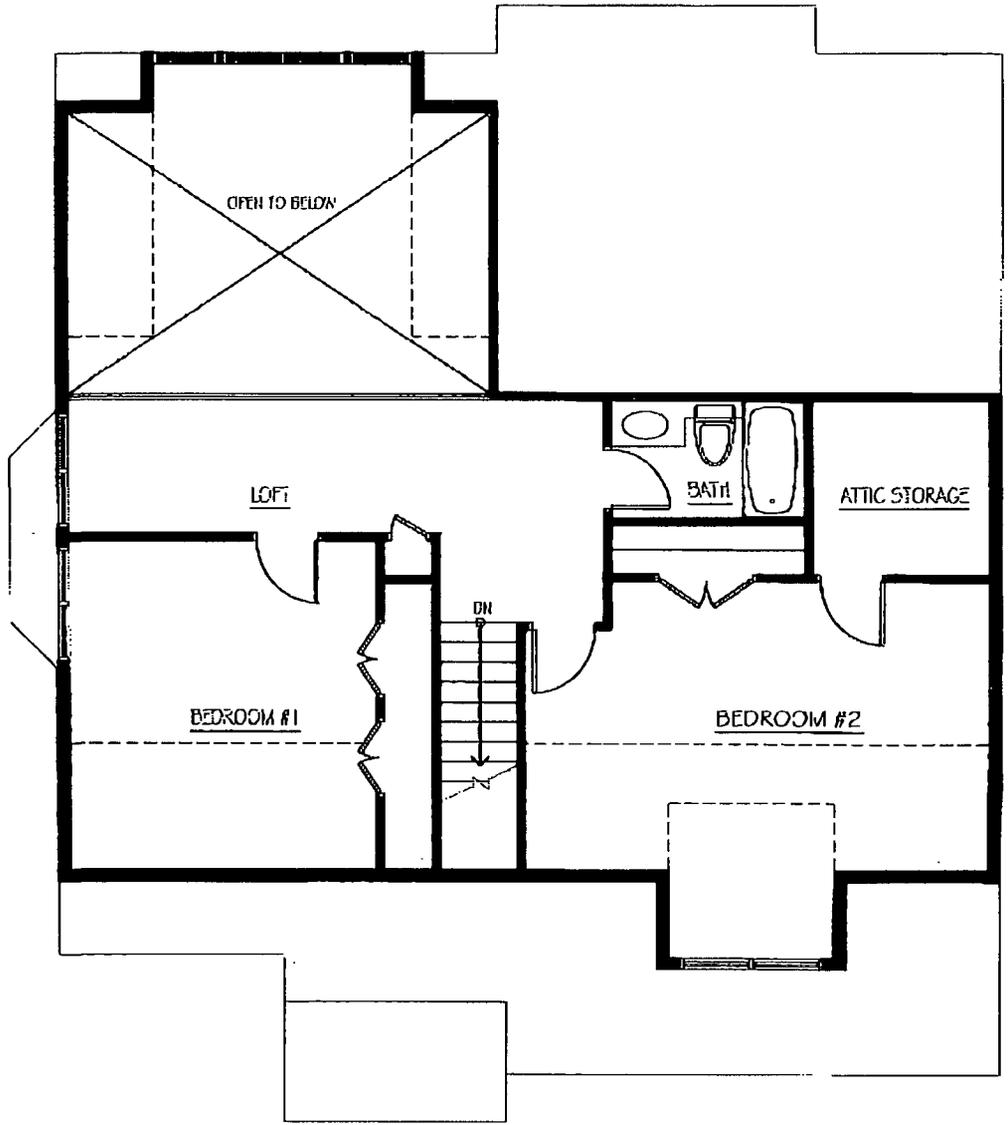
The property developer has a strong and long standing presence in the local market and is aware of most parcels that come available on the market. They had not identified another parcel that was suitable for affordable housing when this parcel was being analyzed.

The site is located within an affordable housing overlay district, has close proximity to the center of Town and major travel routes it was considered to be a very desirable property for the proposed development.





○ FIRST FLOOR PLAN



○ SECOND FLOOR PLAN

FRANKLIN PLACE

Acton, Massachusetts

Preliminary Building Specifications

Foundation

- Concrete footings, lally column pads and 10" poured concrete walls
- Dropped knee walls at rear of Buildings where units are located.

Roof

- CDX plywood sheathing will be covered by color co-ordinated asphalt shingles.
- Metal drip edge above all soffits
- Ice and Water barrier extending three feet up from all soffits and in all valleys

Exterior Walls and Finish

- 2"x4" wood studs 16" on center with ½" OSB sheathing and TYVEK or equivalent house wrap
- Maintenance free vinyl siding

Exterior Doors & Windows

- Front door will be 3' six panel steel frame insulated door with side lights as shown on plan.
- Door to deck will be sliding glass patio door with screen
- All exterior windows will be double hung, vinyl with insulated glass and screens.

Deck

- A deck or patio will be located per plans
- Pressure treated pine will be used for railings, posts, balusters, decking, joists and stair stringers

Landscaping

- Property will be professionally landscaped by Builder with plantings around buildings
- All disturbed areas will be re-graded to ensure proper drainage & run-off, will receive 4" of loam and will be seeded.

Insulation

- R11 batt insulation on exterior walls
- R19 batt insulation on basement ceiling
- R30 insulation on second floor ceiling
- TYVEK or equivalent vapor wrap on all exterior walls

Interior Walls and Ceilings

- 2" x 4" wood stud covered by ½ inch sheetrock with smooth "skim coat" plaster
- Closets and ceilings will have a textured finish and will not be painted
- All interior walls will receive one coat primer and one coat flat latex paint from Builders samples

Interior Doors & Trim

- All interior doors will be six panel hollow core masonite doors
- Baseboard trim will 3 1/2 inch colonial style
- Door and Window trim packages will be 2 1/2 inch colonial casing
- All Doors and trim will be paint grade and will receive one coat primer and one coat semi-gloss paint

Cabinets and Countertops

- Standard kitchen and bathroom cabinets from Builder Samples
- Countertops in kitchen and baths will be post formed laminate with backsplash

Appliances

- Kitchen will have a 30" range with extra large self cleaning oven
- Microwave HoodVent with fan located above the range
- Dishwasher
- A double bowl sink with faucet and spray
- Laundry Hook ups in all unit are provided

Plumbing

- Forced hot air heating system by gas
- 50 Gallon hot water heater
- Plumbing fixtures to be American Standard or better and supplied by Builder
- All plumbing to be completed in accordance with state and local regulations

Electrical Service

- Circuit breaker panel located in basement and individual unit meters
- Smoke detectors as required by code
- Fixtures at all exterior doors
- Pre-wiring for two telephone outlets and two CATV outlets
- Room lighting will be by wall switch and outlets

Flooring

- Ceramic tile from Builders samples installed in Foyer
- Linoleum installed in Kitchen & Breakfast area, baths and laundry area
- Carpeting installed throughout rest of home
- All standard selections will be Buyer's color choice from Builders samples

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, linen and laundry areas

*The Building Specifications are offered subject to changes at any time.
The Builder reserves the right to substitute any of the above Building Specifications at any time with materials of similar or greater quality.*

FRANKLIN PLACE

Acton, Massachusetts

Preliminary Construction Budget - Pro Forma

12 Units

<u>Development Items:</u>	<u>Total Costs</u>	<u>Per Unit</u>	
Site Acquisition	\$ 900,000	\$ 75,000	
<u>Hard Costs:</u>			
Site Preparation	\$ 700,000	\$ 58,333	
Landscaping	\$ 60,000	\$ 5,000	
Residential Construction	\$ 2,232,000	\$ 186,000	
Detached Garages	\$ -	-	
Community Building	\$ -	\$ -	
Hard Cost Contingency	3.5% \$ 104,720	\$ 8,727	
Total Land & Hard Construction Costs	\$ 3,996,720	\$ 333,060	
<u>Soft Costs:</u>			
Permits/Approvals/Water Connection Fees	\$ 54,000	\$ 4,500	
Architectural	\$ 30,000	\$ 2,500	
Engineering & Survey	\$ 78,000	\$ 6,500	
Legal	\$ 21,000	\$ 1,750	
Insurance	\$ 18,000	\$ 1,500	
Development Fee/Consultant	\$ 50,000	\$ 4,167	
Property Taxes	\$ 25,000	\$ 2,083	
Construction Loan Interest	\$ 114,000	\$ 9,500	
Financing/Application Fees	\$ 25,000	\$ 2,083	
Appraisal	\$ 10,000	\$ 833	
Accounting	\$ 25,000	\$ 2,083	
Marketing	5% \$ 263,205	\$ 21,934	
Soft Cost Contingency	5% \$ 35,660	\$ 2,972	
Total Soft Costs	\$ 748,865	\$ 62,405	
Total Development Costs	\$ 4,745,585	\$ 395,465	
Market Sales - Projected	\$ 4,679,100	\$ 519,900	9
Affordable Sales - Projected	\$ 585,000	\$ 195,000	3
Garages - Projected	\$ -	\$ -	0
TOTAL Sales	\$ 5,264,100		
NET Profit	\$ 518,515		
Percentage Profit	10.93%		

FRANKLIN PLACE

Acton, Massachusetts

LIST OF REQUESTED WAIVERS TO LOCAL BYLAWS AND REGULATIONS

Updated February 27, 2004

Zoning By Law

Section 3.1 – Table of Principal Uses

Waiver to Allow Multi Family Housing in a R-2 Residential District

Waiver of need to secure Site Plan Approval for allowing Multi Family housing within an R-2 Residential District

Section 3.3 – Residential Uses

Waiver to allow the construction of more than one residential building on a Lot.

Board of Health

Waiver of the Acton Board of health Rules and Regulations “Article 11 – Minimum Requirements for the Disposal of Sanitary Sewage in Unsewered Areas”. The design of the Septic system is based upon the Massachusetts DEP Title 5 requirements. The specific sections within the local regulations that we do not comply with include:

Article 11-7.3 – No Sewage Disposal System with a capacity of 2,000 gallons per day or over shall be constructed within 100 feet of any wetland.

(The proposed leach field is located 90 feet from the wetland; the pump chamber is located 75 feet from the wetland)

Wetland Regulations

Consistent with 40B practices, we have filed the Notice of Intent under the State Wetlands Protection Act only. Additionally, the older setbacks of 25 & 40 feet are the relevant setbacks within the local bylaw based upon the time of our original submission.

Applicant reserves the right to make additions and changes as needed to Waiver List based upon community input and review and plan changes.

FRANKLIN PLACE

Acton, Massachusetts

AFFORDABILITY ANALYSIS

3 Bedroom

Home Price	\$ 195,000		
<i>Interest Rate</i>	6.25%		
<i>Down Payment (%)</i>	5.00%		
Down Payment (\$)	\$ 9,750.00		
Mortgage Amount	\$ 185,250.00		
Monthly Expenses			
<i>Principal & Interest</i>	\$1,140.62		
<i>Real Estate Taxes</i>	220.19		
<i>Private Mortgage Insurance</i>	120.41		
<i>Association Fee</i>	95.00		
TOTAL Monthly Expenses	\$1,576.22		
Minimum Income Required	\$ 63,049		
	\$ 66,080	80 % Medium 4 person	SOURCE:MassHousing
	\$ 82,600	100% Median	

NOTES:

14.03

Acton Residential Tax Rate = \$13.55 per thousand

Minimum Income Required based upon 30% Housing Ratio

FRANKLIN PLACE

Acton, Massachusetts

Condominium Budget

<u>Item</u>	<u>Annual Estimate</u>
<i>Landscaping - Mowing</i>	\$ 9,000
<i>Plowing</i>	\$ 3,600
<i>Common Area General Maintenance</i>	\$ 1,500
<i>Common Utilities</i>	\$ 1,200
<i>Insurance</i>	\$ 3,000
<i>Management</i>	\$ 2,500
<i>Septic System Maintenance</i>	\$ 2,000
<i>Septic System & General Reserves</i>	\$ 5,000
<i>Miscellaneous</i>	\$ 1,500
<i>Total Estimated Budget</i>	<i>\$29,300</i>

Estimated Monthly Fees

<i>Market Rate Homes =</i>	\$	250
<i>Affordable Homes =</i>	\$	95
<i>Total Fees Assessed =</i>	\$	30,420

12 TOTAL Units - 9 Market & 3 Affordable

Updated: February 25, 2004



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

Acton Community Housing Corporation
Nancy E. Tavernier, Chair

To: Board of Appeals

Date: April 24, 2003

From: Nancy Tavernier, Chair
Acton Community Housing Corporation

Cc: Board of Selectmen, Town Manager

Subject: **Franklin Place**
520 Main Street
Application No. 03-08

The members of the Acton Community Housing Corporation voted to support the Franklin Place Project for 32 units at 520 Main St., which includes 8 affordable housing units for purchase by income eligible first time homebuyers.

Last fall, Mark O'Hagan met with the ACHC to discuss an earlier proposal of 40 units. The new proposal was presented to ACHC for review with a subsequent vote on April 24, 2003 to support in principle the overall concept of the current proposal. Consistent with those discussions, we request:

- One of the eight affordable units be a loft unit.
- No more than one of the units be a walkout (basement) unit.
- One of the eight affordable units should be handicapped adaptable in the event one of the lottery winners requires such adaptability. This unit should not be restricted to handicapped ownership however.
- Five of the units meet the Local Preference guidelines of ACHC.
- These housing units will serve households whose income is at or below 70% of the median household income for the Boston Area. The 2003 Area Median Income is \$80,800. We suggest using the guidelines for 3-person households.
- All eight units must meet the DHCD requirements to allow them to be counted toward the community's required 10% affordable housing units for the purposes of Chapter 40B.
- Deeds for the units must contain use restrictions that ensure the units may only be resold to income-qualified buyers at affordable prices for a lock-in period of time of 99 years.

- The units must be sold on a fair and open basis based on an affirmative fair marketing plan.
- The developer will provide funding for a consultant to administer the marketing and homeowner selection program, including a lottery. The members of ACHC will oversee this process to insure fairness.
- All homeowners of the development will be informed in advance, as part of the marketing program, about the affordable units present in the development. They will also be informed in writing that any condominium fees will be prorated based on a ratio of the selling price of the market rate homes to the affordable homes which will result in lower fees paid by the affordable owners. This information will be included in the purchase and sale documents.

Members of the ACHC will be present at the Public Hearing for this development and may have other comments at that time.



ACTON HOUSING AUTHORITY

68 Windsor Avenue

P.O. Box 681

Acton, Massachusetts 01720-0681

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

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

May 6, 2003

Mr. Jonathan Wagner
Chairman, Acton Board of Appeals
Acton Town Hall
472 Main Street
Acton, MA 01720

Dear Mr. Wagner:

The Acton Housing Authority's Board of Commissioners has voted to support the Comprehensive Permit for Franklin Place. The Authority's support is based on the developments "Affordability".

- 1). 25 % of the units built will be sold to First Time Homebuyers
- 2). The affordable units will be Deed Restricted for 99 years
- 3). 70% of the affordable units will be sold to First Time Homebuyers that meet Acton's Local Preference criteria
- 4). For the first time "Single" Acton people will have the same opportunity in the lottery process, as families will not receive a priority over singles

The Authority's support for Affordable Housing has been long standing as it was the AHA, the Town's Fair Housing Commission and local religious representatives who were instrumental in the formation of the current Acton Community Housing Corporation Board. The AHA Board has seen first hand the successes of Acton's Affordable Housing Program as three of the sixteen First Time Homebuyers who purchased their homes were past clients of the Authority.

Much has been said that the proposed development is not consistent with the Town's Master Plan, when in fact the site is in the Affordable Overlay Minor District as designated Town's Master Plan.

As the Board of Appeals conducts the Public Hearing on Franklin Place's Comprehensive Permit, the BOA must weigh the concerns against Acton's need for Affordable Housing.

Sincerely,

Acton Housing Authority's Commissioners

EQUAL HOUSING OPPORTUNITY



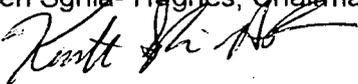


Planning Board

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630

INTERDEPARTMENTAL COMMUNICATION

To: Board of Appeals **Date:** May 6, 2003

From: Planning Board
Ken Sghia - Hughes, Chairman


Subject: Hearing # 03-08 – Franklin Place LLC, Comprehensive Permit Application,
520 Main Street

On May 6, 2003 the Planning Board discussed the application for Franklin Place and voted that it cannot support this development for the following reasons:

1. Lack of Consistency with Master Plan

Consistency with the Town's planning goals and objectives is a criterion for evaluation of comprehensive permit applications under M.G.L. Ch.40B, S.20-23 and 760 CMR 31.00. Specifically, under 760 CMR 31.07(3)(d), the Housing Appeals Committee (and by inference the ZBA) "may receive evidence of and shall consider the following matters: (1) a city or town's master plan, comprehensive plan, or community development plan, and (2) the results of the city or town's efforts to implement such plans." Therefore, it seems appropriate to mention this subject in light of Acton's Master Plan and the history of affordable housing development efforts and successes in Acton:

The 1990 Master Plan established two planning principles for the Town that are relevant in the evaluation of this pending proposal.

- a. The declaration that affordable housing generation is a critical planning objective to meet the housing needs of Acton's low and moderate income population, and
- b. The designation of mixed-use growth centers for future concentrated development as a measure against further suburban sprawl and traffic congestion in Acton¹.

Consistent with these principles, Acton adopted zoning in 1990 that designated five growth centers (East -, North -, South -, and West Acton Villages, and Kelley's Corner) and an

¹ The concept of designating growth centers while discouraging growth in areas that are distant from these centers is consistent with the MAPC region's MetroPlan 2000 first published in the late 1980's. Today, this approach to growth management has become an integral part of the "smart growth" principles. In a January 13, 2003 memorandum, DHCD stated that recent changes to 760 CMR 31.00 ff (regulations relative to the Housing Appeals Committee and the Local Initiative Program) will, among other things, "ensure that proposed developments are appropriate to the site, are consistent with 'smart growth' principles, will increase other project standards, and will eliminate Chapter 40B problems which have been documented with respect to such developments."

Affordable Housing Sub-district B. It allows high-density housing developments (up to 5 units/acre) within walking distance of the designated centers as well as other established retail and service areas². These principles were reaffirmed in the 1998 Master Plan update.

Over the years, Acton has supported two high-density comprehensive permit projects that fit the stated planning principles: Westside Village³ off Sudbury Road adjacent to the Powder Mill Road commercial area and most recently Crossroads Condominium⁴ just south of Kelley's Corner. A third high-density affordable housing project, Harris Street Place⁵, went up at Harris Street near Great Road under local affordable housing regulations. All three developments are located wholly or partially within the Town's designated Affordable Housing Overlay District B, which makes them consistent with the Town's stated "smart growth" planning principles. In addition, the Planning Board and the Acton Community Housing Corporation successfully negotiated the creation of numerous affordable Local Initiative Program units on scattered sites as contributions from large residential projects or in developments within Acton's low-density Affordable Housing Overlay District A⁶. Most of these scattered sites reused existing housing stock.

Looking ahead:

- The Town is working to rehabilitate and convert the old Towne School building for affordable housing. Its location abutting the Kelley's Corner business district (a designated growth center under the Acton Master Plan) fits the criteria for inclusion in the Affordable Housing Overlay District B. 18-20 units appear feasible.
- A local private developer has prepared plans and made preliminary contact with Town staff and the ACHC regarding a comprehensive permit on property (behind Acton Toyota) near East Acton Village, which is another designated growth center. The property is in the Affordable Housing Overlay District B.
- On April 29, 2003, the Town finally received the green light from DHCD to proceed with the affordable housing plan⁷. This project was originally scheduled to begin in February with a projected completion date in December 31, 2003.

² The Town also adopted an Affordable Housing Sub-district A for many other areas. It provides a moderate density bonus over base zoning for the inclusion of a small number of affordable units. Any density increases from that would be insignificant.

The subject site is included in Sub-district A. It is too small on its own to be eligible for the affordable housing bonus option without combining it with the Horton parcel to the north, which is also in Sub-district A. If it were eligible by itself, the bonus option may yield 9-10 units including one or two affordable units at an overall density of +/-2 units/acre. This takes into consideration site constraints and the need to build a subdivision street. The proposed density of Franklin Place is over 6.5 units/acre.

³ On Westside Drive. Approved on 9/1/98. 16 single-family units, four affordable, on 5.25 acres. Base zoning was General Industrial, now Powder Mill. Affordable Housing Overlay District B applies.

⁴ At 248 Main Street. Approved on 11/19/02. 12 townhouse units, 3 affordable, on 2.23 acres. Base zoning is Residence 2. Affordable Housing Overlay District B applies to the northern half of the property.

⁵ Jennifer Path & Samantha Way. Approved on 1/11/99 as a Major Affordable Housing Development under section 4.4 of the Acton Zoning Bylaw, with the benefit of a variance from the Board of Appeals. 16 single-family units, four affordable, on 3.3 acres. Base zoning is Residence 10/8. Affordable Housing Overlay District B applies.

⁶ Acom Park PUD, 1993 – 2 scattered off-site affordable units;
New View PCRC, 1994 – 1 new on-site affordable unit plus \$100,000 to Town affordable housing fund;
Bellows Farm PCRC, 1995 – 6 scattered off-site affordable units;
Dunham Lane OSD, 2001 – 1 rehabbed on-site affordable unit;
Robbins Mill PCRC, 2002 – 2 scattered off-site affordable units;
Colonial Acres IV PCRC, 2002 - \$300,000 affordable housing contribution to Acton Housing Authority.

⁷ Under Executive Order 418, each community is eligible for up to \$30,000 in community planning funds.

Because of the efforts to date, Acton has managed to maintain its percentage of affordable housing stock during the past decade while staying true to its planning goals. This was not a small feat in the face of a decade of rapid development of market rate housing. Franklin Place, in the right location near a village or commercial center could be a great asset. In the proposed location and density, it is entirely inconsistent with Acton's Master Plan and it violates "smart growth" principles. The adjacent industrial uses do not offer any conveniences, retail or otherwise⁸, to which nearby residents could walk. The choice of this site for a comprehensive permit project negates a decade of careful work and nurturing, by which the Town managed to achieve some level of acceptance and support for affordable housing as a valid community planning objective. Pursuit of this particular project threatens this consensus. In most other Massachusetts communities, affordable housing developments are contentious and vehemently opposed by abutters, and affordable housing advocates are pitted against community preservationists. It would be unfortunate if Acton were destined to join their ranks because of inferior projects. Contentious 40B development projects could have a long-term adverse effect on the success rate of affordable housing in Acton. Acton has better project alternatives on the near horizon that are consistent with local planning goals. The upcoming affordable housing plan will set forth additional and effective means of generating affordable housing consistent with Acton's Master Plan.

2. Purchase Price of Land May Exceed MassHousing Policy

The application contains a purchase and sale agreement between the applicant and the landowner (Balduf). It identifies a 40- to 48-unit project and tags the purchase price on the number of units approved under a comprehensive permit - \$40,000 per unit up to 40 units plus \$18,750 for each of possibly eight more units up to a total of 48 units. The agreement sets forth a minimum price of \$1.05 million for seven standard building lots in the event that a comprehensive permit application fails the Town's muster. There are further contingencies should the 7-lot subdivision fail as well.

MassHousing in its 11/8/02 conditional eligibility letter states that the developer must comply with MassHousing's Acquisition Value Policy. It states in part that "economic benefits of the comprehensive permit shall accrue to the development and shall not be used to substantiate an acquisition cost that is unreasonably greater than the current appraised fair market value under existing zoning without a comprehensive permit in place." This is a common-sense requirement. The purpose of Chapter 40B is not to yield extra developer or landowner profits, but merely to subsidize the creation of affordable housing.

The purchase and sale agreement offers the seller an inappropriate comprehensive permit premium. As the project is now proposed (32 units), the purchase price according to the P&S agreement would be \$1.28 million rather than the \$1.05 million based on standard zoning. The comprehensive permit premium amounts to \$230,000 or \$7,187.50 per unit. This premium should be eliminated. The benefit should accrue to the development in the form of fewer overall dwelling units, a greater percentage of affordable units, lower-priced affordable units, or a combination of these.

The 7-lot standard plan assumption appears reasonable. Nevertheless, the Board of Appeals should request a copy of the 7-lot preliminary plan for its own evaluation. In addition, the Board of Appeals should ask the applicant for funds to conduct its own independent appraisal and peer review of the applicant's *pro forma*.

⁸ With the exception of the U.S. Post Office ½ mile across Main Street at 7 Post Office Square.

3. Project Contingencies

The pro forma carries \$465,700 for contingencies, which become extra profit in the absence of any unforeseen emergencies. The Board of Appeals should require that unused contingencies go towards further affordable unit subsidies, additional affordable units, or both, and the Board of Appeals should hold the contingency funds in escrow to better control their use for true emergencies.

4. Unit Types

The Building Tabulation Plan in the application suggests that all units will have two bedrooms. 14 of the 32 units come with lofts that can serve as third bedrooms with little or no modification. How the additional 14 bedrooms may affect the sewage flow and the adequacy of the proposed septic system is a local concern about which the Board of Health can advise the Board of Appeals. The units with lofts or third bedrooms may also attract larger households. Three to four of the 14 loft units should be in the affordable unit category. To the extent that a deed restriction regarding the lofts being used as bedrooms may be proposed, the Planning Board is concerned how such a restriction would be enforced.

5. Affordable Units

The Board of Appeals should designate which units will be the affordable units, and should condition a development schedule that spells out the phasing by which affordable units must be completed in relation to market-rate units.

6. Units for Persons with Disabilities

The Board of Appeals may require that some units be made adaptable for persons with disabilities. If the Acton Commission on Disabilities has not yet been notified of this proposal, it should be contacted and consulted to help determine the specific needs for such units in Acton.

7. Market Study

Previous comprehensive permit applications have included a market study by a qualified real estate professional or appraiser to document that there is sufficient demand for the proposed market-rate units at the asking price. To the extent that the future is predictable, this will help ensure that the sales of the market rate units can in fact subsidize the proposed affordable units. On the other hand, it can also confirm the expected income from the sale of market rate units, ensuring that the *pro forma* does not understate such returns and in doing so hide additional profits. The Board of Appeals should request such a study from the applicant in this case.

8. Grants or Loans

Will there be any grants or loans from public or quasi-public State or Federal agencies for this project that constitute a subsidy?

9. Children

The plan shows little accommodation for children. It is not only lacking formal play space, but the layout of the site and buildings (parking and driveways in the front, steep embankments around the back) provides no informal play space either. Under 760 CMR 31.07(3)(b)(6), “[a]dequacy of open areas, including outdoor recreational areas proposed within the building site” are important features of the Site and Building Design about which the Board can hear evidence and impose conditions.

10. Septic System

The system as shown is sized for a sewage flow of 7040 gallons per day (gpd) for 64 bedrooms based on the 110 gpd per bedroom standard in Title V. The 14 lofts as bedrooms could add another 1540 gpd bringing the total to 8580 gpd. Either volume would result in a significant nitrate concentration that sends a troublesome plume into the adjacent wetland and nearby Conant Brook, which feeds the Town's Conant Wells $\frac{3}{4}$ mile downstream. The project proponent should consider, and the Board of Appeals should consider a condition requiring a low-cost nitrate removal system such as Bioclere. This could be another destination of project contingency funds.

11. Traffic

The anticipated traffic generation from the project is 212 trip ends per weekday, 18 in the morning peak hour, 21 in the evening peak hour, and 17 during the Saturday peak hour (ITE Trip Generation Manual, 6th Edition, Land Use 220 – Apartment). These figures are below the traffic study threshold of Acton's special permit and subdivision rules.

12. Non-residential Buildings and Vehicle Parking

The application does not include architectural plans for the garages and the small building in the center-island. The purpose of the latter is unclear. It is also unclear exactly how many vehicles will fit in the proposed garages. Long rows of garages have a tendency to appear unsightly. Eliminating garage #2 would open the center courtyard to all buildings, which would be an aesthetic improvement, facilitate the supervision of children's play, and improve general security on site. The total number of parking spaces including garages should be two per unit plus a small allowance for guest parking.

13. Certifications

The architectural drawings lack the architect's stamp or seal, and signature. The Housing Appeals Committee's (HAC) regulations at 760 CMR 31.02(2)(a) provide that "All structures of five or more units must have site development plans signed by a registered architect" to proceed to a hearing before the HAC. The Board should require the same level of professional certification.

14. Missing Information

The application more or less ignores sections VI.E.5.d.vi., vii., viii., ix., and x. of the Board of Appeals' rules for comprehensive permits. The Board of Appeals should require that the applicant comply with these provisions.

15. Bond

The Board of Appeals should consider a bond or other form of performance guarantee to secure the basic infrastructure on the site thereby protecting future homeowners from the unlikely but possible scenario of the developer defaulting on the project part way after some residents have already moved in. See Zoning Board of Appeals of Wellesley, et al. v. Ardmore Apartments Limited Partnership, 436 Mass. 811, 767 N.E.2d 584 (2002) (40B project involving bankruptcy and foreclosure sale).

16. Zoning Bylaw Compliance Issues

- a. Zoning, in section 4.3.6.2, requires that post-development groundwater recharge on the site is not less than under pre-development conditions. The proposed drainage system suggests that the design might meet this requirement, and the application does not list this section under requested zoning waivers. The Board of Appeals should require the applicant to provide recharge calculations to prove compliance.
- b. Zoning in section 6 sets requirements for parking areas. The application asked for a waiver of section 6.7 only, yet the Board could not find documentation of compliance with sections 6.3, 6.5, and 6.6. The Board of Appeals should require the applicant to provide parking calculations and space dimensions to prove compliance under 760 CMR 31.07(3)(a)(5) and (b)(5), "[a]dequacy of parking arrangements" and "[a]dequacy of the applicant's proposed arrangements for dealing with the traffic circulation within the site" are appropriate topics for evaluation. The Board notes that
 - the driveway and maneuvering aisle widths appear to meet zoning requirements;
 - the driveway layout appears to accommodate fire engines, school buses, etc;
 - a landscape plan would assist in evaluating the proposed alternatives;
 - the parking rows in front of the buildings are reminiscent of a motel, and the Board of Appeals should consider conditioning an alternative design.
- c. Zoning in section 3 requires a site plan special permit for multi-family dwellings, and section 10.4 sets forth site plan design standard. The application is silent on this matter. No waivers are requested, yet no site plan special permit application is on record nor is there an itemization of waivers from site plan standards. The application lacks information to discern compliance: no storm water calculations, no outdoor lighting plan or details, and no landscaping plan. Sidewalks appear adequate. The Board of Appeals should require the submission of and should evaluate the adequacy of storm water calculations, an outdoor lighting plan and details, and a landscaping plan.

17. Affordable Restriction In Perpetuity

Under the SJC's decision in Zoning Board of Appeals of Wellesley, et al. v. Ardmore Apartments Limited Partnership, 436 Mass. 811, 767 N.E.2d 584 (2002), the Board of Appeals should impose a condition requiring that the affordable units are maintained as affordable either in perpetuity or for as long as the housing development is not in compliance with Acton's local zoning requirements, regardless of the terms of any subsidy agreements attendant to the project.

cc: Planning Board
Town Manager
Commission on Disability
ACHC

a:\03-04.520 main st - franklin pl comppermit.doc

TO: Board of Appeals
FROM: Nancy Tavernier, Chair of ACHC
SUBJECT: Franklin Place location comments
DATE: May 8, 2003

The Acton Community Housing Corporation is a town board appointed by the Board of Selectmen. ACHC exists to enable creation of affordable housing opportunities with priority to Acton residents, children of Acton residents, and employees working in Acton.

ACHC supports in principle the overall concept of the Franklin Place development and urges the ZBA to approve the comprehensive permit. Our focus during the review process of any affordable housing development, is the affordability aspect. We insure the developer is providing the proper number of units, they are scattered throughout the complex, they are indistinguishable from market rate units, the condo fees are affordable and most importantly that income eligible homeowners are given an opportunity through a fair lottery system to purchase a home. Other town boards and staff are charged with technical details beyond the scope of our review, whether they be environmental or financial.

Because the ACHC and some of its members have submitted other comments to you, I do not intend to repeat them here. Instead I would like to focus on the one issue that seems to have become the rallying cry for those who oppose or who have serious concerns about this project.

That issue is consistency with the Master Plan as it relates to Location.

I disagree with those who say "this is not the right location for this affordable housing development" because it is inconsistent with the Master Plan. I have 3 main points to make as a rebuttal to this assertion.

1. Let's start with the Master Plan - using the 1998 Master Plan Update as the most current interpretation of the Goals and Objectives that are being cited in this debate.

Here is an excerpt from the Housing Section:

"Despite strong regulatory actions taken as a result of the 1991 Master Plan, Acton has not been able to expand its percentage of affordable housing... (in 1998 our percentage was 2.1%, today it is 2.07%)... This is a lower percentage than most surrounding towns as well as most communities in the I-495 and Rt. 2 Corridors"

Here are the Master Plan Housing Goals and Objectives re-affirmed in 1998:

Goal: Encourage diversity in Acton's population by achieving a mix of homes that enhances Acton's town character and provides needed choices for our residents.

Objective: Preserve the character of Acton's established residential neighborhoods
Objective: Promote a range of economic diversity in housing including low and moderate income housing.
Objective: Promote a range of choice in the types of homes to allow for residents' changing capacity and preferences.

Try as I might, I was not able to find any language in the original 1991 nor the updated 1998 Master Plan that says affordable housing belongs only in the five designated growth centers or village centers. Yet that statement has been used over and over during this debate in an attempt to prove this location makes the project completely inconsistent with the Master Plan.

Let's look at a second Section in the Master Plan: Transportation and Circulation

Goal: Provide a transportation system that meets the mobility and access needs of the community, is environmentally sound, safe and convenient, and reduces dependency on the automobile.

One of the relevant Objectives in this section is: "Improve connectivity and circulation between and within residential neighborhoods, and between and within business districts."

