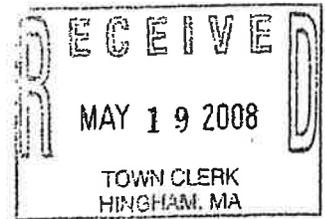


# Exhibit M



**IN THE MATTER OF:**

**APPLICANT:** DAMON FARM, LLC  
**OWNER:** TIGGER REALTY TRUST  
**PREMISES:** 1220-1222 Main Street  
Hingham, Massachusetts  
**DEED REFERENCE:** Plymouth County Registry of Deeds  
May 14, 2001, Book 19830, Page 63-65

**SUMMARY OF PROCEEDINGS:**

This matter came before the Zoning Board of Appeals on the application of Damon Farm, LLC ("Damon Farm" or the "Applicant") for a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Section 20 through 23, as amended, for the construction of a thirty-two (32) unit residential condominium development, which incorporates eight (8) residences qualifying as affordable. Four (4) buildings, containing eight (8) residences (two (2) affordable), are planned to be constructed in Hingham (this includes three units in the restored 1775 Davis Whiting Tavern). Eleven (11) buildings, containing twenty-four (24) residences (six (6) affordable) are planned to be constructed in Norwell. The land in Hingham consists of approximately 2.5 acres, known as 1220-1222 Main Street in Hingham, and is located on the northeast corner of the intersection of Routes 228 and 53 at the Hingham and Norwell town line.

Public hearings on the matter were held over the course of several months before both the Hingham and the Norwell Zoning Boards of Appeals (the "Boards"). The Hingham proceedings commenced on February 17, 2005, with continuations thereafter on April 14, 2005, June 16, 2005, July 14, 2005, July 21, 2005, September 8, 2005, September 15, 2005, October 20, 2005, November 17, 2005, December 15, 2005, January 19, 2006, March 2, 2006, April 13, 2006, May 25, 2006, June 22, 2006, July 27, 2006, August 22, 2006, September 21, 2006, December 14, 2006, January 25, 2007, March 1, 2007, April 12, 2007, June 7, 2007, June 21, 2007, July 12, 2007, September 6, 2007, October 18, 2007, November 29, 2007, January 3, 2008, January 24, 2008 and February 28, 2008, a number of the hearings were postponed at the request of the Applicant. Public hearings before the Hingham Board were held at Town Hall before a panel consisting of Stephen J. McLaughlin, Chairman, and regular members Victor A. Popp and Joseph W. Freeman.



### **FACTUAL BACKGROUND:**

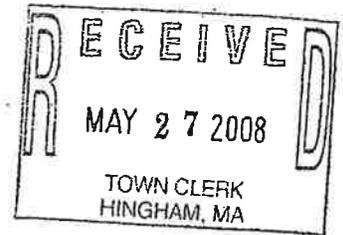
The entire Site consists of approximately 11 acres of land located on the northeast corner of the intersection of Routes 228 and 53 at the Hingham and Norwell town line. The land in Hingham consists of approximately 2.5 acres, known as 1220-1222 Main Street, and is presently improved by the Davis Whiting Tavern, constructed in the year 1775. The land in Norwell consists of approximately 8.5 acres, has frontage on Washington Street, and accesses Washington Street through a legal easement with an existing curb cut on that state highway. The Hingham land is situated within the Residence B zoning district.