This section leads to my second point:

2. I think this location is the right location because of Pedestrian access to many important services in the Acton Center area.

What could be more environmentally sound, safe, and convenient while reducing dependency on the automobile than a SIDEWALK?

From this location residents can walk on an existing sidewalk to: a church, the library, town hall, a playground, conservation land, the Arboretum, Women's and Garden club meetings, a pizza shop, the post office, and dozens of businesses employing 150+ employees. All of this on existing sidewalks. They will also be able to walk on future sidewalks to: playing fields at 2A and 27, Concord Rd., the retail areas at 2A/27 and Gould's Plaza.

All of these destinations are WITHIN A 1 MILE RADIUS OF 520 MAIN ST. I measured it on a map, attached here. I don't know anywhere else in town where a resident would have such a diversity of services to walk to. West Acton is a close second.

For verification of this proposed sidewalk network, I looked in the Route 27 Corridor Study done for the Town of Acton finished in August 2001. I am surprised this study has not been raised as supporting documentation to the siting of this development.

One of the goals developed by this study, through public participation, is to provide a continuous sidewalk on at least one side of Rt. 27 for its length between the Rt. 2 ramps north to Route 2A.

One of the 5 Short-Term Actions recommended by this study is:

"Construct a sidewalk between Post Office Square and Rt. 2A. Construction of a sidewalk on this section would fill the missing link along the entire Rt. 27 corridor and would provide a sidewalk on at least one side of Rt. 27 from the Rt. 2 ramps all the way to Rt. 2A. ***Through the public process, this was clearly raised as the highest priority in the missing sidewalk links.***"

As a result of my research on the sidewalk issue, I would recommend that the ZBA request from the developer a contribution to the Rt. 27 Sidewalk construction fund.

My third and final point about Location is to rebut those who say this is not a proper location for affordable housing:

3. This parcel is designated in the Acton Zoning Bylaw map as eligible to be developed for an Affordable Housing Overlay District, Sub-district A.

Voters at the Town Meeting of November 28, 1990 adopted this amendment to the Zoning Bylaw that not only created the Overlay map of the whole town designating locations for affordable housing but it also created the incentive bylaw to accompany it.

The parcel at 520 Main St. has been designated as an appropriate location for affordable housing since, November 1990. It has not been removed or revised in all of this time, including during the 1998 Master Plan update.

In Conclusion, I think the proposed development in this location is NOT inconsistent with the Master Plan because:

1. It meets the Master Plan goal of providing affordable housing
2. The Master Plan does not mandate affordable housing ONLY in concentrated growth areas
3. The Master plan encourages providing pedestrian access to community services
4. This parcel has been designated for an affordable housing use for 13 years with Town Meeting approval.

This location works very well and is indeed consistent with good Planning Practices. There may be other technical issues with this proposal that need resolving, those concerns should certainly be addressed.

In the opinion of the ACHC, this is the right proposal in the right location.

MEMORANDUM

TO: BOARD OF APPEALS
FROM: NANCY TAVERNIER (978) 263-9611
SUBJECT: COMMENTS ON FRANKLIN PLACE
DATE: 07/21/03

I am submitting the following comments for the May 8 Public Hearing on the proposed Franklin Place development. I support the proposed development at 520 Main St.

I am pleased that the town has awakened to affordable housing issues and that board members and other residents are attempting to understand the complexity of these issues. Acton has not had much experience with comprehensive permits. In the past 5 years, we have only had 2 projects proposed and approved unlike many of our neighboring towns. Those 2 projects have generated a total of 7 home-ownership opportunities for moderate-income families. This project will give us 8 units.

GENERAL COMMENTS ON AFFORDABLE HOUSING

- Acton has 2.07% of its 7645 total housing units officially designated as affordable. Fortunately, we are able to count the 142 subsidized rental units controlled by the Acton Housing Authority as part of our total of 158 units. Only 16 units are home ownership units. These units are under ACHC oversight. If we were to calculate these housing units only, our percentage would be an embarrassing 0.002%. This is not a very impressive record and certainly not one to put forth before a state agency as an example of progress.
- It appears that ACHC has been successful in creating a perception of affordable housing successes and we are pleased that our education efforts have reduced the level of fear in Acton about affordable housing. However, the actual numbers belie that perception. The reality is the only way Acton is going to add more affordable housing units is through the use of comprehensive permits and CPA funded projects. The major hurdle to this production is very simply the price of land. The high cost of land gives the incentive to developers to construct the highest density possible to gain the highest profit margin.

- The Planning Department will soon commence a Community Development Plan that will focus on affordable housing needs. This will be a very helpful and long overdue study but it is unlikely that it will discover anything new and creative about providing affordable housing units in the numbers that are required. Chapter 40B is most likely the only way we will gain more affordable housing in Acton.

- The Franklin Place petition includes an interesting statistic in Section 7, "Housing Characteristics..." It cites the US 2000 Census showing there are 1,793 renter households in Acton and uses the income of those families to conclude that 30% of those renter households would be eligible for low and moderate income housing. That's 397 Acton families currently in rental properties that could potentially have an interest in affordable housing opportunities such as Franklin Place. That does not even account for adult children living with parents or people who work for and in the Town of Acton. There is a significant demand for affordable housing in Acton and throughout the Commonwealth.

- Of particular interest to the Town should be the issue of the annual DHCD Housing Certification required under Executive Order 418. Acton has submitted two of these to date, 2001 and 2002, and has received certification from the state for the first and is awaiting the second. Certification gives the town eligibility for certain state grant programs such as the Housing Needs study, MHP technical support for the Towne School project, certain housing funding sources for the Towne School project, transportation improvement funds for the Town, and environmental grants such as sewer funds, to name just a few. The object of the certification process is to keep the community moving forward toward the goal of 10% affordable housing units. A disapproval by the Town of an affordable housing proposal such as Franklin Place could have a chilling impact on the next certification round to be submitted in July. It might stop dead our efforts to develop the Towne Building.

- The affordable units in Franklin Place will be purchased for an average of \$145,000 by families with an income range of \$38,000 to \$64,000 depending on family size, percentage of down payment, etc. The use of the Soft Second Loan program could reduce the cost even more. This provides a window of opportunity for Town and School employees, as well as other families who dream of home ownership. My Towne School Presentation at the 2002 Town Meeting quoted the statistic that 83% of the Town and School employees would be income eligible for affordable housing in Acton. This income range matches the income of the vast majority of our employees. Because this development is a new program through Mass. Housing, priority does not have to be given to the largest families in the lottery pool. Instead many of our single employees and young professionals will have an opportunity to own their own home.

COMMENTS SPECIFIC TO FRANKLIN PLACE

- This proposed development is located in an Affordable Housing Overlay District voted by a Special Town Meeting in 1990 as part of the Master Plan zoning changes. Under the zoning requirements for this district, there would be a 25% density bonus for the number of single family homes allowed. The consultant believes that 7 houses could be built on this parcel of 4.9 acres, a 25% bonus would allow as many as 8-9 houses on this site. I personally do not think that would be a very attractive option. The density of units on this site is a result of the units being attached multi-family dwellings, a far different density scenario than single family homes.
- This is a good location for a housing development, in my opinion, due to its proximity to the amenities in Acton Center, the use of the Main St. sidewalk, the transition from commercial properties to residential ones and the eventual pedestrian access to Great Rd.
- These units are 2 bedroom units and are not likely to attract many families with children, certainly not more than 2 children. The market units will not only attract single professionals, young couples starting out, but also empty nesters who may feel they are being pushed out of town but would stay if there were a lower cost option. The market units will sell for an average of \$310,000 making them attractive for Acton homeowners selling their homes in the \$400+'s and buying one of these. In effect, they will get the same community services for a tax reduction of 25%.
- The units are attractively designed and feature a desirable one floor living layout which offers handicapped individuals housing opportunities which are currently in short supply.
- Lastly, the developers' willingness to use advanced treatment for the effluent in the septic system is a major plus. I hope the Town will continue to strongly urge developers to use such treatment and even go further by encouraging the tying-in of abutting neighborhoods.

STOP HIGH DENSITY HOUSING DEVELOPMENT IN HISTORIC ACTON CENTER!!

Public Hearings by both the Conservation Commission and the Zoning Board of Appeals will be held next week at Town Hall to determine whether three buildings of high density housing with 32 units will be built in Acton Center on a small irregularly shaped parcel of land that currently has one house on it and contains wetlands and a perennial stream. This is a proposal filed by the developer through Chapter 40B, the state's "antisnob" affordable housing law. While we support Acton affordable housing (which will be a part of this development), this particular development is ill-conceived and particularly inappropriate to its planned location near Acton Center.

Perceived abuse of this law by developers has generated over 70 pieces of legislation on the state level. Chapter 40B as it is currently written allows developers to bypass all local zoning regulations and allows them to develop almost without limits as long as 25% of the development is reserved for moderate or low income housing. As land becomes scarce, lots previously considered unbuildable are now prime building sites. No consideration is given to whether these developments cause undue hardship on a town's municipal or school budgets, or their impact on a town's character. If the town has not met its goal of 10% affordable housing stock as defined by the current statute, developers have almost free rein to build whatever they can squeeze onto a piece of property. One of the proposed changes has to do with how affordable housing stock is counted. Based on 2000 US census figures for the Town of Acton, more than 23% of the 2000 housing stock meets the affordability criteria, but is not included in the official 10% calculation. So while officially Acton only has 2.07% affordable housing, in actuality we already have more than double our required share of affordable units.

As citizens who want to preserve the character of our town center, as well as ensure that we don't set a precedent for making it easy for developers to launch similar 40B projects of such inappropriate size and scale in town, we need to monitor this proposal very closely. Although the town recently approved 12 units through Chapter 40B at Kelley's Corner, this is the first proposal of such size and scale. **What town officials decide regarding this proposed complex will serve as a benchmark for other similar proposals.**

The project at 520 Main Street as currently proposed has numerous issues that have to be resolved. The proposal is not in accordance with Acton's Master Plan with respect to density and other issues, and does not adequately address public health, welfare, and safety issues. The pro forma financial review presented by the developer to support the density proposed bears close scrutiny. As conditions to the project set by the ZBA may be limited to those which don't make the project "uneconomic" to the developer, this financial information becomes crucial. Inflating the land and other costs of the proposal and undervaluing the sales price of the units would result in a smaller profit margin shown to the developer. If we make him show the actual costs, and his profit margin is in reality much higher, a much smaller project becomes economically feasible for him, and he can afford to build less. **In addition, this property contains what the abutters believe is a perennial stream, and setbacks observed are not in accordance with the Rivers Protection Act.**

We are deeply concerned about a development that raises density levels adjacent to historical Acton Center, increases traffic, and worsens entry onto and exit off of Route 27 at a point of low visibility and already heavy traffic volume. The placement of a large, dense development on a lot that is too small for its needs in this location also is contrary to Acton's Master Plan. It is unclear whether this limited lot can handle the housing, parking, and open space needs of its proposed residents. It also seems this development will also likely be a drain on town and school services relative to its contribution to the town's tax base.

We are concerned about the project's sewage impacts on the environment and town water supply, and the inadequacy of the proposed septic system to meet the projected septic needs for the inhabitants of the planned development. The stream which will receive septic emissions and runoff from the planned development next feeds Conant Brook, which in turn feeds town water supply wells.

Although this project may help with affordable housing, that one beneficial impact is outweighed by its many negative impacts. The real benefit is to the developer.

The Town of Acton has very little experience with 40B projects and all their intricacies, and we must make certain that our town officials are doing their utmost to pursue all other avenues before we launch into large-scale new construction. **Your presence at the Conservation Commission hearing on May 7th at 7:45, and most importantly at the Zoning Board of Appeals hearing on May 8th at 7:30 is a CRITICAL part of this process, and will have a HUGE IMPACT.** Both meetings are at Town Hall.

Please don't be complacent – there is nothing in the regulations to prevent a development ALMOST ANYWHERE in Town.



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9636
Fax (978) 264-9630

Planning Board

To: Zoning Board of Appeals

Date: August 21, 2003

From: Planning Board

Re: Franklin Place Comprehensive Permit/Consistency with Acton's Master Plan

In response to a request from David Black, member of the Zoning Board of Appeals, we have prepared a list of citations from the 1998 Master Plan Update that pertain to this application. When reviewing it, it is important to note that Acton's original Master Plan and the Master Plan Update are very much based on a desire to return to Acton's historic roots of having 4 village centers-- North, South, West, and East as well as a town center in a central location. In public input meetings which were held by staff and consultants, the area targeted for this "town center" was Kelley's Corner, the intersection of Route 111 and 27. When it was proposed that the historic center be targeted as the town center for mixed use "village" type development, the proposal was met with much opposition. The majority of townspeople wanted the historic center of town to quite frankly stay as historic, quaint, and quiet as possible. The location of Franklin Place is just outside the boundary of this historic residential and civic center of the town.

The Master Plan and subsequent zoning of 1990 were based on smart growth principles of having dense, mixed use areas in order to create pedestrian friendliness. Residences that are more tightly packed or multi-family bring a larger population into proximity of the shops, so that amenities are merely a short walk away. Recommendations were made to encourage apartments above shops as well. Placing a multi-family development outside of these designated areas encourages more car dependency--the antithesis of the entire Master Plan and Update. So the following points must be viewed in this context. In addition, the area surrounding Acton's historical center is single family in nature, and it was the desire of residents to keep it so.

All of the following citations pertain to the December 1998 Master Plan Update:

1) Historic Development Patterns/Acton Center

Acton Center, located on Main Street (Route 27) retains the character of a small, rural New England town. Through preservation of the Town Common and the historic structures lining it, the Town Center remains spacious, with plenty of green space. At the same time, a sense of "townscape" is preserved by the spacing and scale of buildings. Homes are interspersed among civic buildings. The lack of commercial activity precludes traffic congestion problems and the need for extensive parking facilities and signage. The effect of this mix of residential and civic uses makes Acton Center an active, yet tranquil, place reminiscent of the rural town Acton was. Since 1983, the Acton Center area is listed on the National Register of Historic Places. (page 48)

2) Current Land Use Plan/Master Plan

The 1991 Master Plan contained a comprehensive package of regulatory recommendations

designed to guide growth more effectively and implement the town's land use goals and objectives. The land use plan was designed to preserve and build on Acton's historic pattern of development--a mix of uses in compact village centers, surrounded by open space, farms, and low-density residential neighborhoods. The land use plan also confronted the problems of residential and commercial sprawl, development patterns which consume land without providing important values and qualities desired by residents.

Thus, the land use plan was designed to refocus future development into compact villages in order to preserve and enhance Acton's special community character, restrict further "strip" commercial development, and achieve related objectives regarding the mixing of uses, mitigation of traffic impacts, and creation of a strong sense of place through appropriate design controls. All of the recommendations below were adopted at Town Meetings in April and November 1990. (page 50)

3) Current Land Use Plan/Commercial Growth Management

Village Districts

.....The new village districts are intended to refocus future development into compact "villages" and to achieve related objectives regarding mixing of uses, mitigation of traffic impacts, and creation of a sense of place through appropriate design controls. (page 51)

4) Issue: Village Centers

The Land Use provisions of the 1991 Plan were patterned on the traditional New England pattern of focused settlements with intervening open spaces. Based on this concept the Town subsequently adopted zoning provisions encouraging the focusing of residential and business activity so that intervening areas would be preserved or more lightly developed. Village plans were prepared for South and West Acton and a Specific Area Plan for Kelley's Corner was completed in two phases. Plans for sewer service are focused upon these villages. (page 67)

5) Strategy LU 9

Continue to encourage a mix of housing types in and near the villages--for example, apartments over stores, and higher density housing nearby. (page 67)

6) Strengthening and Enhancing Village Centers

A key element of the Town's land use pattern is the presence of village centers. The Town has continued the 1991 Master Plan recommendations of creating Specific Area Plans for the village centers. Plans for South Acton, West Acton and Kelley's Corner have been completed: progress should be monitored, and the plans should be updated and adjusted as necessary. Village centers have been proposed for the East Acton and North Acton areas and the basic zoning is in place, but formal studies and strategies have not been completed.(page 73)

7) Development Intensity in North Acton and East Acton Villages

The 1991 Master Plan recommended that two new village districts--East Acton Village and North Acton Village--be established. the intention of these districts is to reinforce the historic development pattern of the town by refocusing future development in the section of Acton north of Route 2 into compact villages, encouraging mixed uses, mitigating traffic impacts, and creating a strong sense of place through design controls. The dimensional requirement for the NAV and EAV, although differing from the WAV and SAV regulations, encourage compact development

consistent with village planning while respecting existing land uses. However, some residents have expressed difficulty in envisioning these areas as villages or small mixed use centers. (page 73)

8) Housing

Intents of the 1991 Plan and Progress Since Then

The 1991 Master Plan and subsequent revisions to the Zoning Bylaw placed emphasis on the creation of affordable housing to continue Acton's tradition of being a community where diverse individuals and families can build a good life. Higher density housing was desired near village centers as part of Acton's New England land use pattern of focused villages with more rural outlying areas. In outlying areas the allowed density was decreased for standard residential subdivisions. For conservation of open space and natural resources, the clustering of new homes was encouraged by allowing the number of units that would have been allowed at the previous density—in exchange of conserved open spaces that meet the Town's criteria. (page 103)

9) Appendix 3/Residential Development

Consider allowing greater density in the village districts for mixed-use developments that include affordable housing (page 251)

In the Executive Summary of the Master Plan Update of 1998 in the Affordable Housing Section, it is acknowledged that new strategies are needed to promote a diversity in housing stock and increased incentives to promote affordability. Efforts underway to improve the creation of affordable housing are outlined in the Planning Board memo of May 6, 2003.

We hope that the sections of the Master Plan cited aid you in your decisions re: Franklin Place.



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

Acton Community Housing Corporation
Nancy E. Tavernier, Chair

TO: Board of Appeals
FROM: ACHC
SUBJECT: Hearing # 03-08 – Franklin Place LLC, Comprehensive Permit Application
Comments on Pro Forma review by H & H Associates
DATE: 9/9/03

The Acton Community Housing Corporation submits the following comments on the Financial Review of the Franklin Place pro forma prepared by Richard Heaton.

We are distressed at the consultant's recommendation to cut the proposal from 32 to 28 units since this would be done at the expense of the affordability of the development for both affordable and market rate households. The process of shrinking the project by 4 units will result in driving up the costs to all the potential homeowners for little or no reason other than to say the project was downsized.

The purpose of the Chapter 40B comprehensive permit process is to facilitate affordable housing using a streamlined permitting process. We feel the issue of affordable housing is now getting lost in this focus on the bottom line.

When we began the review of the Franklin Place proposal, the affordable units were priced at \$145,000 for households earning 70% of the Area Median Income (2002: \$74,200). In the meantime, the AMI has increased by more than 8% (2003: \$80,800) pushing the selling prices up to \$162,000, *theoretically* affordable to a family of 3 earning up to \$56,400. At the original selling price, we were satisfied that the 8 units were priced appropriately to allow families earning 60-80% of AMI to be considered eligible. Now that the new selling price will be \$162,000, we are concerned that many of our target households will be eliminated from consideration. To even consider the consultant's suggestion that the affordable selling prices could be \$186,800 is shocking to us. We trust the Board will dismiss this option.

In view of the new affordable prices, we would like to request that the developer provide 7 units at 70% of AMI and 1 unit at 60% of the AMI. This can only work if 8 affordable units remain part of the project. If the development is downsized, it is our expectation that all units will be sold at the maximum income level of 70-80% of AMI. We will lose more than one unit; we will lose a substantial number of families on our waiting lists who dream of a home ownership opportunity.

We have worked over 15 years to provide housing for moderate-income families. We developed a state-approved local preference criteria for those families who work for the town, schools or water district; who work elsewhere in town; who are children of Acton residents; or who are parents of Acton residents in the case of age restricted developments. We fear this new pricing scheme will have the effect of excluding many of our Town employees as well as other families who are already vested in the community.

In addition to our concern about the affordable pricing, we would like to repeat our comments of April 24 in regard to the opportunities for the market rate units:

These units are 2 bedroom units and are not likely to attract many families with children, certainly not more than 2 children. The market units will not only attract single professionals, young couples starting out, but also empty nesters who may feel they are being pushed out of town but would stay if there were a lower cost option. The market units will sell for an average of \$310,000 making them attractive for Acton homeowners selling their homes in the \$400+'s and buying one of these. In effect, they will get the same community services for a tax reduction of 25%.

Any consideration of selling the market units in the \$400,000+ range will no longer offer any incentive for empty nesters to downsize and relocate to this desirable Acton Center location. From this location, residents can walk on existing sidewalks to: a church, the library, town hall, a playground, conservation land, the Arboretum, Women's and Garden club meetings, a pizza shop, the post office, and dozens of businesses employing 150+ employees.

The ACHC reaffirms its commitment to affordable housing **but only** if it does not sacrifice the environment, health, or safety of the Town. There has been no documented evidence presented at the hearings that show Franklin Place will compromise any of those conditions.

ACHC continues to support Franklin Place, as proposed with 32 units, and further formally requests that one of the 8 affordable units be available to a household earning no more than 60% of the AMI with the remaining 7 units at 70% of the AMI.

Thank you for your continued professional and deliberative approach to this Comprehensive Permit request.



Franklin Place Partners, LLC

178 Great Road ♦ Acton, Massachusetts 01720 ♦ Tel: (978) 263-6166 ♦ Fax: (978) 264-4049 ♦ www.nwdevelopment.com

TO: Board of Appeals

**CC: Bette McManus, ACHC
Walter Foster, Board of Selectman**

FROM: Ronald B. Peabody

DATE: October 15, 2003

RE: General Information

We first want to thank you for the inordinate amount of volunteered time you have spent on this project. Where most of the audience is either at the meetings for business purposes or personal reasons, we realize you are there simply for the benefit of Acton.

Secondly, we feel if it would be informative and interesting and maybe even helpful relative to the proforma to share some information with you. You have been bombarded with conflicting information and I'm sure not having the benefit of being in the development business it is difficult to sort through much of this in order to make a final decision.

For what it is worth, I offer you the following information based on 22+ years in the business.

- Our average profit on most projects ranges from 12-18% and on occasion can be as high as 22%. This is the margin prior to cost of fixed overhead which ranges approximately 4-6% of gross sales resulting in the pre tax profits of 8-18% averaging roughly 12%. Because of this, we are happy to work within the guidelines of 40B. This information can be confirmed through company financials.
- Cost of construction can vary greatly with hard costs ranging on our current projects between \$58.00 p/sq. ft. and \$135.00 p/sq. ft. and some custom houses actually reaching as much as \$200.00 p/sq. ft.

The sales prices of the product mentioned above is \$350,000.00 to 1.5 million dollars. As you can imagine the costs vary greatly based on what one builds.

We have tried to offer a reasonably up-scale product at Franklin Place rather than slapping up an inferior product that will be an eye soar in years to come. It is very interesting to hear the figures bantered about. Construction costs are directly related to unit design and specifications. Something which no one has asked for to date.

Selling prices are purely subjective. All we can do is go to the local professionals and ask for their opinion and then give that the litmus test based on our experience. We understand that our profit is

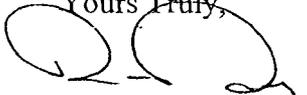
limited so it really doesn't benefit us to under or over estimate these figures and lastly there is always the market risk. Additionally, we are more than happy to have financial reviews. We operate under the terms of several joint venture agreements and are quite accustomed to such scrutiny.

We felt the goal was to supply the town with quality affordable units while creating a quality project that we could be proud to put our name on and offer to the general market much needed moderately priced units relative to what is available in Acton and of course make a profit doing so.

This location is very visible from Main Street, abuts a few residential homes but also abuts commercial/industrial buildings. We felt it provides a well thought out transition from one to the other and although some folks don't agree, it is our understanding that many in town do agree with the plan.

We understand some of the difficulties you face. Although this has been a long process, we appreciate your effort and hope we will be able to provide you with the sufficient information for you to render a favorable decision.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Ronald B. Peabody', written over the typed name below.

Ronald B. Peabody
Member



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

Acton Community Housing Corporation

TO: Acton Board of Appeals
FROM: Acton Community Housing Corporation
SUBJECT: Comments on Draft Approval Agreement for Franklin Place
DATE: November 20, 2003

These comments represent the position of the Acton Community Housing Corporation (ACHC) and are consistent with our previous comments filed with the ZBA over the past 6+ months. We have included only those sections of the Draft Approval Decision that pertain to the ACHC or the Affordability issues and have highlighted those areas in green with *italics* added. Our comments are in **Bold** below each pertinent section.

ACHC does not support a reduction of units to a total of 22. We have become increasingly concerned about the disappearing "affordability factor" for all units. Section 68 on page 15 of the draft approval decision summarizes our position very well. We repeat it here for emphasis. We hope you will indeed find this arrangement appropriate and will incorporate it into a condition for this permit.

"68. Outside of the public hearing, the Applicant met with the Acton Community Housing Corporation to discuss the how the Applicant was proposing to discharge its affordable housing obligations with this development. The Applicant and the ACHC agreed in principle that the affordable units should be made available to households earning no greater than 70% of the area median income, adjusted for household size, and be priced accordingly. The ZBA finds this arrangement appropriate and we incorporate it as a condition to this comprehensive permit."

G. Affordability Requirements

G.1 _____ of the units within the Project shall be made available for purchase by households whose aggregate income is no greater than 70% 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").

[ZBA needs to resolve issue of whether single persons will be eligible, and if so, price needs to be adjusted.]

On the question of whether or not the ZBA would allow single households to be eligible for the lottery or whether larger households should be given preference over single ones. We would ask you to not deny single households the opportunity to compete for a unit. In fact we think they should be encouraged. These are only 2 BR units, they will not attract larger families. We have had experience in the past with

many qualified single persons who were bumped down in the lottery in deference to larger households. This includes current single town employees. When ACHC was utilizing the DHCD LIP program, larger households were mandated to have a preference. This program does not require it and we ask you not to place such a restriction on the lottery pool. This development is an ideal situation for smaller households, which is what we want to emphasize. This is not a family development.

G.2 Sale Prices: The Affordable Units shall be sold to qualified households at prices deemed affordable to a ~~three-person~~ households earning 70% of the area median income, utilizing cost assumptions developed under the MassHousing Housing Starts Program. *The maximum sale prices for the Affordable Units shall be reviewed and approved by the ~~Acton Community Housing Corporation~~ (“ACHC”) Monitoring Agent, which shall initially be the Acton Board of Selectmen or its designee (the “Monitoring Agent”), 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 ACHC Monitoring Agent shall be subject to approval by the ACHC Monitoring Agent.*

ACHC agrees that the Board of Selectmen should be designated as the Monitoring Agent. Due to the complexities of the financial issues that have arisen throughout this hearing process, ACHC would prefer not to be involved in the financial monitoring. However, we would anticipate the Selectmen would designate the ACHC to be the Monitoring Agent for the marketing, lottery, and qualifying of homeowners portion of the process.

G.3 Selection of Buyers for Affordable Units: The Applicant shall obtain the ACHC’s 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 70% of the *Affordable Units shall be given to households that meet one or more of the following “Acton Connection” preference criteria:*

The ACHC established a local preference definition in 1986 that has been occasionally tweaked depending on the nature of the development. E.g. Allowing the parents or grandparents of Acton residents to be considered for the age restricted units at Robbins Brook. There is no need to expand or restrict the ACHC definition beyond our original intent for this development. There are no federal or state regulations that require such preferences be granted to full time employees for example. HUD and state public housing regulations define local preference as someone who is a resident now, as determined by the Town Clerk, or someone who works in town currently.

(a) at least one member of the household is currently a legal resident of the Town of Acton. A person shall be deemed a resident if that person is eligible to be registered to vote in the Town of Acton, regardless of the person’s age.

This would restrict the unit eligibility to only U.S. citizens. The ACHC has no position on this definition but our past experience has shown that some applicants are not U.S. citizens. The ZBA should understand they are making a conscious decision to exclude non-citizens.

(b) at least one member of the household is either a son, or daughter, parent or grandparent of an Acton resident.

ACHC prefers to retain our original definition: child of current Acton resident with no extension to parents or grandparents

(c) at least one member of the household is a full-time employee of the Town of Acton, the Acton Public Schools, the Acton-Boxborough Regional School District, or the Minuteman Regional Vocational Technical School District, [Query whether to include this District in the mix] and has been an employee for a period of at least twelve months at the time of application for inclusion in the Affordable Unit lottery [Query whether to set durational requirement].

ACHC is strongly opposed to this proposed change to our definition of town, school or water district employee. This is our current definition:

"1. Employed by the Town of Acton, the Acton Public Schools, the Acton-Boxborough Regional School District or Acton Water District. "

Many of our town and school employees are part-time. For example, one of our current affordable unit owners is employed by the schools on an hourly basis for the entire school year. This is not a "full-time" job in the eyes of the school system. We have used the ACHC definition for 17 years to include employees of the Water District but not employees of the Minuteman Technical High School District.

(d) at least one member of the household is a ~~former~~ currently privately or publicly employee within the Town of Acton or the Acton-Boxborough Regional School District, ~~and was so employed for at least five years, and is now at least 55 years of age or collecting permanent disability benefits.~~

ACHC agrees with the strikeout section above. No preference should be given to former employees. However, the intent is to give preference to anyone who is working in the geographic boundaries of the town for a private not public employer and we are not sure this wording is clear enough. The public employee is covered above in Section c. The ACHC words this simply as: "Employee working in Acton."

The selection of purchasers for the Affordable Units, including the administration of the Lottery, shall be administered by a consultant retained by the ACHC Monitoring Agent and who is acceptable to the Applicant. [Alternative: "administered by a consultant retained by the Applicant (subject to ACHC approval), with oversight of lottery by ACHC".]

The ACHC wishes to continue the past practice of allowing the Applicant to retain the Consultant who will conduct the marketing and lottery process under the oversight of the ACHC . The ACHC would also approve the choice of the Consultant by the Applicant. We do not think there is any need for the Town to get involved in the selection process for this function. The ACHC is charged with giving oversight

to the process to insure its fairness. We assume the Board of Selectmen will designate ACHC for this oversight responsibility.

The ACHC Monitoring Agent shall develop rules and guidelines to carry out the provisions of this section, as necessary. Income eligibility shall be governed by the rules and regulations of MassHousing under the Housing Starts 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.*

Franklin Place is NOT public housing and therefore should not be using the rules and standards employed by HUD, a Federal agency, but rather should use the regulations employed by MA Dept. of Housing and Community Development.

Disputes concerning income qualification and Acton Connection qualification shall be resolved in the first instance by the ACHC Monitoring Agent. A party aggrieved by qualification-related decision of the ACHC Monitoring Agent may appeal the decision to the ZBA for a final determination.

ACHC agrees with the above section.

J.4 The garages shown on the Approved Plan shall be made available for ownership or rental to the owners of the Units within the Condominium. At no time shall any garage be owned, leased or licensed by any person or entity that is not either an owner of a condominium unit, or the Condominium Association itself.

Garages that are sold or leased to unit owners shall be considered appurtenances to the subject units and shall be deemed to be conveyed or encumbered with said units pursuant to G.L. c. 183A, § 5. *At least 25% of the garages shall be appurtenant to Affordable Units, at no extra cost to the buyer thereof. [ACHC prefers that this last condition be deleted*

The ACHC does not support the suggestion that 25% of the garages should be set aside for the affordable units. The affordable units are to resemble the other market rate units from the exterior but they do not necessarily have the same interior amenities that are given the market rate. This would also apply to a garage.

We would instead request that two of the units be sold to households earning no more than 70% of the A.M.I. regardless of the household size. That would be far more beneficial than the opportunity to own a garage.



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 11, 2004

Zoning Board of Appeals
Town of Acton
Acton, MA

Dear Board members:

The Acton Community Housing Corporation has reviewed the Amended Petition for a Comprehensive Permit for the Franklin Place development. On March 11, the ACHC voted to recommend the Petition for ZBA approval.

We thank the parties that have been involved in the reconsideration of this proposal: the Developer, Town staff, Town Counsel, Board of Selectmen, the Board of Appeals, and the abutters. This has been a prolonged and costly endeavor, causing great angst among us all. We are hopeful the final product will be worthy of the extraordinary amount of time spent on it.

We would be remiss if we did not state a concern in regard to the affordable selling price of the units being set at \$195,000. In the time period of the Franklin Place proposal, the price of the affordable units has gone from \$145,000, for a two bedroom unit without a garage, to a \$195,000 three bedroom unit with an attached 2-car garage. Our concern is not that the price does not reflect the upgraded amenities and increased unit square footage, but rather that our most important target group, public employees, are now being priced out of the affordable housing market in addition to the market rate housing environment.

It was determined in 2001 that 83% of all Acton town and school employees earned less than \$50,000 per year. The minimum required income for the units in the amended plan is \$63,049 and the maximum is \$66,080. That is a very narrow income window and may present a challenge when certifying eligible families. The US Dept. of Housing and Urban Development (HUD) recently updated the Area Median Income figures for the Boston area, the 2004 AMI is now \$82,600, a 5% increase over 2003. Franklin Place uses the increased income figures in its affordability calculation. It is properly calculated and meets the requirement that the unit be affordable to an income eligible family at 80% of the AMI. This was a concession given to the developer for this, amended proposal, ACHC normally requests income eligibility to apply to families at 70% AMI.

ACHC is stating this as a growing concern in general. It is an issue we intend to address by creating programs that may aid in the buy down of purchase prices so that affordable units may extend to families at the 60%AMI level. While it does not fall under our purview, we are also concerned that the selling prices of the market units are now at \$519,000. We had hoped the market units would be attractive to empty nesters who might want to downsize and yet stay in the Town as an affordable alternative. In short, the prolonged debate on the Franklin Place proposal has been costly in many, many ways.

We are confident that the amended proposal for Franklin Place will result in the construction of a quality development with two badly needed affordable units. ACHC hopes the prolonged debate has further educated the community on the all-important need for affordable housing. *3

The ACHC strongly recommends the ZBA approve this petition and requests you do so in an expeditious manner.

Thank you.

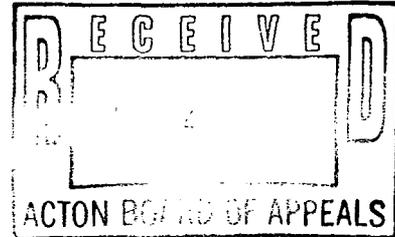
Nancy Tavernier, Chair
ACHC

FRANKLIN PLACE

Acton, Massachusetts

February 27, 2004

Mr. Jonathan Wagner, Chairman
Zoning Board of Appeals
Town Hall – 472 Main Street
Acton, MA 01720



Re: Franklin Place Comprehensive Permit
Amended Application

Dear Mr. Chairman:

Pursuant to the "Settlement Agreement, Release, and Covenant Not to Sue", we request to amend the Comprehensive Permit application for the proposed Franklin Place. Attached please find sufficient information on the Revised Project to conform with the application requirements for a Comprehensive Permit. This includes revised site development plans, building plans, and updated pro forma, list of requested waivers and other information outlined in the Acton regulations.

Since this is an amended application we did not include an abutters lists, evidence of site control or filing fees. If you feel any additional information is necessary please advise at your earliest convenience and we will submit directly.

Also attached please find an executed Consent to Re-Open Public Hearing and Conduct Further Proceedings.

Thank you for your consideration of this amended proposal and we look forward to the upcoming public hearing.

Sincerely,

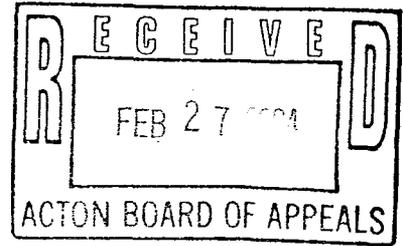
A handwritten signature in black ink, appearing to read "Ronald Peabody". The signature is written in a cursive style with a large, looping initial "R".

Ronald Peabody, Member
Franklin Place Partners LLC

TOWN OF ACTON

Zoning Board of Appeals

Acton Town Hall
472 Main Street
Acton, Massachusetts 01720



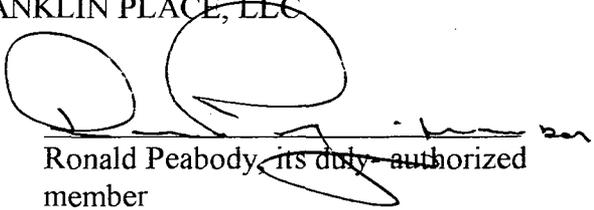
Consent to Re-Open Public Hearing and Conduct Further Proceedings

Franklin Place, LLC, applicant for a comprehensive permit under M.G.L.c. 40B for property at 527 Main Street ("Applicant"), consents to the Acton Zoning Board of Appeals: (1) reconsidering its vote to deny the Applicant's application for a 32-unit comprehensive permit under Chapter 40B to permit the Applicant to submit an amended application for a 12-unit comprehensive permit, and (2) re-opening the public hearing for purposes of considering the amended application.

The Applicant further agrees, pursuant to M.G.L. c. 40B, § 21, to an extension of time for the Acton Zoning Board of Appeals to issue a written decision on said comprehensive permit application. The Applicant and the Board of Appeals agree that a written decision shall be filed with the Acton Town Clerk no later than 5:00 PM on March 31, 2004. The Applicant agrees that it will not assert or make any claim that it is entitled to a comprehensive permit on any theory of constructive grant or constructive denial, based on the Board of Appeals' failure to issue a written decision on said application before April 1, 2004.

The Applicant reserves the right to demand a final written decision on its original application in the event that either (a) the Board votes to issue a decision on the amended application that either would result in a denial of the application, or an approval with material conditions that are unsatisfactory to the Applicant; or (b) the decision by the Board on the amended application is appealed by a party other than the Applicant to a court of competent jurisdiction within the statutory time period for appeals. Upon written notice by the Applicant to the Board that it demands a final written decision on its original application, the Board shall close the public hearing, if it has not done so already, and shall issue a written decision on the original application within forty days of the Board's receipt of said notice.

FRANKLIN PLACE, LLC

By: 

Ronald Peabody, its duly authorized member

Dated: 2-27-04

ACCEPTED:

Jonathan Wagner, Chairman
Acton Zoning Board of Appeals

Dated: _____

Act\40B-MainStreet\m\consent to re-open hearing2..wpd

DATE 3-29-04Thomas R. Deady
FOR TOWN CLERK, ACTON**DECISION****TOWN OF ACTON, MASSACHUSETTS
ZONING BOARD OF APPEALS
DECISION UPON APPLICATION OF
FRANKLIN PLACE PARTNERS, LLC
FOR A COMPREHENSIVE PERMIT****I. APPLICANT AND PUBLIC HEARING**

A public hearing was held by the Acton Zoning Board of Appeals (the "ZBA") at the Acton Town Hall, 472 Main Street, Acton, Massachusetts, on May 8, 2003, commencing at 7:30 p.m., upon the application of Franklin Place Partners, LLC, a Massachusetts limited liability company (the "Applicant") for a comprehensive permit under Massachusetts General Laws Chapter 40B, §§ 20-23 ("the Act") and under Town of Acton Zoning By-Laws, to build low or moderate income housing in a development of 32-unit condominium development (the "Project") on approximately 4.9 acres of land located at 520 Main Street in Acton and identified as Lot 45 on Assessor's Map E4 (the "Site").¹ The ZBA conducted a view of the premises on July 2, 2003, at 6:00 PM and held continued public hearings on May 22, 2003 at 7:30 PM, June 24, 2003, at 7:30 p.m., August 5, 2003 at 7:30 p.m., September 2, 2003 at 7:30 p.m., September 25, 2003 at 7:30 p.m., October 14, 2003 at 7:30 p.m., November 6, 2003 at 7:30 p.m., and November 21, 2003, at 7:00 p.m. The ZBA closed the public hearing on November 21, 2003, and began its deliberations on December 2, 2003.

On December 19, 2003, before approving, executing or filing its written decision of denial with the Town Clerk, the ZBA moved to reconsider its denial vote and to re-open the public hearing for purposes of considering an amended application to be proposed by the Applicant that would substantially reduce the number of housing units in the Project. The Applicant submitted a signed consent and waiver of any claims of constructive approval or constructive denial associated with this procedure. On February 27, 2004, the Applicant submitted its formal amended application for a Revised Project consisting of 12 housing units in six duplex buildings, with three of the units designated as affordable (the "Revised Project"). After sending, publishing and posting appropriate public notice, the ZBA considered the amended application during a public hearing that re-opened on March 15, 2004. The ZBA closed the public hearing on March 24, 2004, and began its deliberations.

All sessions of the public hearing were transcribed by a court reporter, or detailed minutes were taken, and the transcripts, minutes and exhibits are available for public inspection in the ZBA's offices. A list of the Transcripts and Exhibits is contained in the record.

¹

The Applicant consented to a waiver from the statutory requirement that a public hearing open within thirty days of the ZBA's receipt of the application, so as to provide sufficient time to notify interested parties through publication in the Town's weekly newspaper. See, Exhibit 2.2.

Throughout the public hearing the Applicant was represented by Mark C. O'Hagan of MCO & Associates, Inc.

Sitting as members of the ZBA and present throughout the hearing were Jonathan Wagner, Kenneth Kozik and David Black.

II. NATURE OF APPLICATION; PROCEDURE REQUIRED BY STATUTE

In conducting its hearings in this matter, the ZBA is guided by the decision of the Supreme Judicial Court in Dennis Housing Corp. v. Board of Appeals of Dennis, 439 Mass. 71, 76-77 (2003) (citations omitted), that a qualified developer proposing to build low or moderate income housing:

may submit to the zoning board of appeals "a single application to build such housing in lieu of separate applications to the applicable local boards." The zoning board is then to notify those "local boards" for their "recommendations" on the proposal; the zoning board may "request the appearance" of representatives of those "local boards" at the public hearing as may be "necessary or helpful" to the decision on the proposal; and the zoning board may "take into consideration the recommendations of the local boards" when making its decision. The zoning board then has "the same power to issue permits or approvals as any local board or official who would otherwise act with respect to such application," ... and, in some circumstances, has the power to override requirements or restrictions that would normally be imposed by those local boards. If the zoning board denies the application for comprehensive permit, or approves it only on conditions that make the project "uneconomic," the applicant may appeal to the housing appeals committee ... which also has the power to override local regulations and direct the issuance of a comprehensive permit."²

Any person aggrieved by the issuance of a comprehensive permit has a right of appeal to the Superior Court under Section 17 of the Zoning Act (Chapter 40A).

III. GOVERNING LAW

The law governing this case is The Low and Moderate Income Housing Act, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations

²

The Housing Appeals Committee's decision itself is further reviewable by the Superior Court in accordance with the State Administrative Procedure Act, G.L. c. 30A.

promulgated by the Department of Housing and Community Development (“DHCD”) Housing Appeals Committee, 760 CMR 30.00ff and 31.00ff (the “Regulations”).

The Act prevents the possible use by cities and towns of exclusionary local bylaws to shut out needed low and moderate income housing. Board of Appeals of Hanover v. Housing Appeals Committee 363 Mass. 339 (1973). The purposes of the Act are satisfied if (a) a town has low or moderate income housing in excess of 10% of the housing units reported in the latest decennial census or which is on sites comprising 1.5% or more of the town’s total land area zoned for residential, commercial, or industrial use, or (b) if the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3% of such total area or 10 acres, whichever is larger, in one year. See, e.g., Arbor Hill Holdings Limited Partnership v Weymouth Board of Appeals, Housing Appeals Committee No. 02-09 (9/24/03).

Acton does not presently meet any of these criteria. That being the case, Acton’s Zoning Bylaw and its other local bylaws and regulations which ordinarily govern development in the Town may be overridden by a comprehensive permit issued by this Board upon a proper showing by the Applicant. Hanover v. Housing Appeals Committee, *supra*.

IV. GOVERNING PRINCIPLE

Under the Act and the Regulations, in deciding this application, the ZBA must balance the regional need for low and moderate income housing against any local objection to the proposed plan. Board of Appeals of Hanover v. Housing Appeals Committee 363 Mass 339 (1973). If a comprehensive permit is granted with conditions, those conditions must not render the project uneconomic.

V. JURISDICTIONAL ELEMENTS (760 CMR 31.01(1) and 31.02(1))

Pursuant to the Act and the Regulations, an applicant for a comprehensive permit must fulfill three initial jurisdictional requirements:

1. The applicant must be a public agency, a non-profit organization, or a limited dividend organization;
2. The project must be fundable by a subsidizing agency under a low and moderate income housing subsidy program; and
3. The applicant must “control the site.” 760 CMR 31.01(1).

As discussed more fully below, the ZBA finds that the Applicant has provided sufficient information to establish that it will qualify as a limited dividend organization under the Massachusetts Housing Finance Authority’s (“MassHousing”) Housing Starts subsidy program, the proposed project is fundable under a low and moderate income housing subsidy program (the

Housing Starts program), subject to final approval by MassHousing, and that it has the legal right to acquire title to the Site.

(1) Status of Applicant

Pursuant to the Regulations, an applicant for a comprehensive permit must be either a public agency, a non-profit organization, or a limited dividend organization. 760 CMR 31.01(1)(a). 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 a comprehensive permit development. Satisfaction of this criteria is typically accomplished through the execution of a Regulatory Agreement between the subsidizing agency and the Applicant. The Regulatory Agreement at a minimum stipulates that the Applicant's profit from the development is limited to 20% of the development costs, and provides mechanisms to enforce this requirement.

In the application submitted to the ZBA, the Applicant is identified as Franklin Place LLC and Northwest Development LLC.³ The corporate records at the office of the Secretary of the Commonwealth do not reflect any filings under the name "Franklin Place LLC." There is, however, a Franklin Place Partners, LLC, with an address of 178 Great Road, Acton, MA, and a Manager Ronald B. Peabody, the same individual who appeared before the ZBA from time to time in connection with this application. In the Purchase and Sale Agreement submitted as part of the application, the proposed buyer of the Site is Franklin Place Partners, LLC.

Accordingly, for purposes of this application, the ZBA considers Franklin Place Partners, LLC to be the sole Applicant under this application. To ensure that this entity complies with the jurisdictional requirements of the Regulations and will execute a suitable Regulatory Agreement pursuant to this comprehensive permit, the ZBA has incorporated conditions below designed to limit the profit which the Applicant derives from this comprehensive permit development and to suitably monitor and enforce that limitation.

(2) Public Subsidy Requirement

A housing development being proposed under a comprehensive permit application must be subsidized under a low and moderate income housing subsidy program. Here, the Applicant has submitted both an initial project eligibility letter, dated November 8, 2002, and a supplemental project eligibility letter, dated July 18, 2003, from the MassHousing (Tab 3 to Exhibit 3; and Exhibit 38), a public agency that provides below-market financing for the development of affordable housing across the Commonwealth.

The ZBA finds that, taken together, these project eligibility letters substantially comply with the project subsidy requirement set forth in the Regulations, 760 CMR 31.01(2).

³

Under Tab 5 in the application, Franklin Place LLC is identified as the "developer," and Northwest Development LLC is identified as the "contractor/builder."

(3) Site Control Issues

To be eligible to obtain a comprehensive permit under Chapter 40B, an applicant must demonstrate that it holds legal title to the property that is the subject of the application, or that it otherwise has a sufficient legal right to acquire title to the property, such as under a purchase and sale agreement. Here, the Applicant has presented evidence that it has executed a Purchase and Sale Agreement (the "Agreement") to purchase the Site (Tab 4 to Exhibit 3). Initially, the Agreement provided that a closing must occur no later than June 2, 2003. During the public hearings, the Applicant provided evidence that the seller consented to an extension of the Agreement to and including December 2, 2003 (Exhibits 28 and 61). In connection with the public hearing on the Revised Project, the Applicant provided evidence that the seller consented to an extension of the Agreement to and including April 22, 2004 (Exhibit A16).

Accordingly, the ZBA finds that, as of the date of issuance of this comprehensive permit, the Applicant has demonstrated that it has a sufficient legal right to acquire title to the Site under the Agreement.

VI. APPLICATION REQUIREMENTS

In addition to the above jurisdictional requirements, an applicant for a comprehensive permits must comply with the Regulations governing the content of a comprehensive permit application. Under these regulations, an application must contain certain documentation and plans. See, 760 CMR 31.02(a)-(h), and Model Local Rules §3.01.

The ZBA finds that, initially, the application was deficient in the following ways:

- §31.02(2)(a) The site development plans submitted with the application did not show the materials used for drives, parking areas, walks, and paved areas;
- §31.02(2)(a) The site development plans submitted with the application did not show proposed landscaping improvements or open areas within the site;
- §31.02(2)(a) The site development plans submitted with the application were not signed by a registered architect;
- §31.02(2)(b) The Applicant submitted a plan showing existing site conditions, and a narrative report on existing site conditions, however neither the plan nor the report identified existing traffic patterns or the character of open areas in the neighborhood.
- §31.02(2)(c) The preliminary architectural drawings provided a scaled depiction of the front elevation of the proposed buildings, but did not provide a scaled depiction of the rear or side elevations. Furthermore, a registered architect had not signed the drawings.

During the course of the public hearings, the Applicant submitted revised plans that show the materials used for drives, parking areas, walks, and paved areas, and presented a landscaping plan for the development. The remainder of these deficiencies are addressed by the conditions below.

SUMMARY OF DECISION

For the reasons stated below, the ZBA approves with the conditions set forth below the amended application of Franklin Place Partners, LLC, for a comprehensive permit for the Revised Project consisting of a twelve (12) unit condominium development in six duplex buildings under the Act.

VII. THE PROJECT

1. The Project Site as defined in the Application consists of 4.9 acres of land located at 520 Main Street in Acton and identified as Lot 45 on Assessor's Map E4 (see, Exhibit 23).

2. On or about April 4, 2003, Franklin Place LLC filed an application for a Comprehensive Permit to build low or moderate income housing in a development of 32 garden-style condominium units at the Site (see, Exhibit 3).

3. The Project was amended by the Applicant on July 29, 2003 to consist of the following principal components: (a) three main residential buildings housing 10 units, 10 units and 12 units, respectively; (b) a community building; and (c) 68 parking spaces, of which 23 are garage spaces, 45 are open air residential spaces, and 4 are visitor spaces (see, Exhibit 23; Transcript, p. 445).

4. As most recently amended by the Applicant on February 27, 2004, the Revised Project consists of the following principal components: (a) six duplex residential buildings housing two units each, and (b) 48 parking spaces, including two open air spaces and two garage spaces for each unit(see, Exhibits A2, A8).

5. Under the Revised Project, the unit count has been reduced by 20 units, or 62.5%; and the parking spaces have been reduced by 20 spaces or 29.4%.

6. The Revised Project's building areas would cover 20,280 square feet, or 9.5% of the Site; paved areas would cover 20,776 square feet; or 9.7% of the Site; and landscaped and open space would cover 173,172 square feet, or 80.8% of the Site (see, Exhibit 2A).

7. The Amended Plan for the Revised Project is entitled "Comprehensive Permit Plan for Franklin Place, 520 Main Street, Acton, Massachusetts," dated April 3, 2003, revised February 26, 2004, designed by Stamski and McNary, Inc., Acton, Massachusetts, scale: 1" = 400', and consists of the following sheets (See, Exhibit A3):

SHEET NUMBER	TITLE	REVISION DATE
1	Existing Conditions Plan and Layout Plan.	February 26, 2004
2	Grading, Drainage, and Utilities Plan.	February 26, 2004
3	Detail Sheet 1 .	February 26, 2004
4	Detail Sheet 2.	February 26, 2004

8. Each of the 12-units in the Revised Project will have 3 bedrooms and 2,000 square feet (See, Exhibit 2A).

9. The Site at issue in the present case is located within an R-2 Single Family Residential Zoning District and within an Affordable Housing Overlay Subdistrict "A." Exhibit 4.1.

10. The Applicant proposes to comply with the limited dividend requirement of G.L. c. 40B, § 20, by executing and recording a Regulatory Agreement in accordance with the rules governing the Housing Starts program, and agreeing to restrict its profit to not exceed 20% of the Revised Project's development costs.

VIII. REQUESTED WAIVERS FROM LOCAL BYLAWS AND REGULATIONS

A. Acton Zoning Bylaw

11. The Applicant has requested waivers from the following Zoning Bylaw provisions:

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; and

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

A.1 Density

12. Housing density is a legitimate planning, health, and safety concern to be addressed by a Board of Appeals in the context of a comprehensive permit application. In addition to the Town's Master Planning concerns, density of site development affects a variety of other matters such as sewage disposal arrangements, water drainage arrangements, fire protection, traffic circulation, and the availability of open space, all of which are relevant to comprehensive permit proceedings. 760 CMR 31.07(3). These issues become more critical, and often more challenging, as the density of housing increases.

13. The ZBA received and considered an abundance of evidence on how the original proposed Project would affect the concerns enumerated above. In particular, testimony focused on the inconsistency of the project with the Town's Master Plan, the potential impact of the on-site sewage treatment and disposal arrangements on the environment and public water supplies, and whether the proposed open space areas and proposed drainage infrastructure was adequate or suitable. These issues are considered in detail below.

a. The Town's Master Planning Concerns

14. The Town's Master Plan, originally adopted in 1990 and updated in 1998, designated five areas of the Town that would serve as "growth centers" for residential development. Exhibits 20 and 21. These areas include East Acton Village, North Acton Village, South Acton Village, West Acton Village, and Kelly's Corner. Exhibit 4.1.

15. In 1990, the Town formalized these designations by amending the Zoning Bylaw to create an Affordable Housing Overlay District, and a framework for evaluating and permitting affordable housing developments within the Overlay District. The Overlay District was split into a high-density Subdistrict "B" and a lower density Subdistrict "A." Exhibits 20, 21.

16. The five growth centers, having been identified as desirable locations for higher density development, were drawn into Overlay Subdistrict B. Other parts of town that are not within the growth centers, but otherwise deemed suitable for lower-density affordable housing development, were included in Subdistrict A. Exhibits 20, 21.

17. Under Section 4.4 of the Zoning Bylaw governing development within the Overlay District, a developer may be permitted to construct more housing units on a tract of land than what is otherwise permitted in the underlying zoning district, in exchange for agreeing to dedicate a certain percentage of the housing units for affordable housing. Developments in Subdistrict A must also obtain special permit approval under the Open Space Development provisions of Section 4.2, which, in the R-2 zoning district, require a minimum development tract size of six acres. ZBL, § 4.2.3.1. Development in Subdistrict B does not require Open Space Development approval, and the minimum tract size for all affordable housing developments in that subdistrict is 80,000 square feet (less than two acres). ZBL, §4.4.4.2.

18. The subject Site is located within Subdistrict A and in zoning district R-2, therefore the Site must be permitted as an Open Space Development as a prerequisite to density bonuses under Section 4.4 and must contain at least six acres. Since the Site consists of 4.9 acres, it is ineligible for Open Space Development approval, and cannot qualify for density bonuses under Section 4.4. The high level of density proposed in this Application is, therefore, inconsistent with the Town's Master Plan, as implemented in the Town's Zoning Bylaw:

19. The ZBA finds that the Town's Master Plan is relevant to the pending Application. 760 CMR §31.07(3)(d). In its reported decisions, the Housing Appeals Committee (the "HAC") has elaborated on the extent to which a zoning board may premise a comprehensive permit denial on an application's inconsistency with a master plan. Specifically, the HAC has indicated that it will uphold a zoning board's denial of a comprehensive permit if the Town's interests in preserving the integrity and conformity of the master plan outweigh the regional need for low and moderate income housing. See, Stuborn Ltd. Partnership v. Board of Appeals of Barnstable (known as "Stuborn II") (September 18, 2002).

20. The genuineness, or sincerity, of the Town's interests in this regard are tested through a three-part inquiry:

- (a) Is the plan bona fide? (Was it legitimately adopted, and does it continue to function as a viable planning tool in the Town?);
- (b) Does the plan promote affordable housing? and
- (c) Has the plan been implemented in the area of the site?

21. The ZBA finds that the Town's Master Plan easily satisfies this initial three-part inquiry. The Master Plan was initially adopted by Town Meeting in 1990, and updated in 1998. The affordable housing elements of the Master Plan were implemented through the adoption of Section 4.4 of the Zoning Bylaw, which provides incentives for affordable housing development in Acton and designates certain appropriate areas for such development. Since 1998, the ZBA has approved two high-density affordable housing developments under Chapter 40B, both located within Subdistrict B. The first development, Westside Village, consists of 16 single-family homes on 5.25 acres. The second development, Crossroads Village, consists of 12 townhouse condominium units on 2.23 acres. In 1999, the Planning Board approved a 16-lot subdivision located in Subdistrict B on 3.3 acres of land. Additionally, the Town has added eight "scattered site" affordable housing units to its Subsidized Housing Inventory under DHCD's Local Initiative Program since 1994, and four more are in the planning stages. Exhibits 4.0, 4.1. These units were created either through negotiated concessions from developers of market-rate housing, or under the Section 4.4 permitting process for Subdistrict A developments. See, generally, Exhibit 4.1.

22. The Department of Housing and Community Development ("DHCD") recently recognized the legitimacy of the Town's plan by providing preliminary approval on the Town's

request to use portions of the Master Plan to satisfy certain elements of the Executive Order 418 Community Development Plan requirements. See, Exhibit 84. The Town has been certified by DHCD under the Executive Order 418 community development planning process, which includes taking affirmative steps to increase housing production. Before Executive Order 418 was even promulgated, the Town had created the Acton Community Housing Corporation, charged with developing affordable housing strategies and implementing affordable housing programs in the Town. The ACHC maintains a list of income-eligible households interested in purchasing affordable housing units, and administers the purchaser/tenant selection processes for units created through comprehensive permits or under Section 4.4 of the Zoning Bylaw. The ACHC is actively pursuing development opportunities with private developers. In April, 2002, Acton Town Meeting supported the proposed redevelopment of an abandoned school building for affordable rental housing. A feasibility study for this project was completed in March, 2002 with funding from the Massachusetts Housing Partnership. Notably, Town Meeting defeated a competing petition, seeking to demolish the existing school building and use the property as recreational space for an abutting school. Exhibit 85.

23. The ZBA concludes that the Town has a genuine interest in creating affordable housing, and has taken affirmative steps to create an environment conducive to increased housing production. Several affordable housing developments have been permitted in the Affordable Housing Overlay District since the Master Plan was adopted, and the ACHC continues to promote affordable housing development in the Town.

24. The ZBA recognizes, however, that due to increased demand for, and production of, expensive, market-rate homes in Acton over the last decade, only 2.07% of the Town's 7,645 housing units currently qualify as low and moderate income housing for purposes of Chapter 40B. Exhibit 3, Tab 7.⁴ The ZBA concludes that despite the laudable efforts and modest accomplishments made in furtherance of increasing affordable housing opportunities in Acton, the Town needs more low and moderate income housing for families that live and work in Acton, and who make important contributions to the fabric of our community.

25. Significantly, some of the affordable housing units in the Revised Project can be made available exclusively for families with specific ties to Acton, such as children of Acton residents, current employees of the Town and its schools, residents of Acton, and people employed in the Town of Acton. The affordable units are expected to be sold for \$195,000 each. By comparison, the median sale price for all housing units sold in Acton in the month of June, 2003 was \$409,950, and the median sale price for all single-family homes in that same month (excluding condos) was \$479,000. Exhibit 86.

26. These factors lead us to conclude that the Town's interests in preserving the integrity of the Master Plan with respect to this particular parcel of land is, for an appropriate

⁴

The ACHC informs us that three more affordable units have been added to the Town's Subsidized Housing Inventory, bringing the percentage up to 2.15%.

project, outweighed by the current need for more moderately and affordably-priced housing in Acton.

27. Accordingly, in arriving at the appropriate density for the project on this Site, the ZBA has taken into account the fact that the project was inconsistent with the Master Plan and is to be down-sized to a more compatible project on the Site. This issue is discussed further below.

b. Sewage and Wastewater Disposal Concerns

28. There is no public sanitary sewer on Main Street in the vicinity of the Site.

29. The Applicant proposes to serve the Revised Project with an on-site sub-surface sanitary sewage disposal system. Exhibit 2A.

30. The Town of Acton's public water supply system relies exclusively on groundwater wells within the Town.

31. There is a stream located on or proximate to the Site which discharges to Conant Brook. Exhibits 4.0, 4.2, 23, and 72.

32. There are bordering vegetated wetlands proximate to the stream. Id.

33. The proposed Revised Project is adjacent to these wetlands and stream. Id.

34. The Conant public water supply well field is downgradient from the project Site. Exhibits 4.0 and 4.2.

35. Over the past 15 years, the Board of Health has measured coliform bacteria concentrations in the Town's brooks and streams, and has found that the pollution of these streams typically exceed swimming water standards, let alone drinking water standards. Exhibit 4.2

36. In response to these public health concerns, the Board of Health adopted a regulation requiring septic systems that discharge more than 2,000 gallons per day to be constructed at least 100 feet away from wetland resources. Id.

37. The proposed Revised Project will not comply with the 100-foot setback requirement. Exhibit 2A.

38. As the number of housing units on a particular parcel of land increases, so does the quantity of sewage and wastewater that is processed and discharged into the ground.

39. Accordingly, to protect the wetlands, the stream, and the Town's public water supply wells, and given the particular environmental impact concerns associated with this project, the ZBA concludes that it is appropriate, in granting any waiver from the otherwise applicable provisions of the Acton Zoning Bylaw, to limit the number of housing units in the project to that which is necessary to make the project economically feasible.

40. The ZBA finds that the 12-unit proposal as shown on the Amended Plan for the Revised Project addresses many of the environmental, health, and public safety concerns the ZBA had with the original 32-unit proposal.

c. Water Drainage Arrangements and Open Space

41. Storm water drainage is also a contributor to groundwater and wetland contamination.

42. Given the proximity of wetland resources and public water supplies, it is in the Town's interest to limit the amount of impervious surface area on the Site and to ensure that adequate storm water collection and infiltration is implemented.

43. Drainage infrastructure has a direct impact on the availability of open space for residents of the proposed development.

44. Land that is used for drainage facilities and grading that is necessary to accomplish proper storm water runoff channeling cannot be used for the active or passive recreation of residents.

45. On the Applicant's original site plan, the "back yards" of the three proposed buildings featured relatively steep contours, due primarily to the unique topography of the site, limiting the area on the Site that could be utilized for passive and active recreation.

46. The "usable" open space proposed in the original site plan was quite limited. By contrast, the Amended Plan for the Revised Project features a larger amount of open space that can be utilized by a substantially reduced number of residents, thereby significantly improving on the open space characteristics of the project.

d. Resolution of Zoning Waivers Relating to Density

47. The ZBA acknowledges the present need for affordable housing in the Town of Acton, and recognizes that, in general, where land costs are high, permitting a higher level of density will facilitate the construction of affordable housing, making it economic to build.

48. Under Chapter 40B, however, the burden is on the Applicant to demonstrate that a waiver of a local bylaw or regulation is necessary to make the development economically viable.

49. Before the Applicant had submitted its amended application for a comprehensive permit and its Amended Plan for the Revised Project showing 12 units, instead of 32 units, the Applicant argued that it needed to construct at least 32 units of housing on the Site in order to realize a reasonable return on its investment in the Project.

50. The ZBA concluded that a 32-unit Project would have been in derogation of the Town's Zoning Bylaw, specifically, Section 3.1 and 3.3. As noted above, such a high level of density would have had direct consequences on the project Site, on the neighborhood in the vicinity of the project Site, and on the quality and preservation of the Town's character and natural resources.

51. While the ZBA concluded that the density of an economically viable project on the Site could be substantially reduced from 32-units, a majority of the ZBA was reluctant to "re-design" the project by conditions imposed in an approval decision. Instead, counsel for the ZBA encouraged the Applicant to take the initiative on this issue.

52. The Applicant has done so, and has submitted the Amended Plan for the Revised Project which achieves the goal of a substantial reduction in density while still being economically feasible. Since the Applicant has submitted an Amended Plan for the Revised Project showing 12 units, and since the ZBA has concluded that this reduction in density satisfies the environmental, health, and public safety concerns the ZBA originally had with the 32-unit proposal, the ZBA need not consider the impact a further reduction in density would have on the economics of the project.

53. The ZBA grants a waiver from the above-referenced density provisions of the Zoning Bylaw, and the provision of Section 3.1 requiring site plan approval.

B. Acton Board of Health Regulations

54. For its original 32-unit proposal, the Applicant originally requested waivers from the following Board of Health regulations:

Article 11-7.3 (no sewage disposal system with a capacity of 2,000 gallons per day or over shall be constructed within 100 feet of any wetland);

Article 11-9.1 (leaching facilities for any use shall be constructed to meet the requirements delineated in Table 2); and

Article 11-9.7 (the minimum distance between sidewalls of leaching trenches must be twelve (12) feet where the area between the trenches is used for a reserve area).

55. For its Revised Project, the Applicant requests only a waiver from Article 11-7.3. The leaching area for the proposed septic system would be located within 95 feet of a wetland, and the pump chamber is located within 75 feet of a wetland. Exhibit 2A.

56. The system has been or is expected to be approved by the Board of Health under Title V of the State Environmental Code.

57. The Board of Health reviewed the Applicant's request for the waiver from Article 11-7.3 at a meeting on March 15, 2004. At that meeting, the Applicant proposed to perform certain tasks to ensure the effectiveness of the septic system and to mitigate negative impacts on the environment. Specifically, the Applicant proposed to:

- (a) install two groundwater monitoring wells, one upgradient and one downgradient of the soil absorption system. These wells will be monitored on a yearly basis for both nitrate-nitrogen and *e. coli*. The results of this monitoring program will be submitted to the Health Department within 30 days for sampling and analysis. The groundwater wells will also be tested to determine baseline conditions prior to the system being put into use;
- (b) contribute \$5,000 to a fund to be available to and administered by the Health Department to study and monitor Conant Brook downstream from the Property, as the bordering vegetated wetland and the associated stream both drain into Conant Brook;
- (c) install effluent tee filters in the outlet tees of all septic tanks to increase the retention of solids and improve the quality of the effluent that reaches the subsurface disposal area;
- (d) install dual compartment septic tanks, with storage capacity in excess of what is required under Title V.

58. The Board of Health informed the ZBA that it was satisfied that the proposed mitigation provided a level of environmental protection equivalent to that which is lost by permitting the system to be located within the 100-foot setback.

59. The ZBA concurs with the Board of Health's findings and recommendations, and waives the Applicant's strict compliance with Article 11-7.3, conditioned upon (a) the Applicant's compliance with Title V, (b) the Applicant's performance of the four mitigation tasks listed under Paragraph 61 above, and (c) establishment of a septic system repair/replacement trust account for the condominium association funded with a minimum initial deposit of five thousand dollars (\$5,000). See the conditions of approval set forth below.

C. Acton Wetlands Protection Bylaw and Conservation Commission Regulations

60. Under the state's Rivers Protection Act, Chapter 258 of the Acts of 1996, and the amended regulations of the Department of Environmental Protection defining perennial streams to exclude any streams having a watershed of less than 0.5 square miles, the Acton Conservation Commission has concluded that the watershed for the stream associated with 520 Main Street is substantially less than 0.5 square miles and therefore that the stream is an intermittent stream under the Rivers Protection Act and the Department's wetlands protection regulations. The Conservation Commission has therefore issued an Order of Conditions for the project under state law. Exhibit 72. The Department of Environmental Protection ("DEP") has issued a superceding Order of Conditions for the Project, which the Applicant shall request be amended to conform to the Revised Project.