### **THE APPLICANT'S PROPOSAL:**

The Applicant is a Massachusetts Limited Liability Company, authorized to act as a limited dividend entity, which proposes to construct a thirty-two (32) unit residential condominium development to be known as Damon Farm. As proposed, the development does not comply with many land use regulations applicable to developments within the Residence B district. However, the Applicant has submitted its proposal under the provisions of Massachusetts General Laws Chapter 40B (the "Statute"), which renders many of the Town's zoning and development regulations inapplicable in exchange for a commitment from the developer that a portion of the residences will be affordable housing. Under the requirements of the Statute and the regulations promulgated thereunder, each city and town in the Commonwealth is mandated to provide ten percent (10%) of its housing stock as "affordable housing." At the time of the filing of this application, the Massachusetts Department of Housing and Community Development ("DHCD") reported that the Town of Hingham's affordable housing stock was less than four percent (4%) of the available housing stock. However, at the commencement of the public hearing process, the Zoning Board of Appeals noted that the Town of Hingham challenges the DHCD position with respect to the level of affordable housing, and that the Town asserts that it is not obligated to entertain this Application. The Zoning Board of Appeals informed the Applicant that the Zoning Board would hear and consider the Application on the merits, but that the Zoning Board of Appeals reserved the right to deny the Application on the merits and/or upon the basis that the Town of Hingham is no longer obligated to entertain affordable housing permit application under M.G.L. Chapter 40B because of recent increases in the Town's affordable housing stock. The Zoning Board of Appeals further stated that the Board's consideration of the Application, and potential granting of a comprehensive permit, would not be contradictory to the Town's position regarding the current affordable housing stock, and would not be deemed a waiver of the Town's position regarding its status under M.G.L. Chapter 40B and the applicable regulations.

### **THE ZONING BOARD'S AUTHORITY UNDER THE STATUTE:**

The Applicant has proposed to finance the project through the Federal Home Loan Bank of Boston's New England Fund ("NEF"). In a decision of the Housing Appeals Committee, NEF was recognized as an appropriate method of financing projects



**IN THE MATTER OF:**

**Applicant:** Hingham Square Townhomes LLC  
**Premises:** 229 North Street  
Hingham, MA 02043  
**Deed Reference:** Plymouth County Registry of Deeds Book 1992, Page 378

**SUMMARY OF PROCEEDINGS:**

This matter came before the Zoning Board of Appeals on the application of Hingham Square Townhomes LLC (the "Applicant") for a Comprehensive Permit under Massachusetts General Law Chapter 40B, Sections 20-22 ("Chapter 40B") for the construction of fifteen (15) age-restricted townhomes, including 4 affordable units, and the redevelopment and restoration of the Hersey House as a single family dwelling (the "Project") on the approximately 3.3 acre site located at 229 North Street (the "Property"), in the Official and Open Space District.

Public hearings on the matter were held over the course of several months commencing on October 4, 2007, and continuing thereafter on November 15, 2007, December 17, 2007, January 28, 2008, March 13, 2008, March 27, 2008 and April 17, 2008. All public hearings were held at the Town Hall before a panel consisting of regular members Stephen J. McLaughlin, Chairman, W. Tod McGrath and Joseph M. Fisher.

**FACTUAL BACKGROUND:**

The Property comprises a 144,882 sq. ft. parcel located on North Street, consisting of Lot #1, containing 34,815 +/- sq. ft. (the "Hersey Lot") and Lot # 2, containing 110,067 +/- sq. ft. (the "Townhome Lot") as shown on the Site Plan, Sheet 3 of 13, being labeled also as Assessor's Map 60, Lot 143.

The Property is level to moderately sloped, and is currently improved with the Hersey House, an accessory barn, entrance drive, parking area and related amenities, and is surrounded by a church, residences, and an athletic field owned by the Town of Hingham. There is one existing curb cut on North Street. There several mature trees on the property that will be preserved in the front yard of the Hersey House. There are no wetlands on the Property.



The Project is the culmination of a Request for Proposals (RFP) issued by the Town of Hingham through its Board of Selectmen in 2003, a Proposal Response submitted by Thomas J. Hastings Properties, Inc. (an affiliate of Applicant), and a Purchase and Sale Agreement between the Town of Hingham and Applicant's affiliate, dated June 15, 2004, as amended April 4, 2006 (the "Purchase and Sale Agreement"). Transfer of the property has been authorized and approved by Hingham Town Meeting and will be transferred in fee to the Applicant upon conclusion of the Comprehensive Permit, together with all other permits and approvals necessary to construct the Project, pursuant to the Purchase and Sale Agreement.