61. Under Chapter 40B, the ZBA undertakes the authority of the Conservation Commission for purposes of administrating the Acton Wetlands Protection Bylaw (the "Wetlands Bylaw"). Under the Wetlands Bylaw, the Applicant would have had to file a Notice of Intent, seeking the Conservation Commission's approval of the development in the form of an Order of Conditions. The ZBA therefore reviewed the Applicant's compliance with the development restrictions contained within the Wetlands Bylaw, and solicited the advice and opinions of the Conservation Commission.

62. As a preliminary matter, the ZBA considered whether the amendments to the Wetlands Bylaw adopted at the Annual Town Meeting were applicable to the Project application. The ZBA concluded that the amendments, which increased the "no-cut" and "no-build" buffer zones described above, were inapplicable because: (a) the comprehensive permit application was submitted prior to the effective date of the amendments, and (b) the Conservation Commission has applied Wetlands Bylaw amendments prospectively. The ZBA concluded that it should apply the Bylaw consistent with the manner in which the Conservation Commission applies the Wetlands Bylaw.

63. The ZBA next considered substantive matters relating to the Wetlands Bylaw.

64. The Conservation Commission has concluded that the Acton Wetlands Protection Bylaw (the "Wetlands Bylaw") more strictly regulates a "riverfront area", defined as, "... the area of land between a river's mean annual high water line and a parallel line measured horizontally 200 feet away", within the "resource area" protected by the Bylaw. Under the Wetlands Bylaw, "Perennial streams are rivers; intermittent streams are not rivers." The Wetlands Bylaw has its own list of standards for determining flow status, which does not include the DEP's amended regulation excluding all streams with very small watersheds. Exhibit 72.

65. The Conservation Commission reported to the ZBA that there is evidence that the stream in question flows year round, despite its small size, and that the Applicant has not

submitted any evidence tending to show, through observations or otherwise, that the stream in fact dries up for any part of the year. Exhibit 72.

66. Therefore, the Conservation Commission presumed that the stream is a perennial stream for purposes of the local Wetlands Bylaw's protection. Exhibit 72.

67. Under the local Wetlands Bylaw the proposed activities are deemed to have a significant impact upon wetland interests, which include protecting public water supply, protecting groundwater, providing flood control, preventing storm damage, preventing water pollution and protecting wildlife habitat.

68. While the original project and the Revised Project meet the minimum setbacks in the applicable local Wetlands Bylaw, Section F8.3 of the Bylaw also states that, "These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission." Exhibit 17.

69. Based on the perennial nature of the stream and the extensive alterations proposed by the Applicant within the riverfront area, the Conservation Commission initially determined that the original 32-unit project should maintain a 100-foot undisturbed buffer in order to adequately protect the environmental interests specified in the Wetlands Bylaw. Exhibit 72.

70. The Conservation Commission met with the Applicant after making this determination, and the Applicant proposed to substantially increase the quantity and quality of the plantings, and make other changes to the site plan in order to mitigate the adverse impacts that the development would have on the abutting wetlands. Exhibit 79. The Commission continued to recommend a 100-foot buffer but also acknowledged that these improvements would "more adequately meet the [Wetlands] Bylaw's interests" than the prior plan. Exhibit 94. At a minimum, the Commission recommended that the ZBA condition its approval on the Applicant's conformity to the revised landscaping plan. Exhibit 94.

71. Since the Amended Plan depicts a substantially different development design, the Applicant appeared before the Conservation Commission on March 17, 2004 for its comments and recommendations. The Conservation Commission reviewed the Amended Plan and the revised landscaping plan (Exhibit A4), and had no additional comments, other than finding that that the Revised Plan meets all the requirements of the old Wetlands Bylaw under which the Plan was originally filed, and is substantially in compliance with the new Bylaw as well. Exhibit A12.

72. The Applicant initially requested a blanket waiver from compliance with the Wetlands Bylaw in general and from this increased setback requirement in particular.

73. The ZBA finds that the Wetlands Bylaw complements the provisions of the state Wetlands Protection Act, under which the Applicant filed a Notice of Intent with and received an Order of Conditions from the Acton Conservation Commission. The Wetlands Bylaw

regulates the development of land within protected natural resource areas, and contains certain development restrictions that are more stringent than those contained in the Wetlands Protection Act (the "WPA"). For example, under the WPA, the Conservation Commission may exercise jurisdiction over any development within a 100 feet of a protected resource area. The WPA does not preclude development within this "buffer zone," but the Conservation Commission may issue an Order of Conditions, imposing conditions on the development within the buffer zone. Under the Wetlands Bylaw, however, natural vegetation within 25 feet of the edge of a resource area may not be disturbed, and construction cannot occur within 40 feet of a resource area.

74. The ZBA finds that the Revised Project application complies with the minimum provisions of the Wetlands Bylaw in effect at the time of the submission of the application.

75. While the ZBA is not bound by the Conservation Commission's recommendations in this 40B matter, the ZBA recognizes the expertise of the Conservation Commission in protecting wetland resource areas in the Town.

76. The ZBA finds that observing the recently-amended setback requirements to the Revised Project (75-foot no-build, 50-foot no-disturbance), and the 100-foot setback from the stream on the Property, would satisfy the concerns shared by the Conservation Commission and many of the neighbors with respect to the quality of the wetlands resources on the Property (with the exception of the building containing Units #1 and #2 located closest to Main Street and the drainage infrastructure adjacent to Main Street, both as shown on the Amended Plan, where such observance is not possible). The ZBA, therefore, waives strict compliance with the provision of the Wetlands Bylaw requiring the submission of a Notice of Intent but does not waive compliance with the setback provisions of Section F.8.3 that were in effect as of April 4, 2003. These waivers are premised on the understanding that the Revised Project will conform to the 75-foot no-build and 50-foot no-disturbance restrictions except as set forth herein and on the approved plans for the Revised Project.

IX. CONCLUSORY FINDINGS

77. Based on the evidence presented by the Applicant, local boards and officials, the *pro forma* consultant, and interested parties at the public hearings, the ZBA 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 12-unit Revised Project (as depicted on the Amended Plan) 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 Revised Project or on the surrounding neighborhood or the Town.

- c. The proposed 12-unit Revised Project will, when conforming to the conditions in this Decision, not be a threat to the public health and safety of the occupants of the Revised Project, the neighborhood, or the Town.
- d. The original proposed Project with 32 units would have substantially derogated from the policies and goals set out in the Town's Master Plan, violated the Board of Health's 100-foot setback requirement for the construction of high-capacity septic systems adjacent to wetland resources, threatened the quality of the Town's public water supply and the integrity of the proximate wetland resources, provided for a significantly higher density of housing than what would otherwise be permitted under the Zoning Bylaw, resulted in buildings encroaching upon the setback that the Conservation Commission deemed necessary to protect the interests of the local Wetlands Bylaw, and provided very little "usable" open space for residents. Accordingly, the original proposed Project with 32 units would have been detrimental to the environment, to the surrounding neighborhood, and to the Town's Master Plan as a whole.
- e. The proposed 12- unit Revised Project on the Site is supported by the evidence, and as conditioned below, (i) would be less inconsistent with the Town's Master Plan and the interests protected by the local wetlands bylaw, (ii) would not be rendered uneconomic by the terms and conditions of this decision, (iii) would represent a reasonable balance of the regional need for low and moderate income housing against important local planning and environmental concerns, and (iv) would be consistent with local needs within the meaning of Massachusetts General Laws, Chapter 40B, Section 20.
- f. The following waivers from local bylaws and regulations are granted, subject to the terms and conditions set forth herein:

(i) *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; and

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

(ii) *Board of Health Regulations:*

Article 11-7.3 (no sewage disposal system with a capacity of 2,000 gallons per day or over shall be constructed within 100 feet of any wetland);

(iii) *Wetland Bylaw:*

The provision of the Wetlands Bylaw requiring the submission of a Notice of Intent.

X. CONDITIONS ATTACHED TO COMPREHENSIVE PERMIT:

For the foregoing reasons, the ZBA grants the application of Franklin Place Partners, LLC for a comprehensive permit for the Revised Project consisting of a 12-unit duplex-style condominium project on the Site under the Chapter 40B, subject to each and every one of the following conditions:

A. General Conditions

- A.1. Within sixty days of the effective date of this Decision, the Applicant shall submit to the ZBA a final comprehensive permit site plan, for technical review by the ZBA to ensure that it is consistent with and in conformity with this Decision, which upon such finding shall be approved and endorsed by the ZBA (the "Approved Plan"). When creating the Approved Plan, the Applicant shall make all of the changes to the Amended Plan as recommended by the Engineering Department in Exhibit A7, paragraphs 1, 2, 3, 4, 8, and 9.
- A.2. This Decision shall be appended to the endorsed Approved 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 ZBA prior to issuance of a building permit or to the start of construction.
- A.3. 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.
- A.4. 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 Revised Project's building construction and occupancy in accordance with this Comprehensive Permit.
- A.5. The Applicant shall copy the ZBA 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, including but not limited to all testing results, official filings and other permits issued for the Revised Project.

- A.6 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.7 The Applicant shall maintain a copy of the endorsed Approved Plan and this Decision at the Site during construction.
- A.8 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.9 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 Revised Project and the use of the land does not strictly and fully conform to 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 Revised Project and for any unit in the Revised Project.
- A.10 This Decision permits the construction, use, and occupancy of twelve (12) housing units on the Site. The construction and use of the Site shall be in conformity with the Approved 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 shown on the Approved Plan, without further approval of the ZBA in the form of an amendment to this Decision.
- A.11 No structure shall be built with a front elevation more than two stories as shown on the Amended Plan's elevation depiction.

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 ZBA prior to that time written evidence satisfactory to the ZBA:
 - 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 Revised Project as conditionally approved by this Decision; and

- b. From a federal or state subsidizing agency that both the Revised 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 Revised Project, the Applicant shall have

- a. Delivered to the ZBA the organization papers of the non-profit or limited dividend organization which will construct the Revised 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 Franklin Place, LLC, it shall forthwith perfect, maintain and provide to the ZBA proof of its status as a limited dividend or non-profit organization under the provisions of M.G.L. c. 40B, § 21;
- b. Delivered to the ZBA a certified copy of the financing contract between Applicant and the federal or state agency which provides the financial aid for construction of low or moderate income housing required by the Act for a Comprehensive Permit for the Site;
- c. Obtained, and filed with this ZBA a copy of, (a) a building permit from the Acton Building Commissioner pursuant to the Massachusetts State Building Code and (b) the construction drawings submitted to obtain said building permit;
- d. Obtained, and filed with this ZBA a copy of, a written technical review from the Acton Director of Public Works of the Applicant's engineering details and proposed easement relating to its tie-in to the Acton public storm water drainage system on Main Street consistent with the terms of this Decision;
- e. Obtained, and filed with the ZBA 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;
- f. Obtained, and filed with the ZBA a copy of the final Order of Conditions or Superseding 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 Revised Project;

- g. Obtained and filed with the ZBA a copy of a National Pollutant Discharge Elimination System (“NPDES”) permit issued for the Revised Project;
- h. Delivered to the ZBA final architectural drawings for all buildings shown on the Plan, providing a scaled depiction of the front, rear and side elevations, signed by a registered architect; and
- i. Delivered to the ZBA a letter from the Massachusetts Historical Commission finding no adverse effect on historical or archaeological resources at or in the vicinity of the Site resulting from the Revised Project.

B.3 As Built Plans: Prior to the occupancy or use of the final building constituting a part of the Revised Project, the Applicant shall submit to an ZBA 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 Revised Project as built conforms and complies with the conditions of this Comprehensive Permit. [The purpose of this provision is to facilitate the Building Inspector’s review of the project for compliance with the comprehensive permit before the final occupancy permit is issued.]

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 cause to be performed a current topographic survey on the entire Site suitable to a scale of 1-inch = 40-foot mapping with a 2-foot contour interval. Utilization of USGS topographic information for the “concept design level” is acceptable, however more accurate and detailed survey information is required as finalization of the design occurs. Final topographic information shall be provided to the ZBA prior to obtaining any other permits.

C.2 The Applicant shall obtain all building permits and occupancy permits that may be required by the State Building Code.

C.3 The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the Revised Project. ZBA representatives shall be permitted

access to the Site to observe and inspect the site and construction progress until such time as the Revised Project has been completed.

- C.4 The Applicant shall submit a construction and permitting schedule prior to the start of construction and bi-annually thereafter to the ZBA to assist in project status update and review.
- C.5 The Applicant shall file two complete sets of “progress submittals,” including design drawings, with the Acton Building Commissioner at each of the following milestones: 50% complete, and 100% complete. Progress submittals shall include any and all updated or revised design calculations supplementing the original design plans. The Building Commissioner’s and ZBA’s input and guidance are critical at these milestones. The Applicant may proceed to the next milestone unless the ZBA finds substantial deviations from the this Decision and the Approved Plan, in which case the ZBA 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 ZBA or Building Commissioner at each milestone.
- C.6 The Applicant shall forward final architectural plans to the ZBA at the time of applying for building permits. All construction shall be inspected by the Building Commissioner and shall be in compliance with all Massachusetts State Building Code requirements.
- C.7 The Applicant shall provide temporary central mailbox units (CMU) for any project residents during project construction. These CMU’s shall be approved as to style and location by the local Postmaster General of the United States Post Office. Post Office authorization shall be forwarded to the ZBA for their record.
- C.8 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.9 Hours - The hours of operation for any construction activities on-site shall be between 7:00 am and 7:00 pm, Monday thru 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.10 Dust - The Applicant shall implement dust control operations, in an approved manner, whenever necessary or when 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.11 Noise - 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.12 Vibration - The Applicant shall implement necessary controls to ensure that vibration does not extend beyond the subject site and create a nuisance or hazard for property abutters.
- C.13 Traffic - 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.14 Roads – The Applicant is responsible for the sweeping, removal of snow, and sanding of the internal roadways permitting access to residents and emergency vehicles during construction and until the Condo Association has been legally established.
- C.15 Burial of any stumps or debris onsite is expressly prohibited. Localized burial of stones and/or boulders is prohibited to prevent the creation of voids from soil settlement over time.
- C.16 Soil material to be used as backfill for pipes, roads, and/or structures (i.e. detention basins) shall be tested at the expense of the Applicant, by a firm selected by the ZBA. Testing of said backfill shall be performed in conformance with standards and frequencies established by the Building Commissioner.
- C.17 Utilities, including but not necessarily limited to electric, cable, and telephone shall be located underground. A final utility plan approved by the applicable public utilities shall be submitted to and approved by the ZBA prior to the issuance of any building permits.
- C.18 Stabilization Requirements - No building areas shall be left in an open, unstabilized condition 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.19 Construction vehicles shall be parked on the Site, and off Main Street at all times.

C. 20 Blasting - 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 The Applicant shall establish a condominium owners' association (the "Condo Association") in a form approved by Town Counsel and shall establish a trust fund to be reserved specifically for repairs to, or replacement of, and maintenance of the common septic disposal system as set forth herein.

D.2 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 ZBA 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 ZBA's review of a proposed transfer shall be limited to the review of the transferee's qualifications, experience, and capacity.

D.3 The Applicant and/or subsequent Owner(s) shall be bound by all conditions and requirements set forth in this Comprehensive Permit.

D.4 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.

D.5 The roadways, utilities, drainage systems, septic systems, and all other infrastructure shown in the Approved 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. Traffic and Safety Conditions

E.1 The Applicant shall provide a safe school bus stop area near the Main Street entrance to the Site for children who reside in the Revised Project.

E.2 Traffic signage shall be consistent with the requirements of the current edition of the Manual for Uniform Traffic Control Devices (MUTCD).

- E.3 Appropriate driveways, sidewalks and curbing, sufficient for the safe separation of pedestrians from moving vehicles, shall be provided throughout the Site to allow safe vehicular and pedestrian access within the site and between all units.
- E.4 The Applicant shall install stop sign and stop bar control of exit movements from the Revised Project Driveway's "T" intersection with Main Street.
- E.5 All such improvements shall be completed in accordance with the standards set forth in the most recent edition of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD), and shall be in place prior to project occupancy.
- E.6 The Applicant shall contribute \$7,500 as a gift to the Town's sidewalk construction fund for use in the construction and/or upgrade of a sidewalk along the front of the Site and extending from the Site toward Post Office Square, as envisioned in the Town's Master Plan 1998 Update. The gift shall be made prior to the issuance of the 6th occupancy permit for the project.
- E.7 The existing driveway on the Site shall be closed in accordance with the recommendation of the Engineering Department set forth in Exhibit A7, paragraph 2. The existing swale behind the sidewalk shall be reconstructed to ensure proper runoff from the Site consistent with the Commonwealth's Stormwater Manual. The final drainage designs shall be submitted to the Acton Engineering Department for comment prior to the issuance of any occupancy permits. See, Exhibit 4.5.
- E.8 The stone bound marking the 1927 county layout of Main Street shall be preserved in the manner recommended by the Engineering Department set forth in Exhibit A7, paragraph 1.
- E.9 All fire detection systems shall comply with the applicable state Building Code and Fire Safety Code provisions, and shall be subject to the approval of the Fire Chief consistent with his authority under said Codes.
- E.10 The Applicant shall obtain approvals from the Engineering Department, Police Chief, and Fire Chief on the street address of the condominium.
- E.11 The central fire alarm call box for the condominium shall be located in an area acceptable to the Fire Chief, and where it would not be susceptible to damage by snow plows in the winter months.

F. Landscaping Conditions

- F.1 Prior to the issuance of the final occupancy permit, the Applicant shall have fully completed the improvements and plantings shown on the revised Landscaping Plan, dated February 27, 2004, revised March 24, 2004, marked as Exhibit A15.
- F.2 The Applicant shall provide a passive recreational area on the common septic system leaching field, which shall include plantings, lawn area, benches, and tables available for use by all unit owners and residents of the Revised Project. The Applicant shall ensure that the recreational area is accessible by physically handicapped individuals. Exhibit 4.0, §5.
- F.3 The Applicant shall maintain the nature, topography, tree cover and character of the Site, pre-development, using inherent features of the land to create a natural environment with a minimum of excavation, earth-moving and/or tree removal to the greatest extent possible consistent with the final Approved Plan.
- F.4 The common area landscaping shall be maintained in perpetuity by the condominium association, which obligation shall be incorporated in the condominium documents and the declaration of restrictive covenants to be executed by the Applicant pursuant to Condition L.5 below. Dead or diseased plantings shall be replaced as soon as possible in accordance with growing and weather conditions.

G. Affordability Requirements

- G.1 Three (3) of the units within the Revised 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").
- G.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, utilizing cost assumptions developed under the MassHousing Housing Starts Program. The maximum sale prices for the Affordable Units shall be reviewed and approved by the Monitoring Agent, which shall initially be the Acton Board of Selectmen or its designee (the "Monitoring Agent"), 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 Monitoring Agent shall be subject to approval by the Monitoring Agent.
- 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.
- (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.

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 Monitoring Agent shall make available a list of such courses for purchasers to attend.

The Monitoring Agent shall develop rules and guidelines to carry out the provisions of this section, as necessary. Income eligibility shall be governed by the rules and regulations of MassHousing under the Housing Starts 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 the Monitoring Agent. A party aggrieved by qualification-related decision of the Monitoring Agent may appeal the decision to the ZBA 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, MassHousing, or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

- G.4 Phasing-in of Affordable Units: Affordable Units shall be sold contemporaneous with the market-rate units in the Revised Project. No more than three certificates of occupancy shall be issued by the Building Commissioner for units designated for sale at fair market prices (the "Market Rate Units") until at least one certificate of occupancy is issued for an Affordable Unit. The proportion of Market Rate Unit certificates of occupancy issued to Affordable Unit certificates of occupancy issued shall at no time exceed 3:1.
- G.5 Perpetual Affordability Restriction: Prior to the issuance of any building permits, a Regulatory Agreement, in a form acceptable to Town Counsel shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) 25% of the units in the Revised Project will be sold and resold subject to a Deed Rider, in a form acceptable to Town Counsel, and (b) the Revised Project Owner's profit shall be limited to 20% of the total development cost of the Revised 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 Revised 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, §§ 31-33.⁶ After obtaining the ZBA's final approval of the Regulatory Agreement

6 Pursuant to G.L. c. 184, § 31, an affordable housing restriction means "a right, either in perpetuity or for a specified number of years, whether or not stated in the form of a restriction, easement, covenant or condition in any deed, mortgage, will, agreement, or other instrument executed by or on behalf of the owner of the land appropriate to (a) limiting the use of all or part of the land to occupancy by persons, or families of low or moderate income in either rental housing or other housing or (b) restricting the resale price of all or part of the property in order to assure its affordability by future low and moderate income purchasers or (c) in any way limiting or restricting the use or enjoyment of all or any portion of the land for the purpose of encouraging or

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, § 32 or other law. The Applicant shall submit to the ZBA 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 Revised 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 Revised Project shall remain subject to the restrictions imposed by the Act so long as the Revised Project is not in compliance with the Town of Acton's zoning requirements which otherwise would be applicable to the Site and the Revised 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 Revised 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 Revised Project was authorized.⁷ 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.

assuring creation or retention of rental and other housing for occupancy by low and moderate income persons and families" (emphasis added).

7. See *Zoning Board of Appeals of Wellesley V. Ardemore Apartments Limited Partnership*, 436 Mass. 811 (2002) ("[I]t is anomalous to suggest, as the owner does, that the legislation provides a temporal, short-term fix of insufficient affordable housing at the expense of local autonomy. Rather, the Act reflects a legislative intent to provide an incentive to developers to build affordable housing in cities and towns that are deficient in affordable housing, and a developer's commitment to help a city or town achieve its statutory goal is the *raison d'être* for the override of inhibiting zoning practices. But if housing developed under a comprehensive permit is 'affordable' only temporarily (fifteen years in this case, according to the owner), a city or town may never achieve the long-term statutory goals: each time an affordable housing project reverts to market rentals, the percentage of low income housing units in a municipality decreases, the percentage of market rate units increases, and access to a new round of comprehensive permits is triggered. We see nothing to suggest that the Legislature had in mind such an endless revolving cycle, or contemplated that over time an ever increasing number of multi-family buildings could be constructed on vacant land in areas zoned for single-family homes, as multi-family housing buildings were first added to and then subtracted from a town's statutory goal."

In the event that the Applicant shall submit to the ZBA 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 ZBA a proposed alternative form Deed Rider which, when approved by the ZBA 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 Revised Project which shall be triggered upon the expiration of the affordability period.

- G.6 Profit Cap: To conform to the intent of the Act that profits from the Revised 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 Revised Project, exclusive of development fees (the "Profit Cap"). The Monitoring Services Agreement shall provide that upon the closing of the sale of the last unit conveyed by the Applicant, the Monitoring Agent shall cause a certified public accountant ("CPA") to review the financial records of the Revised Project to determine whether the Applicant has conformed to the Profit Cap requirements of this Comprehensive Permit Decision. The CPA shall submit to the ZBA and the Monitoring Agent 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 Revised 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 Revised Project in order to artificially inflate the costs of development of the Revised 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 Revised 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 ZBA and/or the Town of Acton, shall be borne by the Applicant.

G.7 Regulatory Agreement: Prior to applying for a building permit for the Revised Project, the Applicant shall submit to the ZBA 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 ZBA to monitor the selection of the purchasers of the affordable units in the Revised Project, and (2) designate an entity acceptable to the ZBA 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 ZBA and the ZBA shall designate another entity to administer those units.

G.8 Monitoring Services Agreement: Prior to commencement of any construction on the Site, the Applicant shall enter into a Monitoring Services Agreement, in a form substantially the same as the form used by MassHousing under the Housing Starts program and approved by Town Counsel, with the Monitoring Agent. The Applicant shall pay a monitoring services fee to the Monitoring Agent, which shall be deposited in a municipal account established for this purpose pursuant to G.L. c. 44, § 53G. The monitoring services fee shall be determined by the Monitoring Agent, but shall not exceed \$10,000.

G.9 The Market Rate Units and the Affordable Units shall be indistinguishable from the exterior.

H. Surety & Covenants

H.1 As security for the completion of the infrastructure related to the Revised 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 restrictions:

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 5 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 6th building constructed.

b. No occupancy permit for a unit in any building shall be issued, and no sale of any unit shall be permitted, until the Plan has been endorsed by the Board. This Comprehensive Permit shall be referenced on the Plan prior to endorsement by the Board.

c. No occupancy permit for a unit in any building shall be issued, and no sale of any unit shall be permitted, until all necessary easements have been conveyed to the Town in a form satisfactory to the Board, and evidence of recording of such easements is provided to the Building Commissioner.

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.

- I.4 The proposed catch basin to be installed in Main Street adjacent to the Site, replacing the existing swale located behind the sidewalk, shall be designed to channel runoff to a detention basin or area that is separate from the Revised Project's drainage system. The Applicant shall grant the Town a drainage easement for this purpose, in a form acceptable to Town Counsel, prior to the issuance of any occupancy permits.

J. **Parking and Garages**

- J.1 The Revised Project shall provide for on-site parking as shown on the Amended 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**

The Applicant shall comply with Outdoor Lighting site design standards for site plan special permit as set forth under Section 10.4.3.2 of the Acton Zoning Bylaw, and the Applicant must obtain the Building Commissioner's approval of an outdoor lighting plan consistent with that section prior to the issuance of any occupancy permits, such approval not to be unreasonably withheld.

L. **Wetlands Setbacks**

- L.1 The final comprehensive permit plan shall delineate the 50-foot no-disturb and 75-foot no-construction setback distances under the Acton Wetlands Protection Bylaw, and all other limits of clearing.

- L.2 Prior to any site clearing or any other pre-construction activities on the Site, the Applicant shall mark the limits of clearing as set forth in this Decision physically on the Site using delineation methodology acceptable to the Conservation Commission

- L.3 The Applicant shall fully comply with the setback requirements of the Wetlands Bylaw, Section F8.3, in effect as of April 4, 2003 (including 25-foot no disturb/40-foot no build). The Applicant shall also comply with the more restrictive 50-foot/75-foot setback requirements that are currently in effect, except with respect to construction associated with the building containing Units #1 and

#2 and the drainage infrastructure adjacent to Main Street as shown on the Amended Plan. The Applicant shall use its best efforts to minimize intrusion into the more restrictive setbacks when constructing said building and drainage infrastructure.

L.4 No structures shall be built, and no grading or land alteration shall occur, within 100 feet of the stream as shown on the Amended Plan.

L.5 Prior to the issuance of any occupancy permits, the Applicant shall record a declaration of restrictive covenants, in a form subject to the approval of Town Counsel, that restricts any further construction or disturbance within the 50 foot no-disturb zone surrounding all resource areas as delineated on the Plan, and prohibits any construction within the 75 foot no-construction zone.

L.6 With the exception of land fronting on Main Street (where clearing may occur to the property boundary in certain areas such as in the vicinity of the driveway and the storm water detention area) and land abutting the easterly property line, and subject to the wetland setbacks set forth above, no grading, vegetative disturbance or earth work shall occur within 20 feet of any property boundary.

L.7 Once the Project is constructed, the 50-foot no-disturb and 75-foot no-build setback boundaries shall be clearly marked and identified on the Property by use of boulders or other similar permanent markers acceptable to the Town.

M. **Sewage Treatment System**

M.1 The common septic system serving the 12 condominium units shall be designed and constructed as shown on the Amended Plan and as approved by the Board of Health.

M.2 Prior to the issuance of the first occupancy permit for the Revised Project, but after the construction of the septic system and the Board of Health's approval of the as-built plans, the Applicant shall install two groundwater monitoring wells, one upgradient and one downgradient of the soil absorption system in locations designated by the Acton Health Department. The Applicant shall convey an irrevocable license to the Board of Health, in a form acceptable to Town Counsel, permitting the Board and its agents to enter onto the Property to obtain samples from the monitoring wells on an annual basis.

M.3 The Applicant shall deposit five thousand dollars (\$5,000) into a fund to be available to and administered by the Health Department to perform the monitoring functions set forth in Section M.2 above, and to study and monitor Conant Brook downstream from the Property;

- M.4 In designing and constructing the common septic system, the Applicant shall install effluent tee filters in the outlet tees of all septic tanks to increase the retention of solids and improve the quality of the effluent that reaches the subsurface disposal area, and shall install dual compartment septic tanks with storage capacity in excess of what is required under Title V.
- M.5 The Applicant shall establish an interest bearing septic system repair/replacement trust account for the condominium association, and shall fund said account with an initial deposit of five thousand dollars (\$5,000). The Master Deed for the condominium shall require that, upon each sale or resale of any unit within the Revised Project, two hundred fifty dollars of the sales price shall be set aside and deposited into the septic system repair/replacement trust account. The principal and interest of said account shall be used exclusively for the repair, replacement or upgrading of the septic system and related treatment facilities on the Site.
- M.6 No condominium unit shall contain more than three bedrooms, as "bedroom" is currently defined by the Acton Board of Health regulations or by Title V, whichever is stricter. The condominium documents and the declaration of restrictive covenants executed for the Revised Project shall contain a provision prohibiting any unit from containing more than three bedrooms.

N. **Material Changes**

If, between the date this Decision is filed in the office of the Acton Town Clerk and the completion of the Revised Project, the Applicant desires to change in a material way and/or to a significant degree the proposed Revised 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.

O. **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.

P. Notice to Abutters

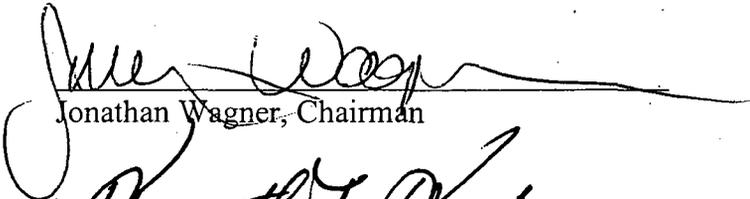
At least seven days prior to the start of construction, the Applicant shall provide written notice to the ZBA and to the residential abutters of the Revised Project of the anticipated construction start date and the anticipated construction schedule.

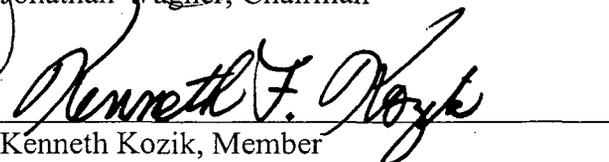
XI. CONCLUSION

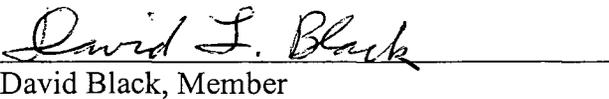
The Application for a comprehensive permit for the Revised Project is granted for the reasons stated above subject to the conditions provided herein.

This concludes the Decision of the Board.

THE ACTON ZONING BOARD OF APPEALS


Jonathan Wagner, Chairman


Kenneth Kozik, Member


David Black, Member

DATED: March 24, 2004

ACT\40B-MainStreet\M\ApprovalDecision-Final

| [VIEW LOTTERIES](#) | [LOGIN](#) | [CONTACT US](#) | [FAQ](#) | [LINKS](#)

Franklin Place - Acton, MA

General Information

Affordability Analysis

Front Elevation and Floor Plans

Front View

1st Floor

2nd Floor

Site Plan & Unit Availability Schedule

Affadavit and Disclosure Form

Lottery Process

Sample Deed rider

Franklin Place Highlights

Information Meeting: Monday, March 21, 2005
7:30 p.m., Room 204, Acton Town Hall

Application Deadline: Midnight, Monday, April 18, 2005

Lottery Date: Monday, April 25, 2005
7:30 p.m., Room 204, Acton Town Hall

Affordable Price: \$195,000

Fees: \$25 non-refundable application fee, payable to ACHC

Mortgage Pre-Qualification Letter: Required to participate in lottery

Location: 1/2 mile from Acton Town Hall on Route 27

Local Preference Guidelines:

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

Maximum Allowable Income:

Household Size	1	2	3	4
Max Allowable Income	\$46,300	\$52,950	\$59,550	\$66,150
(Larger households are allowed slightly higher income limits. Call for details, if applicable)				

Total Number of Units	12
Total Number of Affordable Units	3
Number of Bedrooms	3
Number of Bathrooms	2.5
Garage	Yes, two cars
Living Space	+/- 2100 sq ft

MCO Housing Services ~ copyright © 2005 ~ All Rights Reserved

[| VIEW LOTTERIES](#) | [LOGIN](#) | [CONTACT US](#) | [FAQ](#) | [LINKS](#)

Franklin Place - Acton, MA

Highlights

Affordability Analysis

**Front Elevation and
Floor Plans**

Front View

1st Floor

2nd Floor

Site Plan & Unit
Availability Schedule

Affadavit and
Disclosure Form

Lottery Process

Sample Deed rider

Apply for this Lottery

Franklin Place General Information

Lottery Applicant Criteria

1. Must be a first time homebuyer (not individually or jointly owned a single family home, town home, condo or co-op as a principal residence within the past three years).

2. Meet the following maximum allowable income for your household size.

Household Size	1	2	3	4
Max Allowable Income *	\$46,300	\$52,950	\$59,550	\$66,150

* Income from all family members must be included.

3. Non retirement assets can not exceed \$50,000.

Note: For households with at least one member over age 55, click here, for additional guidelines.

Affordable Housing Price

The price for each affordable unit is \$195,000 per unit.

Local Preference Criteria

(Household must meet one of the following criteria to be considered local)

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

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

Number of Affordable Units and Breakdown for those who meet the Local Preference Criteria

Total Number of Affordable Units

Number of Units in for Local Pool

Number of Units in At Large Pool (includes local and rest of state applicants)

Housing Preferences

All affordable units have three bedrooms. As a result, preference will be given to households with one or more children. Second preference will be given to households of two or more people. Third preference will be given to single person households.

Mortgage Pre-Qualification Letter

A mortgage pre-qualification letter must be included with application submission. Applications will not be processed or accepted without this letter.

Application Fee

There is a \$25 non refundable application fee, payable to ACHC, to participate in the lottery. Your application will not be accepted or processed without the check. Print copy of your application and mail with check to:

MCO Housing Services

P.O. Box 372

Harvard, MA 01451

First Time Homebuyers Course

All lottery winners will need to have taken or take a first time homebuyers course prior to closing on the unit. A list of first time homebuyer classes can be found at www.mcohousing.com and search for First Time Homebuyer Courses, or call Betty McManus at the Actor Community Housing Corporation, 978-263-4776, for local courses.

Deed Rider

Deed restrictions are used to ensure the home are affordable for future buyers and are attached to the property in perpetuity. If you choose to sell your home, there is a restriction on the resale price. The maximum resale price is determined using a Resale Price Multiplier figure calculated by taking the initial sales price and dividing it by the area median price. For example, an initial 3 bedroom price is \$195,000 and the current area median price is \$82,600, the Resale Price Multiplier would be $\$195,000/\$82,600 = 2.36$.

Upon resale, the Resale Price Multiplier is multiplied by the updated area median number to determine the maximum resale price. For example, if the original buye to sell the home in 5 years and (we assume) the then current area median incom increased to \$87,600 the resale price would be determined as follows: \$87,600 x \$206,736.

Additionally, the Monitoring Agent receives a resale fee than can be added to the resale price. The fee is equal to 2.5% of the set new purchase price (\$206,736 x \$5,168.40).The total resale price would be \$211,904.40.

[Click here](#) for a sample Deed Rider (1.6 mb PDF).

MCO Housing Services ~ copyright © 2005 ~ All Rights Reserved

[| VIEW LOTTERIES](#) | [LOGIN](#) | [CONTACT US](#) | [FAQ](#) | [LINKS](#)

Franklin Place - Acton, MA

Highlights

General Information

Affordability Analysis

Front Elevation and Floor Plans

Front View

1st Floor

2nd Floor

Site Plan & Unit

Availability Schedule

Affidavit and

Disclosure Form

Sample Deed rider

Apply for this Lottery

Lottery Process

Due to the nature of the affordable housing availability it is important for everyone to understand the procedure. Please understand the allowable income guidelines are based upon your household size. Also be advised that the program and its requirements are subject to changes in local, state or federal regulations.

Lottery Pools

Each lottery will be broken down into two pools – Local and At-Large. The pools break down as follows:

Pool	Qualifications
Local	Applicants must meet Local Preference requirements (see General Information)
At-Large	Typically 70% of the available affordable units

Local applicants would have two opportunities to “win” a unit, by being in both the Local and At-Large Pools. Typically, preference is given to households of two or more persons for two bedroom units. Preference is given to households with children for three bedroom units. Usually there are no preferences for household size for one-bedroom units. Lottery preferences will be stated on the Lottery Applicant Criteria sheet for individual lotteries.

All of the applicants for a given pool will be pulled at the time of the lottery. This process will establish the rankings for the distribution of the units. For example, if there are 60 applicants for 5 local units, the first 5 applicants who meet the preference criteria have an opportunity to purchase a unit, and the remaining 55 applicants would be on the waiting list if any of the initial 5 local “winners” drop out. The same would apply to the At-large pool.

This means if you are selected first in the local pool but do not meet the preference criteria, we will move to the first person on the ranking list who meets the criteria. After all applicants who meet the preference criteria are offered a unit and for whatever reason decline the unit, then we would go back to the top of the list and work our way down in ranking order until all units are filled.

Lottery Winners

If you are selected and have the opportunity to purchase a unit you will speak with a representative to review your application to verify all information. Applicants selected for units approaching completion will need to start working with the designated bank immediately to secure the necessary mortgage. Please be advised that the official verification will be done at the time you have an opportunity to purchase a unit. One year after the initial lottery you have the opportunity to purchase a unit and if your income at that time, you may not be able to purchase.

Acceptance of Lottery Units

It is important for all applicants to understand that specific units are attached to lottery rankings based upon the projected availability of the completed homes. A winner will not have a choice of unit locations, style or schedules. You will not be able to purchase one unit and wait for another unit. If you choose not to take the designated unit, you will move to the bottom of the list and will likely NOT have another opportunity.

Summary

We hope this helps explain the process by which the affordable housing units will be distributed. It can be a lengthy and sometimes complicated process. We greatly appreciate your participation and wish you the best of luck in the lottery process.

MCO Housing Services ~ copyright © 2005 ~ All Rights Reserved

3/4/05



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

Franklin Place
c/o MCO Housing Services
P.O. Box 372
Harvard, MA 01451

Dear Maureen,

This letter is to verify that ACHC has reviewed and approved the Marketing Plan and Lottery Documents prepared by MCO Housing Services for the Franklin Place development at 520 Main St. in Acton Center.

We look forward to working with you throughout the lottery process to insure the placement of three eligible families in these very attractive affordable units.

Sincerely,

Nancy Tavernier, Chair
Acton Community Housing Corporation

Franklin Place

*c/o MCO Housing Services
P.O. Box 372
Harvard, MA 01451
(978) 456-8388*

March 2005

Dear Friend:

Attached is the information you requested regarding affordable housing initiatives at **Franklin Place** in Acton, Massachusetts.

Franklin Place will provide 3 new affordable town home units for qualified first time homebuyers. The 12-unit town home development is located on Route 27 in Acton, MA. All units feature 3 bedrooms, 2.5 bathrooms, washer and dryer hookup and a two car garage.

The sales price for the affordable town home units will be \$195,000. All affordable units will be sold by lottery as outlined in the attached package. *Please review the enclosed information packet in detail and complete the application and disclosure statement at the rear of the packet.*

A Public Information Meeting will be held Monday, March 21, 2005, 7:30 p.m. in Room 204 at the Acton Town Hall to answer specific questions and provide an overview of the process. If you have questions and can attend this meeting please hold them until that time. Assistance will also be available to help you complete and submit the application at the meeting.

Applications can be submitted on line at www.mcohousingervices.com. The application deadline is midnight on Monday, April 18, 2005. Attached to each application must be a mortgage pre-approval letter and a \$25 check, payable to the ACHC. Applications returned without these attachments will be considered incomplete and *will not* be accepted. The lottery will be held on Monday, April 25, 2005, 7:30 p.m., in Room 204 at the Acton Town Hall. The first affordable units are slated for June 2005 occupancy.

Thank you for your interest in affordable housing at **FRANKLIN PLACE**. We wish you the best of luck. If you have questions and cannot attend the March 21st meeting, please contact MCO Housing Services at 978-456-8388 or email us at lotteryinfo@mcohousingervices.com. We encourage you to advise other people or organizations that may be interested in this program and make copies of the relevant information as needed.

Sincerely,

Mark C. O'Hagan
MCO Housing Services for
Franklin Place, LLC

FRANKLIN PLACE

Introduction

We are pleased to announce the availability of three (3) NEW affordable town home units in Acton to be sold by lottery to moderate income, first time homebuyers.

These town home units will be available at Franklin Place located on Route 27 in Acton. This project is being created through a collaboration of efforts between Franklin Place, LLC, Acton Community Housing Corporation and the Town of Acton.

Attached is an information packet containing all relevant information, including the program application, disclosure forms, financial information and the unit floor plans. The units will be sold in accordance with policies and guidelines established by the Commonwealth of Massachusetts Department of Housing and Community Development (DCHD) and the Town of Acton.

Public Information Meeting

To answer specific questions and to provide a detailed presentation of the program and the available opportunities we will be holding a *Public Information Meeting on Monday, March 21, 2005, 7:30 p.m. in Room 204 at the Acton Town Hall*. At this meeting we can answer all of your questions and help you complete the application, if needed. Please review the attached information to make sure you qualify for the program.

Application Submission

All completed and signed Applications, Affidavit & Disclosure Forms, Mortgage Pre-Qualification Letter and a \$25 check, payable to ACHC, must be mailed to MCO Housing Services, P.O. Box 372, Harvard, MA 01451. All applications must be received or postmarked by midnight on or before, Monday, April 18, 2005 to be considered. Applications received after this date will not be considered. Incomplete application submissions will not be accepted or processed.

The Lottery

The lottery for the available units will be held on Monday, April 25, 2005 at 7:30 p.m. in Room 204 at the Acton Town Hall. Although not required, all applicants are encouraged to attend.

If you are planning to attend the Public Information Meeting, please call **MCO Housing Services at 978-456-8388** to make a reservation. If you cannot attend the meeting or would like an information packet sent to you in advance, please call MCO Housing Services or email them at lotteryinfo@mcohousingservices.com.

We wish you luck in the lottery process for FRANKLIN PLACE.

Franklin Place

AFFORDABLE HOMES through NEF

Question & Answer

What are the qualifications required for Prospective Buyers?

- Qualify based on following maximum income table, which is adjusted of household size:

Household Size	1	2	3	4
Max Allowable Income	46,300	52,950	59,550	66,150

(Larger households are allowed slightly higher income limits. Call for details, if applicable.)

LOTTERY APPLICANT QUALIFICATIONS:

- Meet the above maximum allowable income limits.
- Be a first time homebuyer (never owned or not owned a home as a principal residence for a period of three years.)
- Have less than \$50,000 in household assets.

Other program highlights for Lottery applicants:

- Units must be owner occupied. They cannot be rented or leased.

All local applicants must provide documentation such as rental receipts or postmarked utility bill in order to receive the local preference.

Are there mortgage guidelines that we need to follow?

Yes, they are: (1) must be a fixed rate mortgage, typically 30 year, and
(2) non-household members are not permitted to be co-signers on the mortgage.

Are there preferences for local residents and those with families?

Yes. Preference will be given to local residents for two of the three units. Refer to the application for the local preference guidelines. Preference will be given to families with children for the three bedroom units in both the local and at-large pools.

Are there any restrictions?

YES. Deed restrictions are used to ensure the units are affordable for future buyers and are attached to the property in perpetuity. If you choose to sell your unit, there is a limit on the resale price. The maximum resale price is determined using a Resale Price Multiplier, a figure calculated by taking the initial sales price and dividing it by the area median income. **For example**, the initial 3 bedroom affordable town home unit price is \$195,000 and the current area median income is \$82,600, the Resale Price Multiplier would be $\$195,000/\$82,600 = 2.36$.

Upon resale, the Resale Price Multiplier is multiplied by the updated area median income number to determine the maximum resale price. **For example**, if the original buyer decides to sell the unit in 5 years and (we assume) the then current area median income has increased to \$87,000 the resale price would be determined as follows: $\$87,000 \times 2.36 = \$205,320$.

In addition, the Monitoring Agent receives a resale fee than can be added to the maximum resale price. The fee is equal to 2.5% of the set new purchase price ($\$205,320 \times 2.5\% = \$5,133$). The total resale price would be \$210,453.

How much money do I need to make to afford the town home units?

The minimum income required to purchase is based solely upon an applicant's ability to secure a mortgage. Attached is an "Affordability Analysis" based upon current interest rates and anticipated real estate taxes and related housing expenses.

Franklin Place

Lottery Process

Due to the nature of the affordable units availability it is important for everyone to understand the procedure. Please understand the allowable income guidelines are adjusted based upon your household size. Also be advised that the program and its requirements are subject to changes in local, state or federal regulations.

Lottery Pools

There will be three (3) affordable town home units available at Franklin Place distributed by lottery. Each lottery will be broken down into two pools – Local and At-Large. The pools breakdown as follows:

<u>Pool</u>	<u>Qualifications</u>	<u># of Town homes</u>
Local	Applicants must meet Local Preference requirements (See application)	2
At-Large		1

Local applicants would have two opportunities by being in both the Local and At-Large Pools to “win” a unit. Preference will be given to families with children for the three bedroom units in both pools. This means if you are a two person household with no children and are drawn first in the lottery, we would move to the first applicant with children on the list and offer them the unit. A two person household would be offered the home if all households with children were unable to purchase the town home; we would then offer the unit to two person households without children based on ranking order.

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 units. For example, if there are 60 local applicants for the Lottery, the first 3 would have an opportunity to purchase a unit, and the remaining 57 applicants would establish the waiting list if any of the initial 3 “winners” drop out.

Time Frames

Franklin Place is currently under construction and it is anticipated that the first affordable town homes will be ready in June 2005. It is estimated that the remaining affordable town home units will be completed and ready for occupancy by late August 2005.

If you are selected and have the opportunity to purchase a unit you will speak or meet with a representative to review your application to verify all information. Applicants selected for units approaching completion will need to start working with the designated bank immediately to secure the necessary mortgage. Please be advised that the official income verification will be done at the time you have an opportunity to purchase a unit. Meaning, if one year after the initial lottery you have the opportunity to purchase a unit and you are over income at that time, you may not be able to purchase.

Acceptance of Town home Units

It is important for all applicants to understand that specific units are attached to specific lottery rankings based upon the projected availability of the completed homes. Applicants will not have a choice of unit locations, style or schedules. You will not be able “pass” on a unit and wait for another unit. If you choose not to take the designated unit, you will go to the bottom of the list and will likely NOT have another opportunity.

Summary

We hope this helps explain the process by which the town home units will be distributed. It can be a lengthy and sometimes complicated process. We greatly appreciate your participation and wish you the best of luck in the lottery process.

Franklin Place

Acton, Massachusetts

HOME AVAILABILITY & DISTRIBUTION SCHEDULE

Unit #	# of Bedrooms	Designated Winner	Estimated Availability*
9	3	Local 1	June 2005
11	3	ALP 1	June 2005
12	3	Local 2	June 2005

Local - Local Pool Applicants

ALP - At Large Pool Applicants

**All Dates are Estimates*

Franklin Place

Acton, Massachusetts

AFFORDABILITY ANALYSIS

Home Price	\$ 195,000.00	\$ 195,000.00	\$ 195,000.00
<i>Interest Rate</i>	6.00%	6.00%	6.00%
<i>Down Payment (%)</i>	5.00%	10.00%	20.00%
Down Payment (\$)	\$ 9,750.00	\$ 19,500.00	\$ 39,000.00
Mortgage Amount	\$ 185,250.00	\$ 175,500.00	\$ 156,000.00
Monthly Expenses			
<i>Principal & Interest</i>	\$ 1,110.67	\$ 1,052.21	\$ 935.30
<i>Real Estate Taxes</i>	224.41	224.41	224.41
<i>Private Mortgage Insurance</i>	119.64	113.34	0.00
<i>Estimated Association Fee</i>	100.00	100.00	100.00
TOTAL Monthly Expenses	\$ 1,554.72	\$ 1,489.97	\$ 1,259.71
Minimum Income Required*	\$ 62,189	\$ 59,599	\$ 50,388

NOTES:

ALL Values are estimates and are subject to change.

Acton Residential Tax Rate = \$13.81 per thousand

*Minimum Income Required based upon 30% Housing Ratio, 6.00% interest rate and using traditional bank underwriting practices.

Franklin Place

LOTTERY APPLICATION

APPLICATION DEADLINE: April 18, 2005

For Office Use Only: Date Appl. Rcvd: _____ Local: Y / N Household Size: _____ Lottery Code: _____

PERSONAL INFORMATION:

Date: _____

Name: _____

Address: _____ Town: _____ Zip: _____

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

Email: _____

Have you or any member of your household 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*:

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

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

APPLICATION FEE:

There is a non-refundable \$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.

MORTGAGE PRE-QUALIFICATION LETTER: must be submitted with application.

MARITAL STATUS: _____ Married _____ Single _____ Other: please specify _____

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 home. Please check the appropriate categories:

	Applicant	Co-Applicant	(#) of Dependents
White	_____	_____	_____
African American	_____	_____	_____
Hispanic/Latino	_____	_____	_____
Asian or Pacific Islander	_____	_____	_____
Native American or Alaskan Native	_____	_____	_____

The total household size is _____

Household Composition (include applicant)	Name _____	Relationship _____	Age _____
	Name _____	Relationship _____	Age _____
	Name _____	Relationship _____	Age _____
	Name _____	Relationship _____	Age _____

FINANCIAL WORKSHEET: (Include all Household Income which includes gross wages, retirement income (if drawing on it for income), business income, veterans benefits, alimony/child support, unemployment compensation, social security, pension/disability income, supplement second income and dividend 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)**

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

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

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.)

ADDITIONAL INFORMATION:

The MAXIMUM allowable annual income is as follows:

Household Size	1	2	3	4
Max Allowable Income	46,300	52,950	59,550	66,150

These income limits are FIRM and cannot be adjusted. 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 home. Applicants will be responsible for all closing costs associated with the purchase of a 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.

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 home at Franklin 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

Signature _____ Date: _____
Co-Applicant

It is my judgment that the applicant should be allowed to participate in the Franklin Place affordable home lottery in Acton, MA based upon this application. If selected all information provided shall be verified for accuracy at the time of bank application.

Signature _____ Date: _____
Certifying Agent (MCO Housing Services)

Return with SIGNED Affidavit & Disclosure Form, mortgage pre-qualification letter and \$25 check, payable to ACHC, to:

**MCO Housing Services
P.O. Box 372
Harvard, MA 01451**

Franklin Place

Affidavit & Disclosure Form

I/We understand and agree to the following conditions and guidelines regarding the distribution of the affordable homes at Franklin Place in Acton, MA:

1. The annual household income for my family does not exceed the allowable limits as follows:

Household Size	1	2	3	4
Max Allowable Income	46,300	52,950	59,550	66,150

Income from all family members must be included.

2. 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.
3. I/We certify that my/our total assets do not exceed the \$50,000 asset limit.
4. The household size listed on the application form includes only and all the people that will be living in the residence.
5. I/We certify all data supplied on the application is true and accurate to the best of my/our knowledge and belief under full penalty of perjury. I/We understand that perjury will result in disqualification from further consideration.
6. I/We understand that by being selected in the lottery does not guarantee that I/we will be able to purchase a home. I/We understand that all application data will be verified and additional financial information will be required, verified and reviewed in detail prior to purchasing a home.
7. I/We understand that it is my/our obligation to secure the necessary mortgage for the purchase of the home through the designated bank and all expenses, including closing costs and down payments, are my responsibility.
8. I/We further authorize MCO Housing Services to verify any and all income, assets and other financial information, to verify any and all household, resident location and workplace information and directs any employer, landlord or financial institution to release any information to MCO Housing Services and consequently the project's monitoring agency, for the purpose of determining income eligibility for Franklin Place.
9. I/We understand that if selected I/we will be offered a specific home. I/We will have the option to accept the available home, or to reject the available home. If I/we reject the available home I/we will move to the bottom of the waiting list and will likely not have another opportunity to purchase an affordable home at Franklin Place.

10. Program requirements are established by the DHCD and Acton Community Housing Corporation (ACHC). I/We agree to be bound by whatever program changes that may be imposed at any time throughout the process. If any program conflicts arise, I/we agree that any determination made by the ACHC, the project monitoring agent, is final.

11. I/We certify that no member of our family has a financial interest in Franklin Place.

I/We have completed an application and have reviewed and understand the process that will be utilized to distribute the available home at Franklin Place. I/We am qualified based upon the program guidelines and agree to comply with applicable regulations.

Applicant

Co-Applicant

Date:

Return with completed and signed application, mortgage pre-qualification letter and \$25 check, payable to ACHC, to:

MCO Housing Services
P.O. Box 372
Harvard, MA 01451

GRAHAM & HARSIP, P.C.

ATTORNEYS AT LAW
STRAWBERRY HILL BUILDING
289 GREAT ROAD, SUITE 101
ACTON, MA 01720

STEVEN R. GRAHAM
BARRY S. HARSIP**

Tel: 978-264-0480
Fax: 978-264-4990

sgraham@graham-harsip.com
barryharsip@graham-harsip.com

AIMEE BONACORSI
JAY R. PEABODY

May 2, 2005

abonacorsi@graham-harsip.com
jpeabody@graham-harsip.com

VIA HAND-DELIVERY

F. Dore' Hunter
Board of Selectmen
Town of Acton
472 Main Street
Acton, MA 01720

RE: Franklin Place/40B

Dear Mr. Chairman,

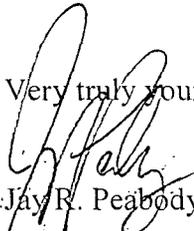
Per the suggestion of Town Counsel (*see* e-mail correspondence from D. Hill to D. Johnson of February 28, 2005 attached hereto as Exhibit A), our office on behalf of Franklin Place Partners, LLC is hereby requesting that it be placed on the Agenda for the next scheduled Board of Selectmen's Meeting for the purpose of obtaining approval and execution of the Regulatory Agreement, Deed Rider and Monitoring Services Agreement (hereinafter the "Regulatory Documents") for the above-referenced project.

It is my understanding from Mr. Hill's e-mail correspondence that the Board of Selectmen, in conjunction with approving and executing the attached documentation (in quadruplet), should also be formally voting to appoint the Acton Community Housing Corporation as the Monitoring Agent for this Project.

As such, please provide both this office and the Acton Community Housing Corporation with notice once this request has been processed and a hearing scheduled to address the same.

Please feel free to contact me with questions or concerns.

Very truly yours,


Jay R. Peabody

Enclosures

GRAHAM & HARSIP, P.C.

May 2, 2005

Page 2

w/out enclosures

cc: Client (via Regular Mail)
Nancy Tavernier, Acton Community Housing Corporation (via Regular Mail)
Dan Hill, Anderson & Kreiger LLP (via Regular Mail)

APR. 1. 2005

6:06PM

NORTHWEST

NO. 702 P. 2

Franklin Place Partners, LLC

178 Great Road • Acton, Massachusetts 01720 • Tel: (978) 263-6166 • Fax: (978) 264-4049 • www.nwddevelopment.c

May 6, 2004

Mr. Rich Herlihy
Mass Housing Finance Agency
One Beacon Street
Boston, MA 02108

RE: Final Approval / Franklin Place, Acton, MA

Dear Mr. Herlihy:

In order to better assist you in facilitating a final approval for Franklin Place and in conjunction with the required back-up information as per MassHousing's Final Approval Checklist, I have enclosed the following for your review:

1. **Final Comprehensive Permit:** "Town of Acton, Massachusetts Zoning Board of Appeals Decision Upon Application of Franklin Place Partners, LLC For A Comprehensive Permit" filed on 3/29/04.
2. **Amended Petition For Comprehensive Permit dated 2/27/04:** on which the Final Comprehensive Permit was based. Includes the project's revised and current budget.
3. **Comprehensive Permit Plan - Revision date 2/26/04:** on which the Final Comprehensive Permit was based. Includes affordable unit locations.
4. **Financing:** Enclosed is a Finance Commitment Letter by First Federal dated 05/05/04. First Federal is a member of the Federal Home Loan Bank. Advances on construction funds are based on inspections by a Bank representative to insure that specific work is complete in conjunction with an itemized disbursement schedule.
5. **Appraisal dated 7/25/03 - Estimate of Market Value Under Existing Zoning and by Right Uses:** in accordance with MassHousing Acquisition Value Policy & Section 17 of DCHC Guidelines.
6. **Regulatory Agreement / Deed Rider (Exhibit C) / Monitoring Service Agreement (Exhibit D):** included for your review. A copy has been sent to the Acton Board of Selectmen and their council to review and execute. Upon receipt of executed copies they will be forwarded to you for final signature. Please note: The Zoning Board called for the Board of Selectmen or it's Designee to act as the Monitoring Agent instead of CHAPA.

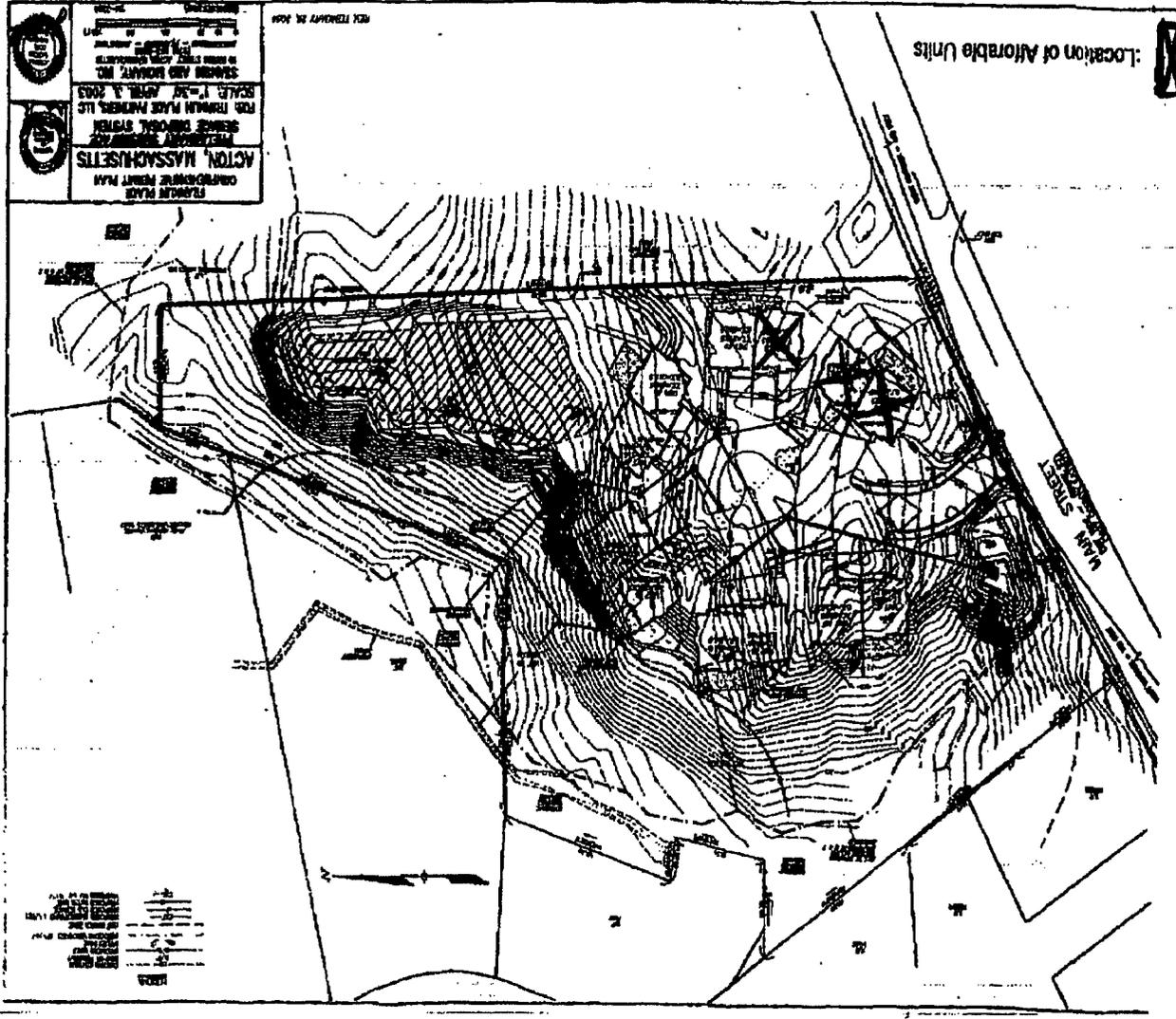
Franklin Place Partners, LLC was in receipt of MassHousing's site approval letter dated 11/8/02. At that time the project was based on 40-units. During the events of the Comprehensive Permit process with the Zoning Boards of Appeals the project was initially decreased to 32-units and ultimately reduced to 12-units of which 3-units will be available for affordable housing. These changes are accurately reflected in both the Amended Petition & Final Permit. Please be advised that at no time during this process have there been any changes in the development team.

As always, thank you for your continued assistance with regard to this project. If you require any further information please let me know.

Respectfully,

Jennifer Shea
Director of Operations

Location of Affordable Units



CLASSIC PLANS
CONSTRUCTION PLANNING
ACTION, MASSACHUSETTS
100 TOWNHALL PLACE, SUITE 200
NEWTON, MASSACHUSETTS 02459
SCALE: 1" = 200' APRIL 3, 2003
STATION AND ELEVATION NO.
ELEVATION - 100.00
CLASSIC PLANS
CONSTRUCTION PLANNING
ACTION, MASSACHUSETTS
100 TOWNHALL PLACE, SUITE 200
NEWTON, MASSACHUSETTS 02459
SCALE: 1" = 200' APRIL 3, 2003
STATION AND ELEVATION NO.
ELEVATION - 100.00

974-1 20/20 P. 102-1 8201483/18

**STATUS SUMMARY
OF CONDITIONS FOR DECISION ON FRANKLIN PLACE**

Report Number 010204

ITEM	STATUS	CONDITION	MILESTONE	NOTES
TIME SENSITIVE ITEMS:				
1 Appeal Expiration	COMPLETE	N/A	No Sitework or Construction Prior	Standard 21-day Appeal period expired 4/20/04. Refer to Letter to Exec. Office of Environ. Affairs dated 4/27/04 for Withdrawal of Appeal on Order of Conditions.
2 Closing - Purchase Land	COMPLETE	N/A	No Sitework or Construction Prior	Refer to MA Quitclaim Deed and Trustee's Certificate dated 4/9/04.
3 Mark Limits of Clearing	COMPLETE	L.2	No Sitework or Construction Prior	Received Tom Tidman's approval on staking during site walk conducted on 5/5/04.
4 Final Comprehensive Plan Recorded	PENDING	A.1 / A.2	No Construction Prior	6 Sets of the Final Plan dated 5/4/04 were submitted. On 5/17/04 ZBA signed-off plans. Waiting to be recorded.
5 Finance Commitment	COMPLETE	B.1.a	Permit to Lapse if not Received by 9/29/04. No Construction Prior.	Refer to First Federal's Letter of Commitment dated 5/4/04.
6 Mass Housing Approval (written to ZBA)	COMPLETE 6/04/04	B.1.b	Permit to Lapse if not Received by 9/29/04. No Construction Prior.	Refer to Mass Housing's Final Approval Letter dated 6/4/04.
7 Limited Dividend Organization Letter	COMPLETE	B.2.a	No Construction Prior	Refer to Letter to ZBA dated 6/11/04 submitted on 6/12/04.
8 Certified Copy of Financing Contract	?	B.2.b	No Construction Prior	Is this Required? Refer to First Federal Letter of Commitment dated 5/5/04.
9 Building Permit & Construction Drawings	PENDING	B.2.c	No Construction Prior	Refer to Final Architectural plans dated 5/12/04 submitted 5/12/04. It is anticipated the first building permits will be applied for the week of 5/25/04.
10 Technical Review (engineering & easement)	PENDING	B.2.d	No Construction Prior	Engineering was submitted in conjunction with the Final Plan dated 5/4/04. Easement was submitted 5/12/04 refer to letter to Gary Rhodes dated 5/11/04. Waiting for Technical Review Approvals.
11 BOH Septic Permit	PENDING	B.2.e	No Construction Prior	On 5/8/04 Brent Reagar indicated the permit will be issued upon receipt by Town of deposit of \$5k to establish septic reserve. This will be submitted prior to start of septic construction.
12 Order of Conditions	PENDING	B.2.f	No Construction Prior	ConCom signed Supplemental Order of Conditions. DEP indicated that upon receipt of additional documentation from Concom they will approve. ConCom sent documentation. Waiting for DEP approval.
13 National Pollutant Discharge Permit (NPDES)	COMPLETE	B.2.g	No Construction Prior	Refer to NPDES application dated 4/22/04 & Letter from EPA dated 5/11/04 submitted on 5/18/04.
14 Stamped Architecturals All Buildings (front/rear/sides)	COMPLETE	B.2.h	No Construction Prior	Refer to Stamped Elevation Plan A.4 dated 5/12/04 submitted on 5/17/04.
15 Mass Historical Commission Letter	COMPLETE 6/27/04	B.2.i	No Construction Prior	Refer to Massachusetts Historical Commission Letter dated 5/27/04 determining proposed project has "no adverse effect".
16 Topographic Survey	COMPLETE	C.1	No Construction Prior	Reflected in Final Plan dated 6/4/04
17 Regulatory Agreement Recorded (re-perpetual affordable restriction)	COMPLETE	G.5	No Construction Prior	Refer to Regulatory Agreement attached.
18 Monitoring Agent Agreement	COMPLETE	G.8	No Construction Prior	Refer to Exhibit D of Regulatory Agreement attached.
19 Written Notice to ZBA & Abuters of Start Date (7 Days Prior)	COMPLETE	P	No Construction Prior	Refer to Letter to Abuters and ZBA dated 5/3/04.
20 Construction and Permitting Schedule	INCOMPLETE	C.4	No Construction Prior	Upon receipt of approval of final plans, technical review & DEP sign-off on Order of Conditions a schedule will be submitted.
21 Final Approved Utility Plan (approved by public utilities & ZBA)	PENDING	C.17	No Construction Prior	Refer to Letter to N-Star dated 4/1/04. Waiting for Approval.

Franklin Place Builders, LLC
225 Grand Street
Acton, MA 01726
(978) 259-6166



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

Tel: 617.854.1000 Fax: 617.854.1029
Toll: 617.854.1025 www.masshousing.com

June 4, 2004

Jennifer Shea
Director of Operations
Franklin Place Partners, LLC
178 Great Road
Acton, MA 01720

RE: Franklin Place
Acton, MA
PB-60
Final Approval Letter

Dear Ms. Shea:

This letter constitutes final approval under 760 CMR 31.09(3) of the project known as Franklin Place (the "Project") following the issuance of a comprehensive permit (the "Comprehensive Permit") pursuant to Massachusetts General Laws Chapter 40B and 760 CMR 30-31 (the "Comprehensive Permit Rules"). In accordance with the Comprehensive Permit Rules, prior to the issuance of any municipal permits for the Project, the applicant must present final written approval ("Final Approval") for the Project from the entity which issued the Determination of Project Eligibility ("Site Approval").