### **THE APPLICANT'S PROPOSAL:**

In August, 2007, Hingham Square Townhomes, LLC, with an address of 26 Summer Street, Hingham, MA 02043 filed a petition for a Comprehensive Permit, pursuant to the provisions of M.G.L. c. 40B, Sections 20-22 for construction of fifteen (15), age-restricted townhomes, and the redevelopment and restoration of the Hersey House as a single family dwelling, together with accessory structures, entrance drives, stormwater structures, and supportive infrastructure all on property commonly known as and numbered 229 North Street, Hingham, MA. Each of the townhome units will consist of two floors of living area, each with two bedrooms and family room/bedroom, including a first floor master bedroom suite, two and one-half bathrooms, two car garage and driveway area for two additional parking spaces. The Project is located on an existing 144,882 sq. ft. lot in the Official & Open Space Zoning District, currently improved with the Hersey House, a barn that will be relocated, an entrance drive and parking area.

There will be four (4) affordable units, interspersed throughout the new townhome development that will be sold to home buyers earning no more than eighty percent of the median annual income for residents of the Boston-Cambridge-Quincy, MA-NH HFMA. A Deed Rider containing restrictions on the sale of these units shall be recorded with the Plymouth County Registry of Deeds. The remaining eleven townhome units and the Hersey House will be sold at market rate.

### **I. Submittals from Applicant**

1. Application for Comprehensive Permit, dated August, 2007, including the following materials:
  - a. Project Data Summary
  - b. Applicant Status
  - c. Site Approval Letter
  - d. Development Team
  - e. Site Control
  - f. Plans and Drawings
  - g. DHCD SHI Eligible Housing Data
  - h. Existing Site Conditions
  - i. List of Exceptions
  - j. Traffic Report
  - k. Abutters List
  - l. ZBA Hearing Application
  - m. Filing Fee

2. Stormwater Management Report and Hydrologic Analysis, last revised January 20, 2008
3. Development Budget, last revised March 12, 2008
4. Affordable Unit Designation Plan, last revised March 17, 2008
5. Tree Preservation Plan, submitted on March 13, 2008
6. List of Requested Waivers, submitted on March 13, 2008
7. Declaration of Covenants and Restrictions, Hersey House, last revised April 17, 2008
8. Hersey House, Ira G. Hersey Research Report, prepared by John P. Richardson, dated July 13, 2006.

The following plans entitled "Site Plan, Hingham Square Condominiums, Assessors Map 60, Lot 143, Hingham, Massachusetts, July 2, 2007, Revised March 21, 2008," were prepared by Merrill Associates, Inc. (the "Site Plans"):

Sheet No.	Title	Latest Revision Date
1 of 13	Cover Sheet	March 21, 2008
2 of 13	Existing Conditions	March 17, 2008
3 of 13	Layout Plan/ Zoning	March 17, 2008
4 of 13	Grading/ Drainage	March 21, 2008
5 of 13	Utility Plan	March 17, 2008
6 of 13	Landscaping	March 17, 2008
7 of 13	Details	March 17, 2008
8 of 13	Details	March 17, 2008
9 of 13	Sewerage Details	March 17, 2008
10 of 13	Details	March 17, 2008
11 of 13	Details	March 17, 2008
12 of 13	Details/ Soil Logs	March 21, 2008
13 of 13	Details	March 21, 2008

The following plans entitled "Hingham Square Conceptual Design dated March 13, 2008" were prepared by Shesky Architects (the "Architectural Plans"):

Title	Latest Revision Date
Front, Rear and Side Elevation	March 13, 2008
First Floor and Second Floor Floor Plans	March 13, 2008

The following plans entitled "Hersey House Restoration Plan" were prepared by Fitzgerald Design (the "Hersey House Restoration Plans"):

Sheet No.	Title	Latest Revision Date
Cover	Exterior Renderings	11/13/07
1 of 3	Exterior Elevations	11/2/07
2 of 3	Proposed First Floor Plan	11/2/07
3 of 3	Proposed Second Floor Plan	11/2/07

The following plan entitled "Plan of Land, 229 North Street, Hingham, Massachusetts" was prepared by Merrill Associates, Inc. (the "Approval Not Required Plan"):