On November 8, 2002, the Massachusetts Housing Finance Agency ("MassHousing") issued a Site Approval for the Project under the following program(s):

- MassHousing's Housing Starts Program
- New England Fund Program of the Federal Home Loan Bank of Boston

The Project, as approved under the Comprehensive Permit (the "Final Project"), consists of the construction of twelve (12) units of ownership housing on approximately forty (40) acres of land located at Main Street (the "Site") in Acton (the "Municipality"). According to information presented by the applicant, the Project will be financed by the First Federal Savings Bank of America under the Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity, issued by the Department of Housing and Community Development (the "Guidelines"). Pursuant to the Comprehensive Permit and the Guidelines, the Final Project will contain three (3) units of housing available for sale to persons or families earning not greater than 80 percent of the area median income ("Income Requirement") for a term of at least 30

Mitt Romney, Governor
Kerry Healey, Lt. Governor

Michael J. Dirrane, Chairman
Jane Wallis Gumbie, Vice-Chair

Thomas A. Gleason, Executive Director
Robert M. Ruzzo, Deputy Director

Page 3

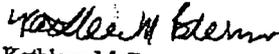
Jennifer Shea

RE: Franklin Place

PE-60

If you have any questions concerning this letter, please contact Richard Herlihy at 617-854-1335, or Virginia Healy-Kenney at 617-854-1326.

Sincerely,



Kathleen M. Burns

Director of Homeownership

cc: Ms. Jane Wallis Gumble, Director DHCD
F. Dore Hunter, Chairman, Acton Board of Selectmen

Attachments

Page 2
Jennifer Shea
RE: Franklin Place
PE-60

years ("Term Requirement"), and profit to the developer shall be limited to no more than 20 percent of total development costs for the Project ("Limited Dividend Requirement").

In connection with our determination herein, we have reviewed (i) the Site Approval (which included an on-site inspection), (ii) the Comprehensive Permit, (iii) the revised, preliminary plans on which the Comprehensive Permit was based (the "Plans"), (iv) the form of regulatory agreement (including the form of deed rider and monitoring services agreement attached thereto, the "Regulatory Agreement") to be recorded with the land records in the registry district in which the Municipality is located, (v) an updated initial pro forma for the Final Project (the "Updated Pro Forma"), (vi) the terms of the financing to be used for the Final Project, including provisions for monitoring of the Project during construction (the "Financing"), (vii) if not set forth on the Plans, a unit locator plan showing the preliminary location of the income-restricted units (the "Unit Locator Plan"), and (viii) other pertinent information presented by the applicant and others.

As a result of our review, we have made the following findings: (1) the housing design and land use set forth in the Plans are generally appropriate for the Site and Site location; (2) the Final Project appears financially feasible within the housing market in which it will be situated based on comparable sales figures; (3) the Final Project appears financially feasible on the basis of estimated development costs set forth in the Updated Pro Forma; (4) the Financing is reasonable and profit is properly limited; and (5) the developer is financially responsible and meets the general eligibility standards of Guidelines. In addition, (a) the Regulatory Agreement and attached form of deed rider, when properly recorded, contain provisions which reasonably insure compliance with the Income Requirement, Term Requirement and Limited Dividend Requirement (thereby qualifying the developer as a limited dividend organization), and (b) the income-restricted units, if located in general conformance with the Unit Locator Plan, will be reasonably interspersed with the market units.

The Town has indicated that the Board of Selectmen would be acting as the Monitoring Agent. Due to the small number of affordable units (2) that will be constructed, MassHousing has approved the Acton Board of Selectmen as Monitoring Agency for the Franklin Place development.

Please note that we have not reviewed nor approved the Plans for compliance with federal, state or local codes or other laws pertaining to construction since such approvals are within the jurisdiction of the local building official and zoning enforcement officer.

This final approval is contingent upon full execution and proper recording of the Regulatory Agreement attached hereto.

MONITORING SERVICES AGREEMENT

For Comprehensive Permit Projects in Which Funding is Provided Through a Non-Governmental Entity

This Monitoring Services Agreement (this "Agreement") is made as of the 9 day of may, 2005, by and between Franklin Place Partners, LLC, a Massachusetts limited liability company having an address at 178 Great Road, Acton, MA 01720 ("Developer"), Acton Community Housing Corporation, having an address at 472 Main Street, Acton, Massachusetts 01720 ("Monitoring Agent"), Massachusetts Housing Finance Agency, as project administrator acting on behalf of the Department of Housing and Community Development ("DHCD"), having an address at One Beacon Street, Boston, Massachusetts 02108 (the "Project Administrator"), and The Town of Acton ("Municipality").

RECITALS

WHEREAS, the Developer intends to construct a housing development known as Franklin Place at a 4.9-acre site located at 520 Main Street, Acton, MA 01720 in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project"); and

WHEREAS, the Project is being financed with a \$3,350,000.00 construction loan (the "Loan") by a non-governmental entity for which the Massachusetts Housing Finance Agency serves as project administrator pursuant to Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity (the "Guidelines") issued by DHCD; and

WHEREAS, the Developer has received a comprehensive permit (the "Comprehensive Permit") from the Zoning Board of Appeals of the Municipality under Chapter 40B, Sections 20-23, of the Massachusetts General Laws (the "Act"), which permit is recorded at the Middlesex South District Registry of Deeds ("Registry") in Book 43185, Page 515; and

WHEREAS, pursuant to the Comprehensive Permit, the Guidelines and the Regulatory Agreement among the Project Administrator, the Municipality and the Developer of even date herewith (the "Regulatory Agreement"), the Project is to consist of a total of 12 condominium units, of which 25 percent (3 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 resale (the "Affordability Requirement") in perpetuity except as provided therein; and

WHEREAS, pursuant to the Comprehensive Permit, the Guidelines 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 and compliance of the Developer with the Limited Dividend 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 and the compliance of the Developer with the Limited Dividend Requirement, as more fully described herein.

(a) Limited Dividend Requirement. In accordance with Section 6 of the Regulatory Agreement, the Developer agrees to deliver to the Monitoring Agent the Certified Cost and Income Statements, as defined in the Regulatory Agreement, at the times required there under, and any other financial records relating to the Project reasonably necessary for the Monitoring Agent’s CPA to make findings as to the Developer’s compliance with the “profit cap” requirements under Section G.6 of the Comprehensive Permit. The Monitoring Agent agrees to review the adequacy and completeness of the Certified Cost and Income Statements and determine the Developer’s substantive compliance with the Limited Dividend Requirement. Upon completion of its review of the Certified Cost and Income Statement, the Monitoring Agent will deliver to the Project Administrator and the Municipality a copy of such statement together with the Monitoring Agent’s determination of whether the Limited Dividend Requirement and the profit cap requirements under the Comprehensive Permit have been met. If all of the units in the Project have not been sold at the time the Developer is required to deliver the initial Certified Cost and Income Statement to the Monitoring Agent, the Monitoring Agent will continue to review the subsequent Certified Cost and income Statements delivered pursuant to the Regulatory Agreement and notify the Project Administrator and the Municipality until all of the units are sold and compliance with the Limited Dividend Requirement can be determined. If units are sold prior to approval of the initial Certified Cost and Income Statement, the provisions of Section 6(c) of the Regulatory Agreement shall apply.

(b) Affordability Requirement. (i) Initial Sales. The Developer agrees to deliver to the Monitoring Agent the income and asset certifications, 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 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 the Project Administrator and the Municipality a copy of such data together with the Monitoring Agent's determination of whether the Affordability Requirement has been met. The Project Administrator shall make the final 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) Annual Reports. Until the Limited Dividend Requirement and the Affordability Requirement have been met, the Monitoring Agent agrees to prepare and deliver annually a report (the "Annual Compliance Report") to the Zoning Enforcement Officer of the Municipality on (i) the compliance of the Developer with reporting requirements required under the Regulatory Agreement and with the Limited Dividend Requirement, and (ii) compliance of the Project with the Affordability Requirement. The Annual Compliance Report shall indicate the extent of noncompliance with the relevant reporting and/or substantive requirements, describe efforts being made by the Developer to remedy such noncompliance and, if appropriate, recommend possible enforcement action by the Monitoring Agent and/or Municipality against the Developer. The Monitoring Agent shall deliver the Annual Compliance Report within one hundred twenty (120) days of the end of each calendar year during the term of this Agreement. For so long as the Loan is outstanding, the Monitoring Agent shall deliver a copy of the Annual Compliance Report to the Project Administrator simultaneously with delivery thereof to the Municipality.

(d) 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 the Limited Dividend 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 (including recalculating the Resale Price Multiplier, if necessary). 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 Limited Dividend Requirement and with respect to the initial sales of the Affordable Units 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 product of the Base Income Number (at the time of resale) multiplied by the Resale Price Multiplier, to be paid by the seller 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 the Project Administrator nor the Municipality shall have any responsibility for payment of any fee to Monitoring Agent hereunder.

(b) The Municipality may enter into a separate contract with the Monitoring Agent and the Project Administrator to provide a portion of the services required to be performed by the Monitoring Agent under this Agreement, except for services with respect to compliance by the Developer with the Limited Dividend Requirement. The Municipality shall be entitled to receive from the Monitoring Agent a reasonable portion of the Monitoring Services Fee and/or the Resale Fee, as applicable, for performance of such services. The Project Administrator shall not have any responsibility for payment of any such fee to the Municipality.

3. Enforcement Services. In the event of serious or repeated violations 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 (and, until the mortgage securing the Loan is discharged, with the prior consent of the holder of the Loan), 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, junior to the lien securing the Loan, 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 relevant deed rider. The form of 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 there under 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 the Project Administrator 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 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 later 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 (with the consent of the Project Administrator) shall have the right to appoint a successor to serve as Monitoring Agent for the remaining term of this Agreement. If, within ninety (90) days after the Project Administrator receives notice of the occurrence of a Termination Event, the Municipality fails to appoint a successor monitoring agent, the Project Administrator shall promptly appoint a successor monitoring agent 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, the Project Administrator and the Municipality against all damages, costs and liabilities, including reasonable attorney's fees, asserted against the Monitoring Agent, the Project Administrator or the Municipality by reason of its relationship with the Project under this Agreement and not involving the Monitoring Agent, the Project Administrator 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. Third-Party Beneficiaries. The Project Administrator, the holder of the mortgage securing the Loan (for so long as the Loan is outstanding) and the Municipality shall be entitled to enforce this Agreement and may rely on the benefits of this Agreement.

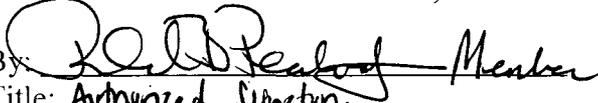
12. Entire Agreement. This Agreement supersedes all prior agreements between the parties with respect to the Project, whether oral or written, including without limitation, all correspondence between the parties and between counsel for their respective parties. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the subject transaction, and the rights, duties, and obligations of the parties with respect thereto. In executing this Agreement, the Monitoring Agent acknowledges that the Monitoring Agent is not relying on any statement, representation, warranty, covenant or agreement of any kind made by the Developer, the Project Administrator or the Municipality or any employee or agent of any of the foregoing, except for the agreements set forth herein.

13. 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:

FRANKLIN PLACE PARTNERS, LLC

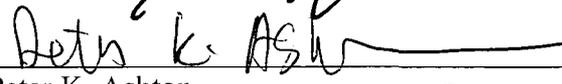
By:  Member
Title: Authorized Signatory

TOWN OF ACTON:

By its Board of Selectmen



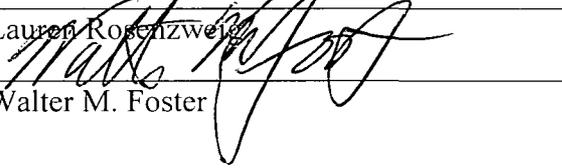
F. Dore Hunter, Chairman



Peter K. Ashton



Lauren Rosenzweig



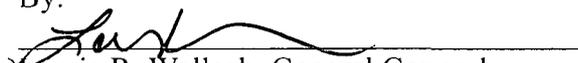
Walter M. Foster

Robert A. Johnson

MASSACHUSETTS HOUSING FINANCE
AGENCY,

as Project Administrator as aforesaid

By:

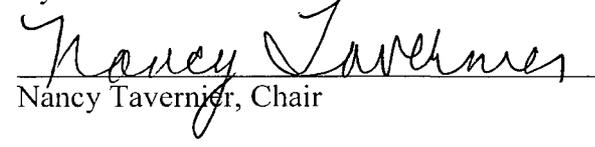


(10) Laurie R. Wallach, General Counsel

MONITORING AGENT,

Acton Community Housing Corp.

By:



Nancy Tavernier, Chair

EXHIBIT A

Legal Description

The land in Acton, Middlesex County, Massachusetts, in that part of Acton called Acton Center, containing five and one quarter acres and bounded and described as follows:

Beginning at the Southwesterly corner thereof at land formerly of Moses Taylor and later of one Fairbanks and at Main Street or Lowell Road;

Thence Northerly along said Taylor land two hundred thirty-nine (239) feet to a corner of wall;

Thence Westerly by the wall on said Taylor land about one hundred fifty (150) feet to a corner at land formerly of Charles Crocker;

Thence Northeasterly by the wall sixty-four (64) feet, Northwesterly eighty-three (83) feet, Southwesterly thirty-one (31) feet and Northwesterly one hundred fifty-one (151) feet, Northeasterly one hundred seventy-two (172) feet and Northerly three hundred twenty-two (322) feet, all by land formerly of Charles Crocker et ux to land formerly of John McCarthy;

Thence Northeasterly along the wall by said McCarthy land eighty-one (81) feet to a corner;

Thence Southeasterly along the wall by said McCarthy land about six hundred fifty-seven (657) feet to Main Street or Lowell Road;

Thence Westerly along said Main Street about three hundred eighteen (318) feet to the place of beginning.

GRAHAM & HARSIP, P.C.

ATTORNEYS AT LAW
STRAWBERRY HILL BUILDING
289 GREAT ROAD, SUITE 101
ACTON, MA 01720

STEVEN R. GRAHAM
BARRY S. HARSIP**

Tel: 978-264-0480
Fax: 978-264-4990

sgraham@graham-harsip.com
barryharsip@graham-harsip.com

AIMEE BONACORSI
JAY R. PEABODY

abonacorsi@graham-harsip.com
jpeabody@graham-harsip.com

May 12, 2005

VIA FEDERAL EXPRESS

Mrs. Nancy Tavernier
Chairman
Acton Community Housing Corporation
35 Mohawk Drive
Acton, MA 01720

RE: Franklin Place/40B

Dear Mrs. Chairman,

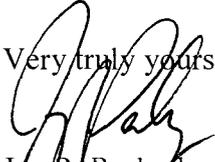
As you're aware, on Monday, May 9, 2005 the Board of Selectmen for the Town of Acton officially appointed the Acton Community Housing Corporation ("ACHC") as Monitoring Agent under the Monitoring Services Agreement for the above-referenced Comprehensive Permit project.

As a result, please find enclosed for execution on behalf of ACHC four copies of the Monitoring Services Agreement for this project.

I've also enclosed for your convenience a return FEDERAL EXPRESS envelope which can be used to return the signed Agreements to our office.

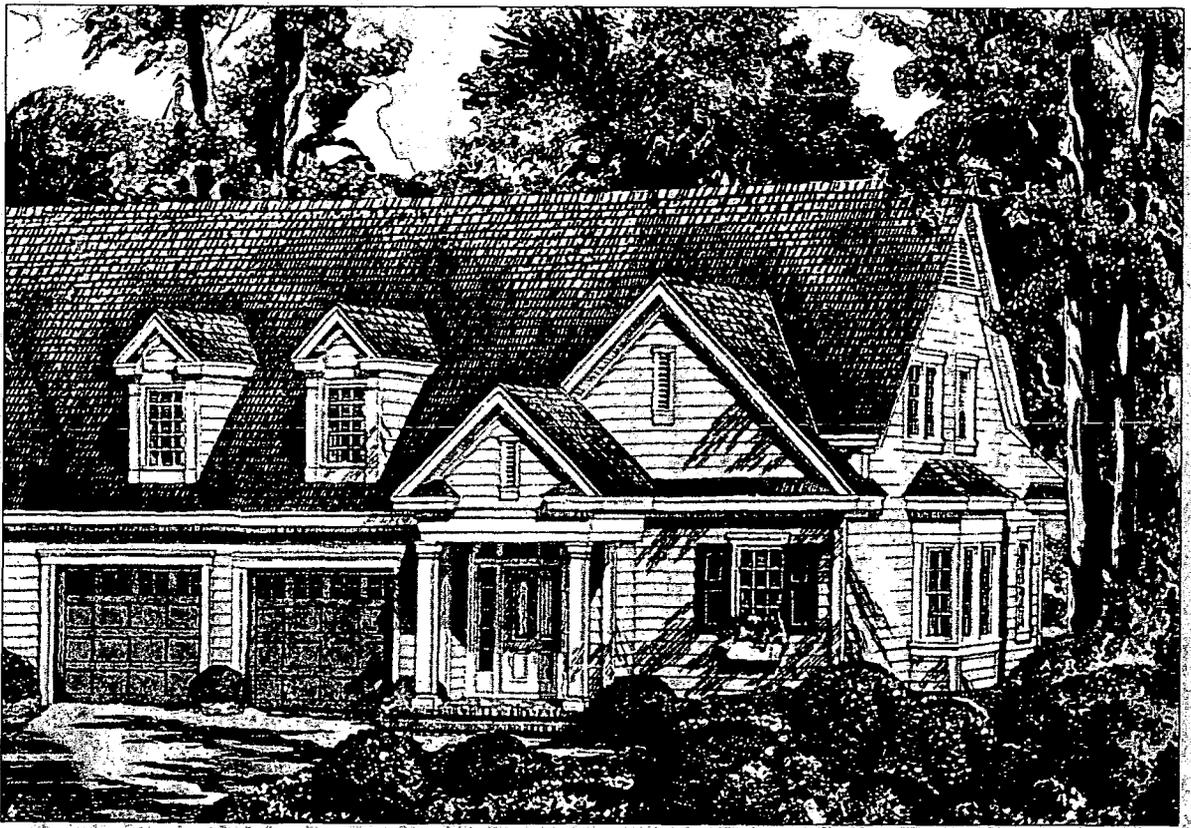
Lastly, please note that once the Monitoring Services Agreement is fully executed by all named parties, our office will distribute an original to your office.

Please feel free to contact me with questions or concerns.

Very truly yours,

Jay R. Peabody

Enclosures

Franklin Place



*Acton Community
Housing Opportunity*

THE DEVELOPMENT PHILOSOPHY: STYLE & CONVENIENCE

Nestled in the heart of the historic town center, Franklin Place was designed with style and convenience in mind.

The time-honored appeal of cape-cod style architecture was implemented in the design of each duplex. Pairing only two town homes maximizes the benefits of the condominium lifestyle. Enhanced privacy and sunlit rooms translates to "End-Unit Designs" traditionally commanding greater re-sale value on the market.

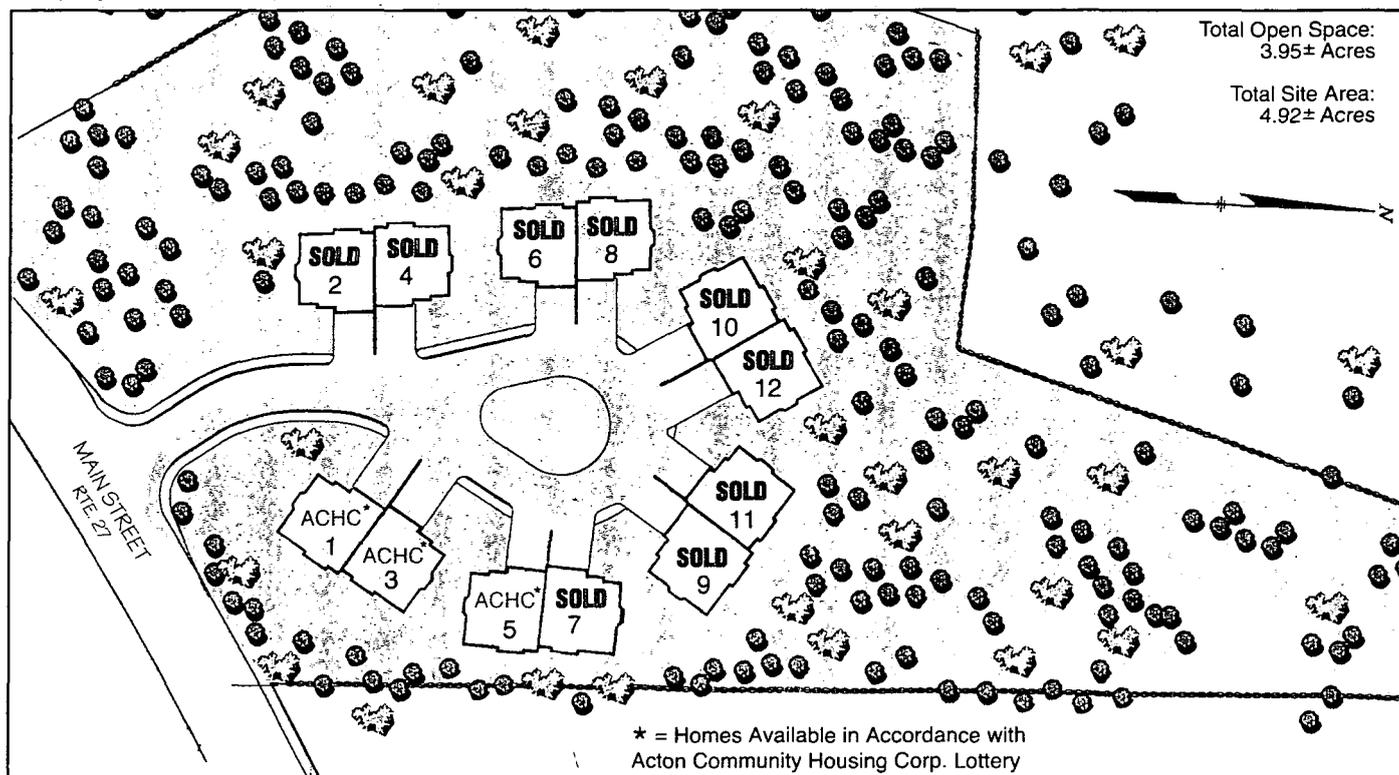
The interior space provides for over 2,000 square feet of living area not including finished lower level options that can increase the home to over 3,000 square feet. Along with the standard activity areas, designs feature first floor master suites and laundry rooms, two additional bedrooms, two full baths and a powder room. Each design offers the added convenience of attached 2-vehicle garages and full basements, many of which provide for walkout access.

Designs employ the concept of "open flow." Kitchen, dining and great rooms are clearly defined yet blend seamlessly into a large, welcoming environment. Second story open lofts and cathedral ceilings in the great rooms and master bedrooms amplify this effect. With the majority of activity areas located on the central floor the designs effectively provide for the highly sought after convenience of "single-story living."

The condominium lifestyle at Franklin Place provides for a maintenance-free and distinctive standard of living. Without the added expense of auxiliary amenities, the monthly condominium fees are ensured to remain sound and provide for the services required such as landscaping, exterior home and septic maintenance, and removal of rubbish and snow. The Franklin Place Rules and Regulations preserve the aesthetics of the village and aid in creating a source of cooperation among the members of the community. A Homeowner's Association acts to oversee these services and is assisted by a professional management company. At completion of Franklin Place the Association will be turned over to the members of the village to govern.

Franklin Place blends the benefits of historic and modern in location. Bordered by the picturesque town center, the village is moments away from the Town Hall, Library, Community Playground and Arboretum. This location also serves as an example of the "smart-growth" philosophy for residential development by providing for reduced commuting and easy access to town facilities. Recreation opportunities such as community parks & trails, fitness centers, riding stables, skiing and a golf and country club are minutes away. For all your shopping needs there is a plentiful assortment of plazas along with fashion and gift boutiques, art and furnishings galleries and salons. Almost any service is moments from your doorstep whether a package is to be mailed, a pet to be groomed or the taxes to be filed! Aside from these direct conveniences Franklin Place is a prime location with access to Routes 27, 141 & 2. The village is approximately 25 miles northwest of Boston and within close proximity to commuter trains, Routes 495 & 128.

Franklin Place is a small village community designed to bridge the needs of today's lifestyles by providing traditional charm, everyday essentials and market value.



* = Homes Available in Accordance with Acton Community Housing Corp. Lottery

Disclaimer: Please be advised plans and specifications are subject to change, error & omission.

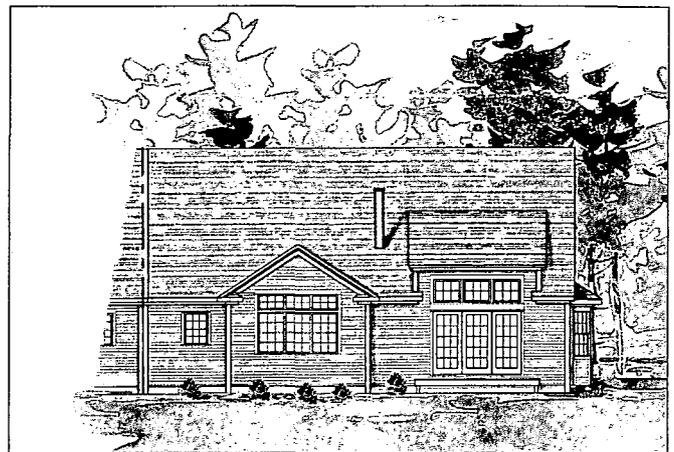


Front Elevation

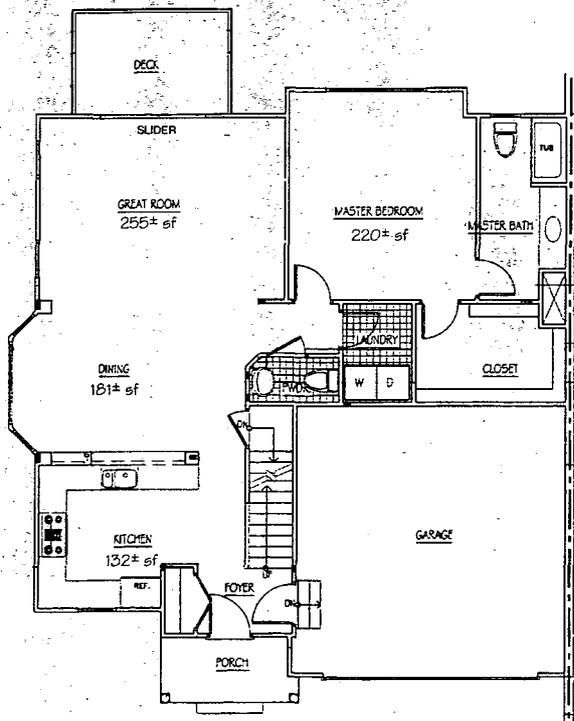
THE TRADITIONAL
CAPE-COD DESIGN



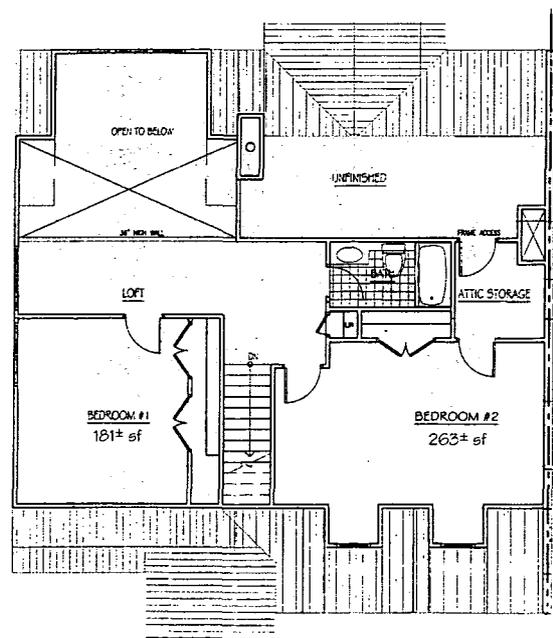
Side Elevation



Rear Elevation



First Floor 1,262± living sq.ft.



Second Floor 802± living sq.ft.

Disclaimer: Please be advised plans and specifications are subject to change, error & omission.

FRANKLIN PLACE

FEATURES AND BENEFITS

FOUNDATION

Foundation walls are 10" thick poured concrete. Foundation will be waterproof. Basement and garage floors are 4" poured concrete. A passive radon vent will be installed.

EXTERIOR CONSTRUCTION

Roofing material is 30-year architectural style shingles with 3' of ice & water shield. Exterior walls are nominal 2" by 4", 16" on center. Siding is vinyl over OSB board. Front steps are pressure treated with mahogany decking. Walk and driveway are paved. An 8' by 12' pressure treated deck is included. 2 frost-proof exterior faucets are provided. Vinyl shutters are included on front elevation.

INTERIOR WALLS AND INSULATION

All interior walls are blueboard with skimcoat plaster. Walls are smooth. Ceilings and closets are textured. Insulation in basement ceilings is R-19; exterior walls, R-13 and attic ceilings, R-30.

WINDOWS AND DOORS

Windows are 6 over 6 vinyl-insulated tilt-in with screens. Exterior doors consist of fiberglass entry, and the garage is an insulated steel. Interior doors are 6-panel masonite with "F" series Schlage™ brass Plymouth passage sets.

HVAC, WATER, & SEWER

Heating is Forced hot air by gas with a high efficiency concentric vent. Each home is individually air conditioned. A 50-gallon insulated, direct vent, gas hot water heater and exterior dryer vent are included. Water is provided via town source and sewerage managed via a common system that services all 12-units.

ELECTRICAL

All homes have a 200-amp service and are wired with smoke detectors as per code. One spotlight is provided in rear. Surface mount lighting, switched outlets, and 1 Cable TV and CAT5 are included.

INTERIOR TRIM

All doors, windows and cased openings are trimmed with 2½" Colonial casing with 3½" baseboard. Vinyl coated wire shelving is provided in all closets.

KITCHEN & BATHS

Kitchen counter top and bath counters to be square edge Wilsonart™ laminate. Cabinets feature wood doors and adjustable shelving with a choice of Oak, Cherry, Maple, or White. Appliances include a range, microwave and dishwasher by Maytag™. All plumbing fixtures are by Kohler™. All full baths have a combination tub/shower unit, a fan/light unit and mirror. Refer to packages.

PAINTING

All interior wood trim is primed and painted Super White in a semi-gloss. All interior walls to be China White or Linen White flat latex. All paint by Benjamin Moore™.

FLOORING

Vinyl is included in the foyer, kitchen, laundry and baths. Carpet is standard in all remaining rooms. Refer to packages.

EXTRAS

Packages may be upgraded and bonus options may be available.

Disclaimer: Please be advised plans and specifications are subject to change, error & omission.

Franklin Place Partners, LLC
178 Great Road • Acton, MA 01720
978 263-6166

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

Acton Town Hall

472 Main Street

Acton, Massachusetts, 01720

Telephone (978) 263-9611

achc@acton-ma.gov

March 14, 2006

Ronald Peabody
NorthWest Development
178 Great Rd.
Acton, MA

Steve Graham
Graham & Harsip
289 Great Rd. Suite 101
Acton, MA

Dear Ron and Steve,

I am contacting you in our role as the Franklin Place Monitoring Services Agent to remind you of the need to submit the total development cost statements to ACHC and the ZBA so we can begin the review of the financial records of the project and determine Profit Cap compliance. I have reviewed the Franklin Place Regulatory documents and the ZBA decision on the issue of post-development audit and have found them in agreement that upon the closing of the last unit, a CPA should review the financial reports and submit them to the ZBA and ACHC at Town Hall. It is our understanding that the final unit was sold before January 1, 2006.

This is the excerpt from the ZBA decision of March 24, 2004, found on pages 31 and 32:

- G.6 Profit Cap: To conform to the intent of the Act that profits from the Revised 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 Revised Project, exclusive of development fees (the "Profit Cap"). The Monitoring Services Agreement shall provide that upon the closing of the sale of the last unit conveyed by the Applicant, the Monitoring Agent shall cause a certified public accountant ("CPA") to review the financial records of the Revised Project to determine whether the Applicant has conformed to the Profit Cap requirements of this Comprehensive Permit Decision. The CPA shall submit to the ZBA and the Monitoring Agent 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.

We are holding in escrow the Monitoring Agent fee that you provided (\$10,000) to fund an independent audit contracted by the Town on ACHC's behalf.

If you have any questions about this process, please do not hesitate to contact me at 978-263-9611 or ntavern@comcast.net.

Thank you.

Sincerely,

Nancy Tavernier, Chair
ACHC

cc Board of Selectmen
Board of Appeals
Don Johnson
Stephen D. Anderson
Daniel C. Hill

provided that the difference between the actual resale price and the discounted purchase price for which the Municipality or an Eligible Purchaser could have purchased the Affordable Unit (the "Windfall Amount") shall be paid by the then-current owner of the Affordable Unit to the Municipality. The Municipality agrees that all sums constituting Windfall Amounts from the sale of Affordable Units shall be deposited in the Municipality's Affordable Housing Fund (as that term is hereinafter defined).

(d) In the event the Municipality purchases an Affordable Unit, the Municipality shall promptly after its acceptance of a deed of such Affordable Unit, either (i) sell the Affordable Unit, after Affirmative Fair Marketing, to an Eligible Purchaser at the same price for which it purchased the Affordable Unit plus any expenses incurred by the Municipality during its period of ownership subject to the Deed Rider, with the recording of an Eligible Purchaser Certificate satisfactory in form and substance to the Monitoring Agent, or (ii) rent the Affordable Unit to a person or household who would qualify as an Eligible Purchaser upon terms and conditions applicable to low-income rental units under the Massachusetts Housing Finance Agency Enabling Act. The Municipality shall not sell or rent to a person or household who would not qualify as an Eligible Purchaser.

(e) Whether any such Affordable Unit will remain a Subsidized Housing Unit included in the Subsidized Housing Inventory shall be determined solely by the rules and regulations issued by DHCD then in effect. The parties agree that all reasonable measures should be taken so as to preserve the affordability of the Affordable Units during the full period of affordability, subject to the terms of the Deed Rider.