Sheet No.	Title	Latest Revision Date
1 of 1	Plan of Land	04/04/08

## II. Chapter 40B Affordable Housing Thresholds

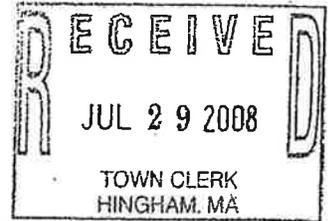
Prior to the Applicant's submission of its Application for the issuance of a Comprehensive Permit the Applicant obtained information from the Massachusetts Department of Housing and Community Development ("DHCD") asserting that the Town of Hingham does not meet any of the Statutory Minima of SHI Eligible Housing, as those terms are defined in regulations promulgated at 760 CMR 56.00, et seq. (Comprehensive Permit, Low or Moderate Income Housing) (the "DHCD Regulations"). However, at the commencement of the public hearing process, the Zoning Board of Appeals noted that the Town of Hingham challenges the DHCD position with respect to the level of affordable housing, and that the Town asserts that it is not obligated to entertain this Application. The Zoning Board of Appeals informed the Applicant that the Zoning Board would hear and consider the Application on the merits, but that the Zoning Board of Appeals reserved the right to deny the Application on the merits and/or upon the basis that the Town of Hingham is no longer obligated to entertain affordable housing permit application under M.G.L. Chapter 40B because of recent increases in the Town's affordable housing stock. The Zoning Board of Appeals further stated that the Board's consideration of the Application, and potential granting of a comprehensive permit, would not be contradictory to the Town's position regarding the current affordable housing stock, and would not be deemed a waiver of the Town's position regarding its status under M.G.L. Chapter 40B and the applicable regulations.

## III. Jurisdictional Findings

Pursuant to the DHCD Regulations, the Applicant must fulfill three jurisdictional requirements:

1. The Applicant shall be a public agency, non-profit organization, or a Limited Dividend Organization;
2. The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
3. The Applicant shall control the Site

The Board received evidence throughout the application and hearing process and makes the following factual findings relevant to the jurisdictional requirements of the Comprehensive Permit:



**IN THE MATTER OF:**

**APPLICANT:** Newcastle Ridge, LLC

**PREMISES:** 201 Ward Street  
Hingham, Massachusetts

**DEED REFERENCE:** Plymouth County Registry of Deeds  
Book 21243, Page 208-209  
Book 15709, Page 82  
Book 21371, Pages 329-330

**SUMMARY OF PROCEEDINGS:**

This matter came before the Zoning Board of Appeals on the application of Newcastle Ridge, LLC ("Newcastle Ridge" or the "Applicant") for a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Section 20 through 23, as amended, for the construction of a single structure containing forty-four (44) residential condominium units, which incorporates eleven (11) residences qualifying as affordable. The land located on Ward Street in Hingham consists of approximately 6.99 acres and is located in Residence District C.

Public hearings on the matter were held over the course of several months before the Hingham Zoning Boards of Appeals (the "Board"). The Hingham proceedings commenced on March 1, 2007, with continuations thereafter on April 12, 2007, May 17, 2007, July 12, 2007, September 20, 2007, October 18, 2007, November 29, 2007, February 28, 2008, April 10, 2008, May 8, 2008 and June 19, 2008, a number of hearings where postponed at the request of the Applicant and the Board. Public hearings before the Hingham Zoning Board of Appeals were held at Town Hall before a panel consisting of Stephen J. McLaughlin, Chairman, and regular member Victor A. Popp, and associate member Joseph W. Freeman.

**FACTUAL BACKGROUND:**

The Site consists of approximately 6.99 acres of land located on the Southerly side of Ward Street. The land is situated within the Residence C zoning district. The land is characterized by a fairly steep hill adjacent to Ward Street, with ledge outcroppings.