6. Limited Dividend Requirement. (a) Developer agrees that the aggregate profit from the Project which shall be payable to Developer or to the partners, shareholders or other owners of Developer or the Project shall not exceed twenty percent (20%) of Total Development Costs of the Project (the "Allowable Profit"), which development costs have been approved by the Monitoring Agent on behalf of the Project Administrator pursuant to the Monitoring Services Agreement.

(b) Upon issuance of a final Certificate of Occupancy for the Project or upon the issuance of final Certificates of Occupancy for all of the Units, the Developer shall deliver to the Monitoring Agent an itemized statement of Total Development Costs together with a statement of gross income from the Project received by the Developer to date in form satisfactory to the Monitoring Agent (the "Certified Cost and Income Statement") prepared and certified by a certified public accountant satisfactory to the Monitoring Agent. If all Units at the Project have not been sold as of the date the Certified Cost and Income Statement is delivered to the Monitoring Agent, the Developer shall at least once every ninety (90) days thereafter until such time as all of the Units are sold, deliver to the Monitoring Agent an updated Certified Cost and Income Statement.

(c) If any Unit is sold prior to the date the initial Certified Cost and Income Statement is approved by the Monitoring Agent, the Developer shall upon the request of the Project Administrator provide evidence reasonably satisfactory to the Project Administrator that any profit distributed to the Developer on such sale, combined with

See Complete Report
ZBA file

Franklin Place Partners, LLC

Table of Contents

1. Accountant's compiled income statement
2. Franklin Place Partners, LLC Information:
 - a. Profit & Loss: All Transactions/All Dates by Unit
 - b. Settlement Statements:
 - i. Franklin Place Partners to End User Buyer
 - ii. Franklin Place Partners to Conic, LLC (an entity owned by a related party)
3. Third Party Sales Information (three units that were bought and resold by a related entity):
 - a. Profit & Loss: All Transactions/All Dates by Unit using 3rd Party Sales
 - b. Settlement Statements: Conic, LLC to End User Buyer
4. Profit & Loss Comparison using sales directly from Franklin Place Partners, LLC and 3rd Party Sales through to all End User Buyers
5. Expense Transaction Details

<u>Profit Ratio Summary</u>	<u>Within Franklin Place Partners, LLC</u>	<u>Using 3rd Party Sales Amounts</u>
Sales	\$ 5,560,924.03	\$ 5,873,458.51
Plus: Accountant Adjustment to Fair Market Value (Unit 8)	\$ 100,000.00	\$ 100,000.00
Total Sales	\$ 5,660,924.03	\$ 5,973,458.51
Expenses	\$ (5,411,410.89)	\$ (5,411,410.89)
Net Profit	\$ 249,513.14	\$ 562,047.62
Profit Ratio	4.41%	9.41%

**FRANKLIN PLACE PARTNERS, LLC
INCOME STATEMENT
YEARS ENDED DECEMBER 31, 2005 AND 2004**

ELLIOTT H. PURETZ
CERTIFIED PUBLIC ACCOUNTANT
28 HALCYON ROAD
NEWTON, MA 02459-2432
(617) 964-2675

FRANKLIN PLACE PARTNERS, LLC

**FINANCIAL STATEMENT
YEARS ENDED DECEMBER 31, 2005 AND 2004**

TABLE OF CONTENTS

	<u>Page</u>
Accountant's compilation report	1
FINANCIAL STATEMENT	
Income statement	2
Years ended December 31, 2005 and 2004	

Elliott H. Puretz

Certified Public Accountant

28 Halcyon Road

Newton, MA 02459

Phone/Fax: (617) 964-2675

Email: epuretz@aol.com

Accountant's compilation report

March 30, 2006

Members

Franklin Place Partners, LLC

Acton, Massachusetts

I have compiled the accompanying income statement for Franklin Place Partners, LLC for the years ended December 31, 2005 and 2004. The statement has been compiled in accordance with standards for accounting and review services established by the American Institute of Certified Public Accountants.

A compilation is limited to presenting in the form of financial statements, information that is the representation of the Company's management. I have not audited or reviewed the accompanying financial statement and, accordingly, do not express an opinion or provide any other form of assurance on it.

However, I did determine that the statements include sales of three units at less than fair market value to a related entity that have not been adjusted in the income statement. Company management has estimated that revenues and related net income for the year ended December 31, 2005 would have increased by approximately \$312,000 had the sales been made at market value.

Management has elected to omit substantially all of the disclosures normally required by generally accepted accounting principles. If the omitted disclosures were included with the financial statement, they might influence the user's conclusions about the Company's results of operations. Accordingly, the statement is not designed for those who are not informed about such matters

Elliott H. Puretz C.P.A.

**FRANKLIN PLACE PARTNERS, LLC
INCOME STATEMENT
YEARS ENDED DECEMBER 31, 2005 AND 2004**

REVENUES	<u>2005</u>	<u>2004</u>	<u>PROJECT TOTAL</u>
Sale of residential housing	\$ 5,660,924	-	\$ 5,660,924
 COSTS AND EXPENSES			
Cost of properties sold	5,115,647		5,115,647
Selling expenses	293,182		293,182
Administrative expenses	<u>1,402</u>	<u>1,180</u>	<u>2,582</u>
Total costs and expenses	<u>5,410,231</u>	<u>1,180</u>	<u>5,411,411</u>
 NET INCOME (LOSS)	 <u>\$ 250,693</u>	 <u>\$ (1,180)</u>	 <u>\$ 249,513</u>

See accountant's compilation report.

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

Acton Town Hall

472 Main Street

Acton, Massachusetts, 01720

Telephone (978) 263-9611

achc@acton-ma.gov

TO: Jennifer Wierl
FROM: Nancy Tavernier, Chair
SUBJECT: Franklin Place audit
DATE: August 6, 2009

I apologize for the delay in getting to you the information you requested in regard to the Franklin Place post-development audit. It wasn't until a week after I faxed the information to you that I discovered the fax never went out and by then I was on vacation. So here is the material I attempted to send on July 21. In the meantime, Steve Graham, the attorney for the developer, has provided me with this updated information.

Michael Walsh of Walsh & Associates, 2250 Main Street, Concord is doing the audit. All of the relevant records for Franklin Place were turned over to that firm in July 2007. Ron (Peabody, the developer) has not heard anything from them since that time.

*Steven R. Graham, Esq.
Graham & Harsip, P.C.
289 Great Road, Suite 101
Acton, MA 01720
Phone: 978-264-0480*

I do not believe the summary sheets provided here will be of any help to you. I recall just copying the first pages of each section from the full binder of information. Two full copies of the binders were provided to the Town. One copy should be in the Building Department, 978-264-9632 and the other was sent to Acton's Town Counsel Anderson & Krieger in Cambridge. Dan Hill was handling the information at that time which would have been 2006.

My committee was removed as monitoring agent at our request due to a lack of knowledge of the auditing function. Assistant Town Manager John Murray, 978-264-9612 might be able to assist you further.

I hope this is somewhat helpful.

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC
Profit & Loss
 As of December 31, 2005

*ALL DATES
BY CLASS*

	001 (2 FP)... (Lot / Stre...)	002 (4 FP)... (Lot / Stre...)	003 (6 FP)... (Lot / Stre...)	004 (8 FP)... (Lot / Stre...)	005 (10 FP)... (Lot / Stre...)
Ordinary Income/Expense					
Income					
SALE OF REAL ESTATE					
Options & Change Orders					
Options Spent/Change Orders	23,793.72	27,205.79	67,075.85	82,891.34	4,439.29
Total Options & Change Orders	23,793.72	27,205.79	67,075.85	82,891.34	4,439.29
P&S Price					
Base Price	559,000.00	559,000.00	570,000.00	453,893.02	500,000.00
Total P&S Price	559,000.00	559,000.00	570,000.00	453,893.02	500,000.00
Total SALE OF REAL ESTATE	582,793.72	586,205.79	637,075.85	536,784.36	504,439.29
Total Income	582,793.72	586,205.79	637,075.85	536,784.36	504,439.29
Expense					
LAND & SOFT COSTS					
Condo Fees	416.67	416.67	416.67	416.67	416.67
1-1100 · Lot Cost	75,000.00	75,000.00	75,000.00	75,000.00	75,000.00
1200 · Legal					
1210 · Purchase Lots	1,181.83	1,181.83	1,181.83	1,181.83	1,181.83
1220 · House Sales	4,500.00	5,600.00	4,500.00	4,500.00	0.00
1230 · Closing Costs	3,124.64	2,973.60	3,218.16	3,001.35	3,134.09
1250 · Legal, Professional	2,280.59	2,280.59	2,280.59	2,280.59	7,242.59
1200 · Legal - Other	0.00	0.00	0.00	0.00	59,813.25
Total 1200 · Legal	11,087.06	12,036.02	11,180.58	10,963.77	71,371.76
1240 · Construction Fee	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00
1300 · Permits/Fees/Licenses	5,074.09	5,104.09	5,344.12	5,201.12	5,176.62
1400 · Interest/Points	23,543.67	23,543.67	23,543.68	23,543.68	23,543.68
1500 · R.E. Commission-Co-Broker	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
1600 · Real Estate Taxes	2,111.26	2,069.86	2,156.45	2,135.59	2,202.34
1700 · Insurance					
1720 · Com'l Pkg.	960.82	961.02	961.02	961.02	961.02
1730 · Title Insurance	682.39	682.39	682.39	682.39	682.39
1740 · Umbrella	303.16	303.16	303.16	303.16	303.17
1770 · Inland Marine	512.25	512.25	512.25	512.25	512.25
Total 1700 · Insurance	2,458.62	2,458.82	2,458.82	2,458.82	2,458.83
1900 · Plans					
1910 · Architect					
1911 · Standard (Architect)	2,527.77	2,527.77	2,527.77	2,527.77	2,527.78
Total 1910 · Architect	2,527.77	2,527.77	2,527.77	2,527.77	2,527.78
1920 · Blueprints					
1921 · Standard (Blueprints)	52.24	52.24	52.24	52.24	52.25
Total 1920 · Blueprints	52.24	52.24	52.24	52.24	52.25
Total 1900 · Plans	2,580.01	2,580.01	2,580.01	2,580.01	2,580.03
2000 · Overhead					
1202 · Escrow-Town Post Const Audit	833.34	833.34	833.34	833.33	833.34
2001 · Postage	12.89	12.89	12.89	12.89	12.89
2002 · Meals/Travel/Entertainment	6.39	6.39	6.39	6.39	6.39
2004 · Plowing	0.00	0.00	0.00	0.00	0.00
2005 · Check Supplies	29.70	29.70	29.70	29.70	29.70
2006 · Office Supplies	69.13	69.13	69.13	69.13	69.13
2007 · Bank/Inspection/Appraisal Fees	1,912.44	1,912.44	1,912.44	1,912.44	1,912.45
2009 · Accounting	56.25	56.25	56.25	56.25	56.25
2020 · Taxes, Annual Report	41.66	41.66	41.66	41.66	41.67
Total 2000 · Overhead	2,961.80	2,961.80	2,961.80	2,961.79	2,961.82
Total LAND & SOFT COSTS	175,233.18	176,170.94	175,642.13	175,261.45	235,711.75

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	001 (2 FP)...	002 (4 FP)...	003 (6 FP)...	004 (8 FP)...	005 (10 FP)...
	(Lot / Stre...				
1-1800 · Engineering					
1805 · Standard (Engineering)	10,895.75	10,895.75	10,895.75	10,895.75	10,895.73
Total 1-1800 · Engineering	10,895.75	10,895.75	10,895.75	10,895.75	10,895.73
33333 · Infrastructure					
3333-1 · Install Erosion Control Barrier	541.67	541.67	541.67	541.67	541.67
3333-2 · Construction Entrance	141.63	141.67	141.67	141.68	141.69
3333-3 · Demolition of Existing Building	750.00	750.00	750.00	750.00	750.00
3333-4 · Remove oil Tank	116.67	116.67	116.67	116.67	116.67
3333-5 · Clearing & Grubbing	700.00	700.00	700.00	700.00	700.00
3333-6 · Stump Removal & Disposal	874.99	874.99	874.99	874.99	875.00
3333-7 · Strip & Remove Topsoil	1,658.33	1,658.33	1,658.33	1,658.33	1,658.33
3333-8 · Cuts & Fills	1,666.67	1,666.67	1,666.67	1,666.67	1,666.66
3333-9 · Water Mains	3,691.67	3,691.67	3,691.67	3,691.67	3,691.67
3333-10 · Sewer Collection System	4,750.00	4,750.00	4,750.01	4,750.01	4,750.01
3333-11 · Install Sewage Disposal System	14,170.16	14,170.16	14,170.16	14,170.16	14,170.16
3333-12 · Storm Drainage Collect. System	3,429.41	3,429.41	3,429.41	3,429.41	3,429.41
3333-13 · Infiltration System	3,291.66	3,291.66	3,291.66	3,291.66	3,291.65
3333-14 · Detention Pond	973.75	973.75	973.75	973.75	973.75
3333-15 · Utility Duct Bank	1,488.96	1,488.96	1,488.96	1,488.96	1,488.96
3333-16 · Install Fire Alarm Call Box	281.51	281.51	281.51	281.51	281.51
3333-17 · Subgrade & Gravel Roadway Base	1,366.67	1,366.67	1,366.67	1,366.67	1,366.67
3333-18 · Subgrade & Gravel Sidewalk Base	566.41	566.41	566.41	566.41	566.41
3333-19 · Pave Roadway	1,630.84	1,630.84	1,630.84	1,630.84	1,630.84
3333-20 · Pave Sidewalks	472.17	472.17	472.17	472.17	472.17
3333-21 · Bituminous Concrete Berm	150.00	150.00	150.00	150.00	150.00
3333-22 · Traffic Sign & Pavement Marking	83.75	83.75	83.75	83.75	83.75
3333-23 · Excavate to Subgrade Foundation	1,425.00	1,425.00	1,425.00	1,425.00	1,425.00
3333-24 · Stone Foundation Holes	950.00	950.00	950.00	950.00	950.00
3333-25 · Stone Footings & Drains	3,393.25	3,393.25	3,393.25	3,393.25	3,393.25
3333-26 · Backfill Garages	2,200.00	2,200.00	2,200.00	2,200.00	2,200.00
3333-27 · Backfill Foundations	2,475.00	2,475.00	2,475.00	2,475.00	2,475.00
3333-28 · Deck Footings	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
3333-29 · Water Svc from Curb to Foundati	1,608.00	1,608.00	1,608.00	1,608.00	1,608.00
3333-30 · Sewer Svc from Septic to Founda	1,050.00	1,050.00	1,050.00	1,050.00	1,050.00
3333-31 · Utility Service	578.71	578.71	578.71	578.71	578.71
3333-32 · Gravel Driveway	550.00	550.00	550.00	550.00	550.00
3333-33 · Subgrade for Loam	549.99	549.99	549.99	549.99	550.00
3333-34 · Spread Loam	1,375.00	1,375.00	1,375.00	1,375.00	1,375.00
3333-35 · Extras (Infrastructure)	9,162.42	9,162.42	9,162.42	9,162.42	9,162.42
Total 33333 · Infrastructure	69,514.29	69,514.33	69,514.34	69,514.35	69,514.36
1-3000 · Foundation					
3110 · Labor	3,324.19	3,312.60	3,370.44	3,305.00	3,230.00
3120 · Pumping	380.63	485.63	813.75	918.74	380.63
3130 · Materials	4,555.10	4,518.86	4,352.13	4,352.12	4,612.25
3150 · Damp/WaterProof	430.00	430.00	445.00	445.00	687.50
3300 · Floors					
3310 · Material	1,501.24	1,501.24	1,501.24	1,501.22	2,072.70
3320 · Labor	1,232.50	1,232.50	1,232.50	1,232.50	1,240.00
Total 3300 · Floors	2,733.74	2,733.74	2,733.74	2,733.72	3,312.70
Total 1-3000 · Foundation	11,423.66	11,480.83	11,715.06	11,754.58	12,223.08
1-3500 · Driveway					
2510 · First Coat	840.00	840.00	840.00	840.00	840.00
2520 · Second Coat	274.88	274.88	274.88	274.88	274.88
Total 1-3500 · Driveway	1,114.88	1,114.88	1,114.88	1,114.88	1,114.88

Franklin Place Partners, LLC
Profit & Loss
 As of December 31, 2005

	001 (2 FP)... (Lot / Stre...	002 (4 FP)... (Lot / Stre...	003 (6 FP)... (Lot / Stre...	004 (8 FP)... (Lot / Stre...	005 (10 FP... (Lot / Stre...
1-3700 · Frame					
6100 · Frame/Labor					
6110 · House	16,543.17	15,713.17	17,807.17	14,963.17	277.17
6120 · Deck	1,600.00	1,600.00	1,600.00	2,000.00	1,200.00
6130 · Roof (Labor & Materials)	3,645.86	3,645.86	3,645.86	3,645.86	3,645.86
6140 · Extras (Frame Labor)	-5.00	650.00	1,290.00	4,240.00	137.50
Total 6100 · Frame/Labor	<u>21,784.03</u>	<u>21,609.03</u>	<u>24,343.03</u>	<u>24,849.03</u>	<u>5,260.53</u>
6300 · Material					
6310 · Lumber 004	25,177.39	25,253.74	26,875.00	26,640.10	25,100.38
6320 · Interior Finish	4,150.00	4,150.00	4,206.00	4,150.00	820.00
6321 · Interior Finish Material Extra	425.00	0.00	1,075.00	2,130.36	2,344.47
6340 · Extras (Frame Material)	1,633.27	2,044.15	2,685.76	879.03	2,643.75
6350 · Windows	4,044.72	4,044.72	4,408.00	4,044.70	3,876.19
6360 · Doors	292.62	292.61	172.75	172.76	292.59
6370 · Deck	1,245.31	1,245.82	928.06	936.55	1,594.11
Total 6300 · Material	<u>36,968.31</u>	<u>37,031.04</u>	<u>40,350.57</u>	<u>38,953.50</u>	<u>36,671.49</u>
Total 1-3700 · Frame	58,752.34	58,640.07	64,693.60	63,802.53	41,932.02
1-4000 · Masonry					
4200 · Fireplace	1,325.00	1,325.00	1,325.00	1,325.00	1,325.00
4300 · Mantle & Trim	645.00	645.00	645.00	775.00	645.00
4900 · Extras (Masonry)	140.00	140.00	0.00	2,445.00	0.00
Total 1-4000 · Masonry	<u>2,110.00</u>	<u>2,110.00</u>	<u>1,970.00</u>	<u>4,545.00</u>	<u>1,970.00</u>
1-4500 · Siding					
7310 · Labor (Siding)	6,820.00	6,820.00	6,820.00	6,820.00	6,820.00
7320 · Extras (Siding)	701.50	701.50	751.50	751.50	701.50
Total 1-4500 · Siding	<u>7,521.50</u>	<u>7,521.50</u>	<u>7,571.50</u>	<u>7,571.50</u>	<u>7,521.50</u>
1-14600 · Plumbing					
15110 · Rough	9,875.00	9,875.00	9,875.00	9,875.00	9,875.00
15130 · Extras (Plumbing)	0.00	1,390.72	1,395.00	3,825.00	2,900.00
15140 · Fixtures, Plumbing	2,724.06	3,000.00	3,000.00	3,000.00	3,000.00
15150 · Extras (Fixtures, Plumbing)	501.83	1,120.62	7,386.98	429.00	2,923.81
Total 1-14600 · Plumbing	<u>13,100.89</u>	<u>15,386.34</u>	<u>21,656.98</u>	<u>17,129.00</u>	<u>18,698.81</u>
1-14700 · Heat & Air Conditioning					
15310 · HVAC Rough	4,900.00	4,900.00	4,900.00	4,900.00	4,900.00
15320 · HVAC Finish	4,900.00	4,900.00	4,900.00	4,900.00	4,900.00
15330 · Extras (HVAC)	0.00	0.00	2,600.00	2,600.00	2,600.00
Total 1-14700 · Heat & Air Conditioning	<u>9,800.00</u>	<u>9,800.00</u>	<u>12,400.00</u>	<u>12,400.00</u>	<u>12,400.00</u>
1-4800 · Electrical					
16100 · Rough (70%)	6,150.00	6,150.00	6,150.00	6,150.00	6,150.00
16200 · Finish (30%)	2,635.00	2,635.00	2,635.00	2,635.00	2,760.00
16300 · Underground	800.00	360.00	440.00	800.00	800.00
16500 · Extras (Electrical)	4,358.00	1,605.00	4,400.10	11,658.00	4,524.50
16600 · Fixtures	1,198.40	1,198.40	1,198.40	1,215.75	1,351.62
16650 · Extras (Fixtures, Electrical)	0.00	0.00	0.00	0.00	119.01
Total 1-4800 · Electrical	<u>15,141.40</u>	<u>11,948.40</u>	<u>14,823.50</u>	<u>22,458.75</u>	<u>15,705.13</u>
1-14900 · Insulation					
7500 · Standard (Insulation)	5,376.36	5,376.36	5,500.00	5,500.00	5,500.00
7520 · Extras (Insulation)	0.00	0.00	100.00	224.03	173.52
Total 1-14900 · Insulation	<u>5,376.36</u>	<u>5,376.36</u>	<u>5,600.00</u>	<u>5,724.03</u>	<u>5,673.52</u>
1-15000 · Plaster					
9605 · Standard (Plaster)	11,000.00	11,000.00	11,000.00	10,476.00	11,000.00
9650 · Drop Ceilings	0.00	0.00	0.00	3,375.00	125.00
9710 · Extras (Plaster)	140.00	140.00	3,365.00	3,944.00	5,615.00
Total 1-15000 · Plaster	<u>11,140.00</u>	<u>11,140.00</u>	<u>14,365.00</u>	<u>17,795.00</u>	<u>16,740.00</u>

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	001 (2 FP)...	002 (4 FP)...	003 (6 FP)...	004 (8 FP)...	005 (10 FP)...
	(Lot / Stre...				
1-15100 · Garage Doors					
8500 · Standard (Garage Doors)	1,180.00	1,180.00	1,180.00	1,180.00	1,180.00
8900 · Extras (Garage Doors)	344.00	344.00	344.00	344.00	344.00
Total 1-15100 · Garage Doors	1,524.00	1,524.00	1,524.00	1,524.00	1,524.00
1-15200 · Finish					
6710 · Labor	3,664.17	3,538.67	3,794.17	4,500.00	3,836.67
6730 · Extras (Finish)	0.00	0.00	0.00	440.67	481.50
Total 1-15200 · Finish	3,664.17	3,538.67	3,794.17	4,940.67	4,318.17
1-5400 · Shelving/Closets					
5100 · Standard (Shelving/Closets)	500.00	500.00	0.00	500.00	350.00
5900 · Extras (Shelving/Closets)	50.00	40.00	0.00	50.00	0.00
Total 1-5400 · Shelving/Closets	550.00	540.00	0.00	550.00	350.00
1-15500 · Paint					
9510 · Interior	3,400.00	3,400.00	2,700.00	3,500.00	4,000.00
9530 · Extras (Paint)	0.00	1,300.00	4,450.00	1,850.00	350.00
Total 1-15500 · Paint	3,400.00	4,700.00	7,150.00	5,350.00	4,350.00
1-15600 · Cabinets					
6810 · Standard	5,465.00	5,500.00	5,500.00	5,500.00	5,500.00
6820 · Extras (Cabinets)	5,386.00	9,674.50	5,409.50	5,295.50	2,721.50
Total 1-15600 · Cabinets	10,851.00	15,174.50	10,909.50	10,795.50	8,221.50
1-9000 · Flooring					
9000 · Tile					
9100 · Standard (Tile)	2,454.00	2,454.00	2,454.00	2,454.00	2,454.00
9101 · Extra (Tile)	174.70	719.53	3,357.19	2,659.37	789.97
Total 9000 · Tile	2,628.70	3,173.53	5,811.19	5,113.37	3,243.97
9300 · Carpet					
9301 · Standard (Carpet)	0.00	1,766.69	0.00	2,775.00	2,775.00
9302 · Extra (Carpet)	0.00	0.00	0.00	6,353.21	831.93
Total 9300 · Carpet	0.00	1,766.69	0.00	9,128.21	3,606.93
6500 · Hardwood					
6521 · Extras (Hardwood)	12,000.00	6,800.00	13,200.00	11,583.85	6,080.00
Total 6500 · Hardwood	12,000.00	6,800.00	13,200.00	11,583.85	6,080.00
Total 1-9000 · Flooring	14,628.70	11,740.22	19,011.19	25,825.43	12,930.90
2-10000 · Appliances					
10200 · Standard (Appliances)	1,294.00	1,294.00	1,294.00	1,294.00	1,294.00
10225 · Installation (Appliances)	150.00	150.00	6.95	150.00	150.00
10250 · Extra (Appliances)	2,780.40	8,448.05	0.00	4,083.20	268.55
Total 2-10000 · Appliances	4,224.40	9,892.05	1,300.95	5,527.20	1,712.55
2-11000 · Mirrors/Accessories/Showers					
10400 · Standard (Mirrors/Accessories)	274.52	297.00	0.00	300.00	300.00
10450 · Extras (Mirrors/Accessories)	0.00	0.00	0.00	0.00	274.00
Total 2-11000 · Mirrors/Accessories/Showers	274.52	297.00	0.00	300.00	574.00
2-12000 · Landscaping					
2310 · Standard (Landscaping)	2,000.00	2,132.00	2,000.00	2,000.00	2,000.00
2350 · Extras (Landscaping)	2,974.33	2,083.33	5,242.33	2,974.33	2,974.33
Total 2-12000 · Landscaping	4,974.33	4,215.33	7,242.33	4,974.33	4,974.33
2-13000 · Misc. Carp. Labor					
2-17600 · Standard (Misc. Carpentry Labor)	810.51	810.51	810.51	810.51	810.51
2-17601 · Extras (Misc. Carp. Labor)	0.00	0.00	0.00	0.00	105.00
Total 2-13000 · Misc. Carp. Labor	810.51	810.51	810.51	810.51	915.51

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC
Profit & Loss
As of December 31, 2005

	001 (2 FP)...	002 (4 FP)...	003 (6 FP)...	004 (8 FP)...	005 (10 FP)...
	(Lot / Stre...	(Lot / Stre...	(Lot / Stre...	(Lot / Stre...	(Lot / Stre...
2-17000 · Cleaning					
17010 · Standard (Cleaning)	450.00	450.00	450.00	450.00	450.00
Total 2-17000 · Cleaning	450.00	450.00	450.00	450.00	450.00
2-17100 · Rubbish					
2-17110 · Standard (Rubbish)	1,431.18	1,431.18	1,431.18	1,431.18	1,431.18
2-17120 · Extra (Rubbish)	0.00	0.00	0.00	150.00	425.00
Total 2-17100 · Rubbish	1,431.18	1,431.18	1,431.18	1,581.18	1,856.18
2-17200 · Miscellaneous					
17300 · Punchlist	2.68	2.68	2.68	2.68	2.68
17400 · Utilites	1,277.14	1,278.67	1,409.40	1,358.86	1,381.87
17500 · Materials	51.55	51.55	51.55	51.55	51.55
17650 · General	152.06	152.06	152.06	152.07	152.07
Total 2-17200 · Miscellaneous	1,483.43	1,484.96	1,615.69	1,565.16	1,588.17
19350 · Marketing					
19351 · MRK-Advertising	266.18	266.18	266.18	266.18	266.18
19356 · MRK-Misc. collateral materials	203.07	203.07	203.08	203.08	203.08
Total 19350 · Marketing	469.25	469.25	469.26	469.26	469.26
2-17300 · Energy Star Fee	-675.83	-675.83	-703.33	-813.33	-703.33
3-10000 · Consulting Fees	4,269.12	4,269.12	4,269.12	4,269.13	4,269.14
Total Expense	443,453.03	450,960.36	471,237.31	488,085.86	497,901.16
Net Ordinary Income	139,340.69	135,245.43	165,838.54	48,698.50	6,538.13
Net Income	<u>139,340.69</u>	<u>135,245.43</u>	<u>165,838.54</u>	<u>48,698.50</u>	<u>6,538.13</u>

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	006 (12 FP... (Lot / Stre...	007 (11 FP... (Lot / Stre...	008 (9 FP... (Lot / Stre...	009 (7 FP... (Lot / Stre...	010 (5 FP) (Lot / Stre...
Ordinary Income/Expense					
Income					
SALE OF REAL ESTATE					
Options & Change Orders					
Options Spent/Change Orders	350.00	23,451.63	41,280.20	33,254.89	2,780.85
Total Options & Change Orders	350.00	23,451.63	41,280.20	33,254.89	2,780.85
P&S Price					
Base Price	500,000.00	520,000.00	437,375.64	570,000.00	195,000.00
Total P&S Price	500,000.00	520,000.00	437,375.64	570,000.00	195,000.00
Total SALE OF REAL ESTATE	500,350.00	543,451.63	478,655.84	603,254.89	197,780.85
Total Income	500,350.00	543,451.63	478,655.84	603,254.89	197,780.85
Expense					
LAND & SOFT COSTS					
Condo Fees	416.67	416.67	416.67	633.35	416.67
1-1100 · Lot Cost	75,000.00	75,000.00	75,000.00	75,000.00	75,000.00
1200 · Legal					
1210 · Purchase Lots	1,181.83	1,181.83	1,181.83	1,181.82	1,181.82
1220 · House Sales	0.00	0.00	4,500.00	4,500.00	4,507.00
1230 · Closing Costs	3,164.13	3,241.33	2,967.01	3,048.13	1,265.37
1250 · Legal, Professional	7,242.59	6,780.59	2,280.59	2,280.59	2,280.59
1200 · Legal - Other	59,813.25	59,813.25	0.00	0.00	0.00
Total 1200 · Legal	71,401.80	71,017.00	10,929.43	11,010.54	9,234.78
1240 · Construction Fee	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00
1300 · Permits/Fees/Licenses	5,176.63	5,176.63	5,176.63	5,074.10	5,104.10
1400 · Interest/Points	23,543.67	23,543.67	23,543.68	23,543.66	23,543.67
1500 · R.E. Commission-Co-Broker	30,000.00	30,000.00	30,000.00	30,000.00	5,850.00
1600 · Real Estate Taxes	2,202.34	2,202.33	2,172.09	2,185.63	1,966.23
1700 · Insurance					
1720 · Com'l Pkg.	961.02	961.01	961.01	961.00	961.00
1730 · Title Insurance	682.39	682.39	682.39	682.39	682.39
1740 · Umbrella	303.17	303.17	303.17	303.17	303.17
1770 · Inland Marine	512.25	512.25	512.25	512.26	512.26
Total 1700 · Insurance	2,458.83	2,458.82	2,458.82	2,458.82	2,458.82
1900 · Plans					
1910 · Architect					
1911 · Standard (Architect)	2,527.78	2,527.78	2,527.79	2,527.82	2,527.82
Total 1910 · Architect	2,527.78	2,527.78	2,527.79	2,527.82	2,527.82
1920 · Blueprints					
1921 · Standard (Blueprints)	52.25	52.24	52.22	52.21	52.21
Total 1920 · Blueprints	52.25	52.24	52.22	52.21	52.21
Total 1900 · Plans	2,580.03	2,580.02	2,580.01	2,580.03	2,580.03
2000 · Overhead					
1202 · Escrow-Town Post Const Audit	833.33	833.33	833.33	833.33	833.33
2001 · Postage	12.89	12.89	12.89	12.89	12.89
2002 · Meals/Travel/Entertainment	6.39	6.39	6.39	6.40	6.40
2004 · Plowing	0.00	0.00	0.00	0.00	0.00
2005 · Check Supplies	29.70	29.71	29.71	29.72	29.72
2006 · Office Supplies	69.13	69.13	69.12	69.12	69.12
2007 · Bank/Inspection/Appraisal Fees	1,912.45	1,912.45	1,912.45	1,912.48	1,912.48
2009 · Accounting	56.25	56.25	56.25	56.25	56.25
2020 · Taxes, Annual Report	41.67	41.67	41.67	41.67	41.67
Total 2000 · Overhead	2,961.81	2,961.82	2,961.81	2,961.86	2,961.86
Total LAND & SOFT COSTS	235,741.78	235,356.96	175,239.14	175,447.99	149,116.16