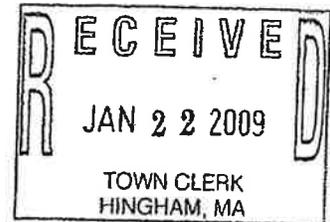


### **THE APPLICANT'S PROPOSAL:**

The Applicant is a Massachusetts Limited Liability Company, authorized to act as a limited dividend entity, which proposes to construct a forty-four (44) unit residential condominium development to be known as Newcastle Ridge. As proposed, the development does not comply with many land use regulations applicable to developments within the Residence C zoning district. However, the Applicant has submitted its proposal under the provisions of Massachusetts General Laws Chapter 40B (the "Statute"), which renders many of the Town's zoning and development regulations inapplicable in exchange for a commitment from the developer that a portion of the residences will be affordable housing. Under the requirements of the Statute and the regulations promulgated thereunder, each city and town in the Commonwealth is mandated to provide ten percent (10%) of its housing stock as "affordable housing." At the time of the filing of this application, the Massachusetts Department of Housing and Community Development ("DHCD") reported that the Town of Hingham's affordable housing stock was 5.6% of the available housing stock (Based upon the DHCD Subsidized Housing Inventory, revised through June 1, 2006). However, at the commencement of the public hearing process, the Zoning Board of Appeals noted that the Town of Hingham challenges the DHCD position with respect to the Town's current level of affordable housing, and that the Town asserts that it is not obligated to entertain this Application. The Zoning Board of Appeals informed the Applicant that the Zoning Board would hear and consider the Application on the merits, but that the Zoning Board of Appeals reserved the right to deny the Application on the merits and/or upon the basis that the Town of Hingham is no longer obligated to entertain affordable housing permit application under M.G.L. Chapter 40B because of recent increases in the Town's affordable housing stock. The Zoning Board of Appeals further stated that the Board's consideration of the Application, and potential granting of a Comprehensive Permit, would not be contradictory to the Town's position regarding the current affordable housing stock, and would not be deemed a waiver of the Town's position regarding its status under M.G.L. Chapter 40B and the applicable regulations.

### **THE ZONING BOARD'S AUTHORITY UNDER THE STATUTE:**

The Applicant has proposed to finance the project through either the Federal Home Loan Bank of Boston's New England Fund ("NEF") or the Housing Starts Program of the Massachusetts Housing Finance Agency, as the project has been approved by MassHousing under both programs. In a decision of the Housing Appeals Committee, NEF was recognized as an appropriate method of financing projects that include an affordable housing component. (Stuborn Ltd. Partnership v. Barnstable Board of Appeals, Housing Appeals Committee, No. 98-01.) The Stuborn decision noted that the local permitting authority would be "empowered to shape individual developments to fit their particular circumstances" when considering applications for housing subsidized under the New England Fund of the Federal Home Loan Bank of Boston. Accordingly, the Zoning Board of Appeals has the authority to determine the local needs for the affordable housing, and is empowered to fashion appropriate Regulatory Agreements,



**IN THE MATTER OF:**

**APPLICANT:** 302-304 Whiting Street Limited Partnership

**OWNER:** Robert J. Barra, c/o Realty Assets, Inc.

**PREMISES:** 302-304 Whiting Street  
Hingham, Massachusetts

**DEED REFERENCE:** Plymouth County Registry of Deeds  
Book 20119, Pages 199-200 and a portion of  
Book 1936, Page 61 (13,540.9 sq.ft. from Eastern Quarries parcel)

**SUMMARY OF PROCEEDINGS:**

This matter came before the Zoning Board of Appeals on the application of 302-304 Whiting Street Limited Partnership (the "Applicant") for a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Section 20 through 23, as amended, for the construction of a twenty (20) unit residential condominium development, which incorporates five (5) residences qualifying as affordable. Eight (8) buildings, containing twenty (20) residences (five (5) affordable), are planned to be constructed. The site consists of approximately 9.5 acres of land located off of Whiting Street, Route 53, in Hingham (the "Site"), located in Residence District C.

Public hearings on the matter were held over the course of several months before the Hingham Zoning Boards of Appeals (the "Board"). The Hingham proceedings commenced on September 6, 2007, November 1, 2007, November 15, 2007, January 24, 2008, March 13, 2008, April 17, 2008, June 5, 2008, July 24, 2008, September 24, 2008, November 19, 2008 and December 10, 2008; a number of the hearings were postponed at the request of the Applicant. All public hearings before the Hingham Board were held at Town Hall before a panel consisting of regular members Stephen J. McLaughlin, Chairman, W. Tod McGrath and Joseph M. Fisher.

**FACTUAL BACKGROUND:**

The entire Site consists of approximately 9.5 acres of land located off of Whiting Street, Route 53, in Hingham. The Site consists of two separate parcels: the first parcel, known as 302-304 Whiting Street and consisting of approximately 9.25 acres, is presently



improved by two existing houses; and the second parcel, a trapezoidal parcel consisting of .25 acres, was acquired so as to allow for the optimal placement of the Project's driveway off of Whiting Street. A plan of land entitled "410 Whiting Street Plan of Land in Hingham, Mass.," dated November 8, 2008, (hereinafter, the "Plan") depicts the Site and is attached hereto as Attachment A. The Site is situated within the Residence C zoning district.

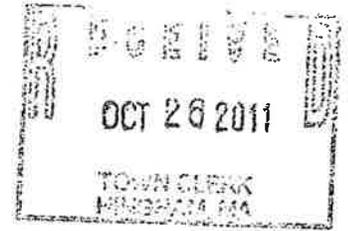
### **THE APPLICANT'S PROPOSAL:**

The Applicant is a Massachusetts limited partnership, and qualified limited dividend organization, authorized to enter into regulatory agreements with municipalities and other governing authorities within the Commonwealth. The Applicant proposes to construct a twenty (20) unit residential condominium development to be known as Derby Brook (originally filed as "Penniman Knoll Condominiums"). As proposed, the development does not comply with many land use regulations applicable to developments within the Residence C district. However, the Applicant has submitted its proposal under the provisions of Massachusetts General Laws Chapter 40B (the "Statute"), which renders many of the Town's zoning and development regulations inapplicable in exchange for a commitment from the developer that a portion of the residences will be affordable housing. Under the requirements of the Statute and the regulations promulgated thereunder, each city and town in the Commonwealth is mandated to provide ten percent (10%) of its housing stock as "affordable housing." At the time of the filing of this application, the Massachusetts Department of Housing and Community Development ("DHCD") reported that the Town of Hingham's affordable housing stock was less than six percent (6%) of the available housing stock. However, at the commencement of the public hearing process, the Zoning Board of Appeals noted that the Town of Hingham challenges the DHCD position with respect to the level of affordable housing, and that the Town asserts that it is not obligated to entertain this Application. The Zoning Board of Appeals informed the Applicant that the Zoning Board would hear and consider the Application on the merits, but that the Zoning Board of Appeals reserved the right to deny the Application on the merits and/or upon the basis that the Town of Hingham is no longer obligated to entertain affordable housing permit application under M.G.L. Chapter 40B because of recent increases in the Town's affordable housing stock. The Zoning Board of Appeals further stated that the Board's consideration of the Application, and potential granting of a comprehensive permit, would not be contradictory to the Town's position regarding the current affordable housing stock, and would not be deemed a waiver of the Town's position regarding its status under M.G.L. Chapter 40B and the applicable regulations.

### **THE ZONING BOARD'S AUTHORITY UNDER THE STATUTE:**

The Applicant has proposed to finance the project through the Federal Home Loan Bank of Boston's New England Fund ("NEF"). In a decision of the Housing Appeals Committee, NEF was recognized as an appropriate method of financing projects that include an affordable housing component. (Stuborn Ltd. Partnership v. Barnstable Board of Appeals, Housing Appeals Committee, No. 98-01.) The Stuborn decision noted

**TOWN OF HINGHAM  
BOARD OF APPEALS**



**IN THE MATTER OF:**

**Applicant and  
Property Owner:** Hingham Affordable Housing Trust

**Premises:** 80 Beal Street  
Hingham, MA

**Deed Reference:** Plymouth County Registry of Deeds Book 38142 Page 254,

**SUMMARY OF PROCEEDINGS:**

This matter came before the Zoning Board of Appeals on the application of Hingham Affordable Housing Trust (the "Applicant") for a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Sections 20 through 23, Local Initiative Program (LIP), as amended, ("the Statute") for the construction of eight (8) units of housing (two (2) affordable) (the "Project") on the 3.09 acre site at 80 Beal Street (the "Site"), in the Official and Open Space District.

Public hearings on the matter were duly noticed and held before the Hingham Zoning Board of Appeals (the "Board"). The Hingham proceedings commenced on July 14, 2011 and continued on September 21, 2011 and October 12, 2011. All public hearings before the Board were held at Hingham Town Hall before a panel consisting of regular members W. Tod McGrath, Chairman, Joseph M. Fisher and associate member Alan M. Kearney.