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	006 (12 FP... (Lot / Stre...	007 (11 FP... (Lot / Stre...	008 (9 FP... (Lot / Stre...	009 (7 FP... (Lot / Stre...	010 (5 FP) (Lot / Stre...
1-1800 · Engineering					
1805 · Standard (Engineering)	10,895.76	10,895.76	10,895.77	10,895.78	10,895.79
Total 1-1800 · Engineering	10,895.76	10,895.76	10,895.77	10,895.78	10,895.79
33333 · Infrastructure					
3333-1 · Install Erosion Control Barrier	541.67	541.67	541.67	541.67	541.67
3333-2 · Construction Entrance	141.69	141.69	141.68	141.68	141.68
3333-3 · Demolition of Existing Building	750.00	750.00	750.00	750.00	750.00
3333-4 · Remove oil Tank	116.67	116.67	116.67	116.67	116.67
3333-5 · Clearing & Grubbing	700.00	700.00	700.00	700.00	700.00
3333-6 · Stump Removal & Disposal	875.00	875.00	875.00	875.00	875.00
3333-7 · Strip & Remove Topsoil	1,658.33	1,658.33	1,658.33	1,658.33	1,658.33
3333-8 · Cuts & Fills	1,666.66	1,666.66	1,666.66	1,666.66	1,666.66
3333-9 · Water Mains	3,691.67	3,691.67	3,691.67	3,691.67	3,691.67
3333-10 · Sewer Collection System	4,750.01	4,750.00	4,750.00	4,750.00	4,750.00
3333-11 · Install Sewage Disposal System	14,170.16	14,170.16	14,170.16	14,170.16	14,170.16
3333-12 · Storm Drainage Collect. System	3,429.41	3,429.41	3,429.41	3,429.40	3,429.40
3333-13 · Infiltration System	3,291.65	3,291.65	3,291.65	3,291.66	3,291.66
3333-14 · Detention Pond	973.83	973.75	973.75	973.75	973.75
3333-15 · Utility Duct Bank	1,488.96	1,488.96	1,488.96	1,488.95	1,488.95
3333-16 · Install Fire Alarm Call Box	281.51	281.51	281.51	281.50	281.50
3333-17 · Subgrade & Gravel Roadway Base	1,366.67	1,366.67	1,366.67	1,366.67	1,366.67
3333-18 · Subgrade & Gravel Sidewalk Base	566.41	566.41	566.41	566.41	566.41
3333-19 · Pave Roadway	1,630.84	1,630.84	1,630.84	1,630.84	1,630.84
3333-20 · Pave Sidewalks	472.17	472.17	472.17	472.17	472.17
3333-21 · Bituminous Concrete Berm	150.00	150.00	150.00	150.00	150.00
3333-22 · Traffic Sign & Pavement Marking	83.75	83.75	83.75	83.75	83.75
3333-23 · Excavate to Subgrade Foundation	1,425.00	1,425.00	1,425.00	1,425.00	1,425.00
3333-24 · Stone Foundation Holes	950.00	950.00	950.00	950.01	950.01
3333-25 · Stone Footings & Drains	3,393.25	3,393.26	3,393.26	3,393.26	3,393.26
3333-26 · Backfill Garages	2,200.00	2,200.00	2,200.00	2,200.00	2,200.00
3333-27 · Backfill Foundations	2,475.00	2,475.00	2,475.00	2,475.00	2,475.00
3333-28 · Deck Footings	1,400.00	1,400.00	1,400.00	1,400.00	1,400.00
3333-29 · Water Svc from Curb to Foundati	1,608.00	1,608.00	1,608.00	1,608.00	1,608.00
3333-30 · Sewer Svc from Septic to Founda	1,050.04	1,050.00	1,050.00	1,050.00	1,050.00
3333-31 · Utility Service	578.71	578.71	578.71	578.71	578.71
3333-32 · Gravel Driveway	550.00	550.00	550.00	550.00	550.00
3333-33 · Subgrade for Loam	550.00	550.00	550.00	550.01	550.01
3333-34 · Spread Loam	1,375.00	1,375.00	1,375.00	1,375.00	1,375.00
3333-35 · Extras (Infrastructure)	9,162.40	9,162.40	9,162.42	9,162.41	9,162.41
Total 33333 · Infrastructure	69,514.46	69,514.34	69,514.35	69,514.34	69,514.34
1-3000 · Foundation					
3110 · Labor	3,230.00	3,230.00	3,230.00	3,680.00	3,680.00
3120 · Pumping	380.62	380.63	380.62	459.37	459.38
3130 · Materials	4,612.22	4,357.55	4,357.54	4,525.42	4,525.42
3150 · Damp/WaterProof	687.50	405.00	405.00	405.00	405.00
3300 · Floors					
3310 · Material	2,072.70	1,885.70	2,448.60	1,866.50	1,866.51
3320 · Labor	1,240.00	1,247.00	1,270.00	682.50	682.50
Total 3300 · Floors	3,312.70	3,132.70	3,718.60	2,549.00	2,549.01
Total 1-3000 · Foundation	12,223.04	11,505.88	12,091.76	11,618.79	11,618.81
1-3500 · Driveway					
2510 · First Coat	840.00	840.00	840.00	840.00	840.00
2520 · Second Coat	274.88	274.88	274.88	274.88	274.88
Total 1-3500 · Driveway	1,114.88	1,114.88	1,114.88	1,114.88	1,114.88

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	006 (12 FP... (Lot / Stre...)	007 (11 FP... (Lot / Stre...)	008 (9 FP)... (Lot / Stre...)	009 (7 FP)... (Lot / Stre...)	010 (5 FP) (Lot / Stre...)
1-3700 · Frame					
6100 · Frame/Labor					
6110 · House	277.17	14,314.92	14,059.27	14,813.17	14,813.17
6120 · Deck	2,000.00	1,600.00	1,600.00	1,600.00	1,710.00
6130 · Roof (Labor & Materials)	3,645.86	3,645.86	3,645.86	3,645.86	3,645.86
6140 · Extras (Frame Labor)	137.50	2,800.00	3,075.00	0.00	0.00
Total 6100 · Frame/Labor	6,060.53	22,360.78	22,380.13	20,059.03	20,169.03
6300 · Material					
6310 · Lumber 004	25,224.55	21,603.35	19,431.93	20,294.33	20,394.87
6320 · Interior Finish	4,150.00	4,150.00	3,698.07	4,026.83	4,150.00
6321 · Interior Finish Material Extra	2,169.47	2,376.32	2,255.25	295.48	399.08
6340 · Extras (Frame Material)	2,846.05	2,403.90	2,097.00	1,229.78	410.00
6350 · Windows	3,899.95	3,876.19	3,876.19	3,876.19	3,876.19
6360 · Doors	292.58	292.59	292.58	292.59	292.58
6370 · Deck	1,446.06	1,660.13	1,401.71	584.93	1,057.65
Total 6300 · Material	40,028.66	36,362.48	33,052.73	30,600.13	30,580.37
Total 1-3700 · Frame	46,089.19	58,723.26	55,432.86	50,659.16	50,749.40
1-4000 · Masonry					
4200 · Fireplace	1,325.00	1,325.00	1,325.00	1,325.00	0.00
4300 · Mantle & Trim	645.00	645.00	645.00	645.00	0.00
4900 · Extras (Masonry)	0.00	0.00	0.00	0.00	0.00
Total 1-4000 · Masonry	1,970.00	1,970.00	1,970.00	1,970.00	0.00
1-4500 · Siding					
7310 · Labor (Siding)	6,820.00	6,820.00	6,820.00	6,820.00	6,820.00
7320 · Extras (Siding)	701.50	701.50	701.50	0.00	0.00
Total 1-4500 · Siding	7,521.50	7,521.50	7,521.50	6,820.00	6,820.00
1-14600 · Plumbing					
15110 · Rough	9,875.00	9,995.00	9,875.00	9,875.00	9,875.00
15130 · Extras (Plumbing)	2,070.18	2,780.00	0.00	0.00	0.00
15140 · Fixtures, Plumbing	3,000.00	3,000.00	3,000.00	3,000.00	1,535.00
15150 · Extras (Fixtures, Plumbing)	2,763.47	3,670.61	685.79	1,602.02	0.00
Total 1-14600 · Plumbing	17,708.65	19,445.61	13,560.79	14,477.02	11,410.00
1-14700 · Heat & Air Conditioning					
15310 · HVAC Rough	4,900.00	4,900.00	4,900.00	4,900.00	4,900.00
15320 · HVAC Finish	4,900.00	4,900.00	3,437.50	4,900.00	4,900.00
15330 · Extras (HVAC)	2,600.00	2,600.00	2,600.00	0.00	0.00
Total 1-14700 · Heat & Air Conditioning	12,400.00	12,400.00	10,937.50	9,800.00	9,800.00
1-4800 · Electrical					
16100 · Rough (70%)	6,150.00	6,150.00	6,150.00	6,150.00	6,150.00
16200 · Finish (30%)	2,635.00	2,635.00	2,635.00	2,635.00	2,635.00
16300 · Underground	757.00	562.00	800.00	800.00	520.00
16500 · Extras (Electrical)	4,569.00	4,569.00	5,468.50	2,180.00	0.00
16600 · Fixtures	1,316.12	1,351.12	1,265.90	1,351.67	1,036.61
16650 · Extras (Fixtures, Electrical)	86.52	279.71	0.00	0.00	0.00
Total 1-4800 · Electrical	15,513.64	15,546.83	16,319.40	13,116.67	10,341.61
1-14900 · Insulation					
7500 · Standard (Insulation)	5,500.00	5,500.00	5,500.00	5,050.85	5,050.84
7520 · Extras (Insulation)	173.51	173.52	173.51	0.00	0.00
Total 1-14900 · Insulation	5,673.51	5,673.52	5,673.51	5,050.85	5,050.84
1-15000 · Plaster					
9605 · Standard (Plaster)	10,375.00	11,000.00	11,000.00	10,800.00	11,000.00
9650 · Drop Ceilings	125.00	125.00	2,814.70	125.00	0.00
9710 · Extras (Plaster)	6,335.00	6,344.00	3,899.00	215.00	140.00
Total 1-15000 · Plaster	16,835.00	17,469.00	17,713.70	11,140.00	11,140.00

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	006 (12 FP... (Lot / Stre...)	007 (11 FP... (Lot / Stre...)	008 (9 FP... (Lot / Stre...)	009 (7 FP... (Lot / Stre...)	010 (5 FP) (Lot / Stre...)
1-15100 · Garage Doors					
8500 · Standard (Garage Doors)	1,180.00	1,180.00	1,180.00	1,180.00	1,180.00
8900 · Extras (Garage Doors)	344.00	344.00	344.00	344.00	344.00
Total 1-15100 · Garage Doors	1,524.00	1,524.00	1,524.00	1,524.00	1,524.00
1-15200 · Finish					
6710 · Labor	631.67	4,113.17	4,130.17	3,664.17	2,777.67
6730 · Extras (Finish)	0.00	0.00	0.00	0.00	0.00
Total 1-15200 · Finish	631.67	4,113.17	4,130.17	3,664.17	2,777.67
1-5400 · Shelving/Closets					
5100 · Standard (Shelving/Closets)	350.00	350.00	500.00	500.00	350.00
5900 · Extras (Shelving/Closets)	0.00	0.00	175.00	191.73	0.00
Total 1-5400 · Shelving/Closets	350.00	350.00	675.00	691.73	350.00
1-15500 · Paint					
9510 · Interior	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00
9530 · Extras (Paint)	850.00	6,250.00	1,850.00	2,000.00	0.00
Total 1-15500 · Paint	4,350.00	9,750.00	5,350.00	5,500.00	3,500.00
1-15600 · Cabinets					
6810 · Standard	5,500.00	5,500.00	5,500.00	5,500.00	5,302.50
6820 · Extras (Cabinets)	2,721.50	8,734.25	5,647.00	7,987.50	0.00
Total 1-15600 · Cabinets	8,221.50	14,234.25	11,147.00	13,487.50	5,302.50
1-9000 · Flooring					
9000 · Tile					
9100 · Standard (Tile)	2,017.80	2,143.52	2,040.00	1,156.60	2,454.00
9101 · Extra (Tile)	0.00	0.00	0.00	0.00	470.03
Total 9000 · Tile	2,017.80	2,143.52	2,040.00	1,156.60	2,924.03
9300 · Carpet					
9301 · Standard (Carpet)	2,177.00	2,685.17	2,775.00	0.00	3,422.00
9302 · Extra (Carpet)	0.00	0.00	3,311.61	0.00	0.00
Total 9300 · Carpet	2,177.00	2,685.17	6,086.61	0.00	3,422.00
6500 · Hardwood					
6521 · Extras (Hardwood)	6,080.00	8,480.00	6,080.00	14,800.00	0.00
Total 6500 · Hardwood	6,080.00	8,480.00	6,080.00	14,800.00	0.00
Total 1-9000 · Flooring	10,274.80	13,308.69	14,206.61	15,956.60	6,346.03
2-10000 · Appliances					
10200 · Standard (Appliances)	1,294.00	1,294.00	0.00	1,294.00	1,071.00
10225 · Installation (Appliances)	150.00	150.00	0.00	6.95	15.75
10250 · Extra (Appliances)	268.55	268.55	0.00	42.00	0.00
Total 2-10000 · Appliances	1,712.55	1,712.55	0.00	1,342.95	1,086.75
2-11000 · Mirrors/Accessories/Showers					
10400 · Standard (Mirrors/Accessories)	300.00	0.00	300.00	92.00	0.00
10450 · Extras (Mirrors/Accessories)	125.00	740.00	274.00	0.00	0.00
Total 2-11000 · Mirrors/Accessories/Showers	425.00	740.00	574.00	92.00	0.00
2-12000 · Landscaping					
2310 · Standard (Landscaping)	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
2350 · Extras (Landscaping)	2,974.33	2,974.33	2,974.33	2,974.33	2,974.33
Total 2-12000 · Landscaping	4,974.33	4,974.33	4,974.33	4,974.33	4,974.33
2-13000 · Misc. Carp. Labor					
2-17600 · Standard (Misc. Carpentry Labor)	810.51	810.51	810.51	810.51	810.50
2-17601 · Extras (Misc. Carp. Labor)	0.00	450.00	0.00	0.00	0.00
Total 2-13000 · Misc. Carp. Labor	810.51	1,260.51	810.51	810.51	810.50

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	006 (12 FP... (Lot / Stre...	007 (11 FP... (Lot / Stre...	008 (9 FP)... (Lot / Stre...	009 (7 FP)... (Lot / Stre...	010 (5 FP)... (Lot / Stre...
2-17000 · Cleaning					
17010 · Standard (Cleaning)	450.00	450.00	450.00	450.00	450.00
Total 2-17000 · Cleaning	<u>450.00</u>	<u>450.00</u>	<u>450.00</u>	<u>450.00</u>	<u>450.00</u>
2-17100 · Rubbish					
2-17110 · Standard (Rubbish)	1,431.18	1,431.18	1,431.18	1,431.18	1,431.18
2-17120 · Extra (Rubbish)	425.00	425.00	425.00	0.00	0.00
Total 2-17100 · Rubbish	<u>1,856.18</u>	<u>1,856.18</u>	<u>1,856.18</u>	<u>1,431.18</u>	<u>1,431.18</u>
2-17200 · Miscellaneous					
17300 · Punchlist	2.69	2.69	13.89	2.69	2.69
17400 · Utilites	1,386.32	1,413.13	1,385.93	1,383.26	1,239.53
17500 · Materials	51.55	51.55	51.55	51.55	51.55
17650 · General	152.09	152.09	152.09	152.09	152.09
Total 2-17200 · Miscellaneous	<u>1,592.65</u>	<u>1,619.46</u>	<u>1,603.46</u>	<u>1,589.59</u>	<u>1,445.86</u>
19350 · Marketing					
19351 · MRK-Advertising	266.19	266.19	266.19	266.20	266.20
19356 · MRK-Misc. collateral materials	203.09	203.09	203.09	203.09	203.09
Total 19350 · Marketing	<u>469.28</u>	<u>469.28</u>	<u>469.28</u>	<u>469.29</u>	<u>469.29</u>
2-17300 · Energy Star Fee	-675.83	-895.83	-703.33	-675.83	-675.84
3-10000 · Consulting Fees	4,269.14	4,269.14	4,269.14	4,269.15	4,269.15
Total Expense	<u>494,437.19</u>	<u>526,873.27</u>	<u>449,321.51</u>	<u>437,202.65</u>	<u>381,633.25</u>
Net Ordinary Income	<u>5,912.81</u>	<u>16,578.36</u>	<u>29,334.33</u>	<u>166,052.24</u>	<u>-183,852.40</u>
Net Income	<u><u>5,912.81</u></u>	<u><u>16,578.36</u></u>	<u><u>29,334.33</u></u>	<u><u>166,052.24</u></u>	<u><u>-183,852.40</u></u>

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	011 (3 FP) (Lot / Stre...	012 (1 FP) (Lot / Stre...	Total Lot / ...	TOTAL
Ordinary Income/Expense				
Income				
SALE OF REAL ESTATE				
Options & Change Orders				
Options Spent/Change Orders	131.81	0.00	306,655.37	306,655.37
Total Options & Change Orders	131.81	0.00	306,655.37	306,655.37
P&S Price				
Base Price	195,000.00	195,000.00	5,254,268.66	5,254,268.66
Total P&S Price	195,000.00	195,000.00	5,254,268.66	5,254,268.66
Total SALE OF REAL ESTATE	195,131.81	195,000.00	5,560,924.03	5,560,924.03
Total Income	195,131.81	195,000.00	5,560,924.03	5,560,924.03
Expense				
LAND & SOFT COSTS				
Condo Fees	416.67	416.63	5,216.68	5,216.68
1-1100 · Lot Cost	75,000.00	75,000.00	900,000.00	900,000.00
1200 · Legal				
1210 · Purchase Lots	1,181.83	1,181.83	14,181.94	14,181.94
1220 · House Sales	4,507.00	4,507.00	41,621.00	41,621.00
1230 · Closing Costs	1,263.37	1,170.37	31,571.55	31,571.55
1250 · Legal, Professional	2,280.25	2,280.60	41,790.75	41,790.75
1200 · Legal - Other	0.00	0.00	179,439.75	179,439.75
Total 1200 · Legal	9,232.45	9,139.80	308,604.99	308,604.99
1240 · Construction Fee	20,000.00	20,000.00	240,000.00	240,000.00
1300 · Permits/Fees/Licenses	5,104.05	5,104.10	61,816.28	61,816.28
1400 · Interest/Points	23,543.66	23,543.66	282,524.05	282,524.05
1500 · R.E. Commission-Co-Broker	5,850.00	5,850.00	287,550.00	287,550.00
1600 · Real Estate Taxes	2,069.84	2,068.89	25,542.85	25,542.85
1700 · Insurance				
1720 · Com'l Pkg.	961.01	959.05	11,530.00	11,530.00
1730 · Title Insurance	682.40	682.40	8,188.70	8,188.70
1740 · Umbrella	302.17	303.17	3,637.00	3,637.00
1770 · Inland Marine	512.26	512.22	6,147.00	6,147.00
Total 1700 · Insurance	2,457.84	2,456.84	29,502.70	29,502.70
1900 · Plans				
1910 · Architect				
1911 · Standard (Architect)	2,527.79	2,527.74	30,333.38	30,333.38
Total 1910 · Architect	2,527.79	2,527.74	30,333.38	30,333.38
1920 · Blueprints				
1921 · Standard (Blueprints)	52.21	52.21	626.76	626.76
Total 1920 · Blueprints	52.21	52.21	626.76	626.76
Total 1900 · Plans	2,580.00	2,579.95	30,960.14	30,960.14
2000 · Overhead				
1202 · Escrow-Town Post Const Audit	833.33	833.33	10,000.00	10,000.00
2001 · Postage	12.90	12.90	154.70	154.70
2002 · Meals/Travel/Entertainment	6.40	6.40	76.72	76.72
2004 · Plowing	0.00	0.00	0.00	0.00
2005 · Check Supplies	29.70	29.69	356.45	356.45
2006 · Office Supplies	69.12	69.03	829.42	829.42
2007 · Bank/Inspection/Appraisal Fees	1,912.48	1,913.00	22,950.00	22,950.00
2009 · Accounting	56.25	56.25	675.00	675.00
2020 · Taxes, Annual Report	41.67	41.67	500.00	500.00
Total 2000 · Overhead	2,961.85	2,962.27	35,542.29	35,542.29
Total LAND & SOFT COSTS	149,216.36	149,122.14	2,207,259.98	2,207,259.98

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	011 (3 FP) (Lot / Stre...	012 (1 FP) (Lot / Stre...	Total Lot / ...	TOTAL
1-1800 · Engineering				
1805 · Standard (Engineering)	10,895.78	10,895.84	130,749.21	130,749.21
Total 1-1800 · Engineering	10,895.78	10,895.84	130,749.21	130,749.21
33333 · Infrastructure				
3333-1 · Install Erosion Control Barrier	541.67	541.63	6,500.00	6,500.00
3333-2 · Construction Entrance	141.68	141.68	1,700.12	1,700.12
3333-3 · Demolition of Existing Building	750.00	750.00	9,000.00	9,000.00
3333-4 · Remove oil Tank	116.67	116.67	1,400.04	1,400.04
3333-5 · Clearing & Grubbing	700.00	700.00	8,400.00	8,400.00
3333-6 · Stump Removal & Disposal	875.00	875.04	10,500.00	10,500.00
3333-7 · Strip & Remove Topsoil	1,658.33	1,658.33	19,899.96	19,899.96
3333-8 · Cuts & Fills	1,666.66	1,666.66	19,999.96	19,999.96
3333-9 · Water Mains	3,691.66	3,691.66	44,300.02	44,300.02
3333-10 · Sewer Collection System	4,750.00	4,750.00	57,000.04	57,000.04
3333-11 · Install Sewage Disposal System	14,170.16	14,170.32	170,042.08	170,042.08
3333-12 · Storm Drainage Collect. System	3,429.40	3,429.36	41,152.84	41,152.84
3333-13 · Infiltration System	3,291.66	3,291.66	39,499.88	39,499.88
3333-14 · Detention Pond	973.75	973.75	11,685.08	11,685.08
3333-15 · Utility Duct Bank	1,488.93	1,488.92	17,867.43	17,867.43
3333-16 · Install Fire Alarm Call Box	281.50	281.44	3,378.02	3,378.02
3333-17 · Subgrade & Gravel Roadway Base	1,366.67	1,366.75	16,400.12	16,400.12
3333-18 · Subgrade & Gravel Sidewalk Base	566.41	566.26	6,796.77	6,796.77
3333-19 · Pave Roadway	1,630.84	1,630.80	19,570.04	19,570.04
3333-20 · Pave Sidewalks	472.17	472.13	5,666.00	5,666.00
3333-21 · Bituminous Concrete Berm	150.00	150.00	1,800.00	1,800.00
3333-22 · Traffic Sign & Pavement Marking	83.75	83.75	1,005.00	1,005.00
3333-23 · Excavate to Subgrade Foundation	1,425.00	1,425.00	17,100.00	17,100.00
3333-24 · Stone Foundation Holes	950.01	950.01	11,400.04	11,400.04
3333-25 · Stone Footings & Drains	3,393.26	3,393.14	40,718.94	40,718.94
3333-26 · Backfill Garages	2,200.00	2,200.00	26,400.00	26,400.00
3333-27 · Backfill Foundations	2,475.00	2,475.00	29,700.00	29,700.00
3333-28 · Deck Footings	1,400.00	1,400.00	16,800.00	16,800.00
3333-29 · Water Svc from Curb to Foundati	1,608.00	1,607.96	19,295.96	19,295.96
3333-30 · Sewer Svc from Septic to Founda	1,050.00	1,050.00	12,600.04	12,600.04
3333-31 · Utility Service	578.70	578.54	6,944.34	6,944.34
3333-32 · Gravel Driveway	550.00	550.00	6,600.00	6,600.00
3333-33 · Subgrade for Loam	550.01	549.99	6,599.98	6,599.98
3333-34 · Spread Loam	1,375.00	1,375.00	16,500.00	16,500.00
3333-35 · Extras (Infrastructure)	9,162.41	9,162.38	109,948.93	109,948.93
Total 33333 · Infrastructure	69,514.30	69,513.83	834,171.63	834,171.63 ✓
1-3000 · Foundation				
3110 · Labor	3,721.29	3,721.29	41,034.81	41,034.81
3120 · Pumping	0.00	0.00	5,040.00	5,040.00
3130 · Materials	4,744.99	4,745.00	54,258.60	54,258.60
3150 · Damp/WaterProof	735.00	735.00	6,215.00	6,215.00
3300 · Floors				
3310 · Material	1,605.98	1,605.98	21,429.61	21,429.61
3320 · Labor	952.50	952.50	13,197.00	13,197.00
Total 3300 · Floors	2,558.48	2,558.48	34,626.61	34,626.61
Total 1-3000 · Foundation	11,759.76	11,759.77	141,175.02	141,175.02 ✓
1-3500 · Driveway				
2510 · First Coat	840.00	840.00	10,080.00	10,080.00
2520 · Second Coat	274.88	274.92	3,298.60	3,298.60
Total 1-3500 · Driveway	1,114.88	1,114.92	13,378.60	13,378.60 ✓

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	011 (3 FP) (Lot / Stre...	012 (1 FP) (Lot / Stre...	Total Lot / ...	TOTAL
1-3700 · Frame				
6100 · Frame/Labor				
6110 · House	14,813.17	14,813.13	153,207.85	153,207.85
6120 · Deck	1,710.00	1,710.00	19,930.00	19,930.00
6130 · Roof (Labor & Materials)	3,645.86	3,645.86	43,750.32	43,750.32
6140 · Extras (Frame Labor)	0.00	0.00	12,325.00	12,325.00
Total 6100 · Frame/Labor	20,169.03	20,168.99	229,213.17	229,213.17 ✓
6300 · Material				
6310 · Lumber 004	24,845.65	24,919.09	285,760.38	285,760.38
6320 · Interior Finish	4,022.58	4,022.55	45,696.03	45,696.03
6321 · Interior Finish Material Extra	0.00	0.00	13,470.43	13,470.43
6340 · Extras (Frame Material)	0.00	0.00	18,872.69	18,872.69
6350 · Windows	3,876.19	3,876.19	47,575.42	47,575.42
6360 · Doors	292.62	292.61	3,271.48	3,271.48
6370 · Deck	1,566.73	1,117.89	14,784.95	14,784.95
Total 6300 · Material	34,603.77	34,228.33	429,431.38	429,431.38 ✓
Total 1-3700 · Frame	54,772.80	54,397.32	658,644.55	658,644.55
1-4000 · Masonry				
4200 · Fireplace	0.00	0.00	11,925.00	11,925.00
4300 · Mantle & Trim	0.00	0.00	5,935.00	5,935.00
4900 · Extras (Masonry)	0.00	0.00	2,725.00	2,725.00
Total 1-4000 · Masonry	0.00	0.00	20,585.00	20,585.00 ✓
1-4500 · Siding				
7310 · Labor (Siding)	6,835.00	6,835.00	81,870.00	81,870.00
7320 · Extras (Siding)	0.00	0.00	5,712.00	5,712.00
Total 1-4500 · Siding	6,835.00	6,835.00	87,582.00	87,582.00 ✓
1-14600 · Plumbing				
15110 · Rough	9,875.00	9,875.00	118,620.00	118,620.00
15130 · Extras (Plumbing)	0.00	0.00	14,360.90	14,360.90
15140 · Fixtures, Plumbing	1,535.00	1,532.87	31,326.93	31,326.93
15150 · Extras (Fixtures, Plumbing)	94.83	0.00	21,178.96	21,178.96
Total 1-14600 · Plumbing	11,504.83	11,407.87	185,486.79	185,486.79 ✓
1-14700 · Heat & Air Conditioning				
15310 · HVAC Rough	4,900.00	4,900.00	58,800.00	58,800.00
15320 · HVAC Finish	4,900.00	4,900.00	57,337.50	57,337.50
15330 · Extras (HVAC)	0.00	0.00	15,600.00	15,600.00
Total 1-14700 · Heat & Air Conditioning	9,800.00	9,800.00	131,737.50	131,737.50 ✓
1-4800 · Electrical				
16100 · Rough (70%)	6,150.00	6,150.00	73,800.00	73,800.00
16200 · Finish (30%)	2,635.00	2,635.00	31,745.00	31,745.00
16300 · Underground	480.00	800.00	7,919.00	7,919.00
16500 · Extras (Electrical)	0.00	80.00	43,412.10	43,412.10
16600 · Fixtures	1,036.61	1,036.61	14,557.21	14,557.21
16650 · Extras (Fixtures, Electrical)	0.00	0.00	485.24	485.24
Total 1-4800 · Electrical	10,301.61	10,701.61	171,918.55	171,918.55 ✓
1-14900 · Insulation				
7500 · Standard (Insulation)	5,061.21	5,061.21	63,976.83	63,976.83
7520 · Extras (Insulation)	0.00	0.00	1,018.09	1,018.09
Total 1-14900 · Insulation	5,061.21	5,061.21	64,994.92	64,994.92 ✓
1-15000 · Plaster				
9605 · Standard (Plaster)	11,000.00	11,000.00	130,651.00	130,651.00
9650 · Drop Ceilings	0.00	0.00	6,689.70	6,689.70
9710 · Extras (Plaster)	140.00	140.00	30,417.00	30,417.00
Total 1-15000 · Plaster	11,140.00	11,140.00	167,757.70	167,757.70 ✓

1:52 PM
 05/01/06
 Accrual Basis

Franklin Place Partners, LLC
Profit & Loss
 As of December 31, 2005

	011 (3 FP) (Lot / Stre...	012 (1 FP) (Lot / Stre...	Total Lot / ...	TOTAL
1-15100 · Garage Doors				
8500 · Standard (Garage Doors)	1,180.00	1,180.00	14,160.00	14,160.00
8900 · Extras (Garage Doors)	344.00	344.00	4,128.00	4,128.00
Total 1-15100 · Garage Doors	1,524.00	1,524.00	18,288.00	18,288.00 ✓
1-15200 · Finish				
6710 · Labor	2,667.17	2,654.63	39,972.33	39,972.33
6730 · Extras (Finish)	0.00	0.00	922.17	922.17
Total 1-15200 · Finish	2,667.17	2,654.63	40,894.50	40,894.50 ✓
1-5400 · Shelving/Closets				
5100 · Standard (Shelving/Closets)	350.00	350.00	4,600.00	4,600.00
5900 · Extras (Shelving/Closets)	0.00	0.00	506.73	506.73
Total 1-5400 · Shelving/Closets	350.00	350.00	5,106.73	5,106.73 ✓
1-15500 · Paint				
9510 · Interior	3,500.00	3,500.00	41,500.00	41,500.00
9530 · Extras (Paint)	0.00	0.00	18,900.00	18,900.00
Total 1-15500 · Paint	3,500.00	3,500.00	60,400.00	60,400.00 ✓
1-15600 · Cabinets				
6810 · Standard	5,302.50	5,302.50	65,372.50	65,372.50
6820 · Extras (Cabinets)	0.00	0.00	53,577.25	53,577.25
Total 1-15600 · Cabinets	5,302.50	5,302.50	118,949.75	118,949.75 ✓
1-9000 · Flooring				
9000 · Tile				
9100 · Standard (Tile)	0.00	0.00	22,081.92	22,081.92
9101 · Extra (Tile)	0.00	0.00	8,170.79	8,170.79
Total 9000 · Tile	0.00	0.00	30,252.71	30,252.71 ✓
9300 · Carpet				
9301 · Standard (Carpet)	3,421.88	3,421.88	25,219.62	25,219.62
9302 · Extra (Carpet)	0.00	0.00	10,496.75	10,496.75
Total 9300 · Carpet	3,421.88	3,421.88	35,716.37	35,716.37 ✓
6500 · Hardwood				
6521 · Extras (Hardwood)	0.00	0.00	85,103.85	85,103.85
Total 6500 · Hardwood	0.00	0.00	85,103.85	85,103.85 ✓
Total 1-9000 · Flooring	3,421.88	3,421.88	151,072.93	151,072.93
2-10000 · Appliances				
10200 · Standard (Appliances)	1,071.00	1,071.00	13,565.00	13,565.00
10225 · Installation (Appliances)	15.50	16.00	961.15	961.15
10250 · Extra (Appliances)	0.00	0.00	16,159.30	16,159.30
Total 2-10000 · Appliances	1,086.50	1,087.00	30,685.45	30,685.45 ✓
2-11000 · Mirrors/Accessories>Showers				
10400 · Standard (Mirrors/Accessories)	0.00	0.00	1,863.52	1,863.52
10450 · Extras (Mirrors/Accessories)	0.00	0.00	1,413.00	1,413.00
Total 2-11000 · Mirrors/Accessories>Showers	0.00	0.00	3,276.52	3,276.52 ✓
2-12000 · Landscaping				
2310 · Standard (Landscaping)	2,000.00	2,000.00	24,132.00	24,132.00
2350 · Extras (Landscaping)	2,974.33	2,974.37	37,069.00	37,069.00
Total 2-12000 · Landscaping	4,974.33	4,974.37	61,201.00	61,201.00
2-13000 · Misc. Carp. Labor				
2-17600 · Standard (Misc. Carpentry Labor)	810.50	810.50	9,726.09	9,726.09
2-17601 · Extras (Misc. Carp. Labor)	0.00	0.00	555.00	555.00
Total 2-13000 · Misc. Carp. Labor	810.50	810.50	10,281.09	10,281.09

1:52 PM

05/01/06

Accrual Basis

Franklin Place Partners, LLC

Profit & Loss

As of December 31, 2005

	011 (3 FP) (Lot / Stre...	012 (1 FP) (Lot / Stre...	Total Lot / ...	TOTAL
2-17000 · Cleaning				
17010 · Standard (Cleaning)	450.00	450.00	5,400.00	5,400.00
Total 2-17000 · Cleaning	450.00	450.00	5,400.00	5,400.00
2-17100 · Rubbish				
2-17110 · Standard (Rubbish)	1,431.18	1,431.12	17,174.10	17,174.10
2-17120 · Extra (Rubbish)	0.00	0.00	1,850.00	1,850.00
Total 2-17100 · Rubbish	1,431.18	1,431.12	19,024.10	19,024.10
2-17200 · Miscellaneous				
17300 · Punchlist	2.69	2.69	43.43	43.43
17400 · Utilites	1,268.98	1,267.81	16,050.90	16,050.90
17500 · Materials	51.55	51.56	618.61	618.61
17650 · General	152.06	152.06	1,824.89	1,824.89
Total 2-17200 · Miscellaneous	1,475.28	1,474.12	18,537.83	18,537.83
19350 · Marketing				
19351 · MRK-Advertising	266.21	266.10	3,194.18	3,194.18
19356 · MRK-Misc. collateral materials	203.09	203.11	2,437.03	2,437.03
Total 19350 · Marketing	469.30	469.21	5,631.21	5,631.21
2-17300 · Energy Star Fee	-675.84	-675.85	-8,550.00	-8,550.00
3-10000 · Consulting Fees	4,269.15	4,269.15	51,229.65	51,229.65
Total Expense	<u>382,972.48</u>	<u>382,792.14</u>	<u>5,406,870.21</u>	<u>5,406,870.21</u>
Net Ordinary Income	<u>-187,840.67</u>	<u>-187,792.14</u>	<u>154,053.82</u>	<u>154,053.82</u>
Net Income	<u><u>-187,840.67</u></u>	<u><u>-187,792.14</u></u>	<u><u>154,053.82</u></u>	<u><u>154,053.82</u></u>