**FACTUAL BACKGROUND:**

The entire Site consists of 3.09 acres of land at 80 Beal Street, in Hingham, MA. The site consists of one lot of land, and is currently improved by a two story residential structure which will be razed. Plans entitled "Town of Hingham Affordable Housing Trust, 80 Beal Street, Hingham, MA 02043 dated May 25, 2011 (revised through September 19, 2011) and prepared by a team consisting of Strelakovsky Architecture, Coyle & Caron, LLC and Merrill Associates" (hereinafter, the "Plan") depict the Site and the proposed development plans and are attached hereto as Attachment B. The Site is situated in an Official and Open Space District. The site is flat, with access to/from Beal Street. Utilities are available from Beal Street. Access to the Site will be moved from the Western corner of the Site further to the East, as shown on the Plan. The site contains mature trees and the rear of the Site is woodlands. There is a small amount (285 square feet) of wetlands to the rear of the property on the East.

The Applicant will not develop the Project, but will put the Project out for public bid and award the Project to a developer after issuance of the Comprehensive Permit. The award may be subject to a land disposition and/or development agreement between the Applicant and the successful bidder. Hereinafter, all references to the Applicant shall include any successful bidder, successor and/or assigns.



### **THE APPLICANT'S PROPOSAL:**

The Applicant has proposed eight (8) detached homes, of which two (2) will be affordable in perpetuity. Each home will have 1,200 square feet ( $\pm 2\%$ ) of living space, 800 square feet of useable basement space (excluded from the aforesaid calculation of living space), a farmer's porch and a one car garage. Each home will contain three (3) bedrooms and two (2) bathrooms. The site layout has been designed to create walkable, pedestrian friendly common areas with vehicular traffic restricted to the perimeter of the property. As proposed, each unit owner will maintain all of its building and a small amount of landscape area around the building, within so-called exclusive use areas, and the condominium association will maintain the remainder of the common areas, including the roadways and all remaining landscaped areas.

As proposed, the development complies with many of the dimensional land use regulations applicable to developments within an Official and Open Space District. Nonetheless, the Applicant has requested waivers from certain use, dimensional, and/or other restrictions otherwise applicable to the Project, as authorized under the provisions of the Statute and the regulations promulgated thereunder, at 760 C.M.R. 56.00, et seq. ("the Regulations"), to the extent that compliance therewith is inconsistent with local needs. The Applicant will designate two (2) units as affordable so as to aid the Town in satisfying the statutory minima established by the Statute and the Regulations, of either ten percent (10%) of its total housing units qualifying as "affordable" or affordable housing existing on sites comprising more than 1.5% of the total land area zoned for residential, commercial, or industrial use in the Town. At the time of the filing of this application, the Massachusetts Department of Housing and Community Development ("DHCD") reported that the Town of Hingham's affordable housing stock was less than six percent (6%) of the available housing stock. However, at the commencement of the public hearing process, the Board noted that the Town of Hingham (the "Town") challenges DHCD's position with respect to the level of affordable housing, and that the Board asserts that it is not obligated to entertain the Application. The Board informed the Applicant that the Board would hear and consider the Application on the merits, but that the Board reserved the right to deny the Application on the merits and/or upon the basis that the Town is no longer obligated to entertain affordable housing permit applications under M.G.L. Chapter 40B because of recent increases in the Town's affordable housing stock. The Board further stated that the Board's consideration of the Application, and potential granting of a Comprehensive Permit, would not be contradictory to the Town's position regarding the current affordable housing stock, and would not be deemed a waiver of the Town's position regarding its status under M.G.L. Chapter 40B and the applicable regulations.

### **THE ZONING BOARD'S AUTHORITY UNDER THE STATUTE:**

Pursuant to the Statute, the Applicant must fulfill three (3) jurisdictional requirements:

1. The Applicant shall be a public agency, non-profit organization or a Limited Dividend Organization;
2. The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
3. The Applicant shall control the Site.

The Board received evidence through the application and the hearing process and makes the following finding of facts relevant to jurisdiction:

1. The Applicant is a Trust created pursuant to M. G.L. Chapter 44, Section 55C. The Board finds that the Trust is a public agency and therefore satisfies this jurisdictional requirement.
2. The Applicant received project eligibility approval on May 11, 2011 from the Commonwealth of Massachusetts Department of Housing and Community Development under the Local