



TOWN OF NORTHBOROUGH

Zoning Board of Appeals

63 Main Street
Northborough, Massachusetts 01532
508-393-5019 ~ 508-393-6996 Fax

DECISION

Dunia Gardens Comprehensive Permit

ZBA CASE NO. 05-34

PROPERTY LOCATION: 239 Hudson Street

PETITIONER: Dunia Gardens LLC

I. BACKGROUND

- Applicant:** Dunia Gardens LLC. The term "Applicant" shall include the Applicant's successors and assigns where applicable, and shall also include any condominium association that is formed to manage or govern any aspect of the project.
- Property Owner:** Mohammad Ziad Ramadan, 85 Newton Street, Northborough, MA.
- Public Hearing:** Opened January 24, 2006, continued with the applicant's assent to February 28, 2006, March 28, 2006, May 3, 2006, May 23, 2006, June 27, 2006, July 25, 2006, and August 22, 2006 when the hearing was closed; pursuant to notice duly published and mailed to parties in interest. The following Board members or alternates: Richard Rand, Richard Kane and Mark Rutan attended all public hearing sessions.
- Decision Date:** August 22, 2006
- The Premises:** The parcel of land totaling approximately 4.0 acres located at 239 Hudson Street, Northborough, identified as Parcel #33 and Parcel #34 on Northborough Assessor's Map 35, shown as New Lot 3A on a plan of land entitled "Plan of Land in Northboro, MA, surveyed for Alick Yellick, et ux," dated September 9, 2004, said plan being recorded with the Worcester District Registry of Deeds in Plan Book 819, Plan 12, being the same premises described in a deed recorded with said Deeds in Book 35768, Page 10. The

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premises are located in the Industrial B zoning district and are located with Groundwater Area 3 under Zoning Bylaw section 7-28-040 (C) (3) (f).

The Project: The construction and occupancy of 28 townhouse condominium homeownership units with funding under the Housing Starts program of the Massachusetts Housing Finance Agency ("MassHousing") or the New England Fund ("NEF") sponsored by the Federal Home Loan Bank of Boston ("FHLBB"). The project is documented in the following materials:

1. Comprehensive Permit Application dated December 16, 2005, revised February 8, 2006, supplemented by revised Proforma dated February 8, 2006, Project Implementation Plan revised May 12, 2006, Minimum Standard Features (Appendix "A") revised August 21, 2006 and Waiver Request List (Appendix "B") revised August 2006.
2. Plans (described below).

II. DETERMINATIONS

Following its public hearing and based on the evidence submitted to the Board from all sources, the Board makes the following determinations:

1. Consistency with statutory local needs.

Under the terms of M.G.L. Chapter 40B, Section 20, Northborough has met low and moderate housing needs.

2. Impact on Local Planning Concerns.

After hearing extensive testimony on the potential impacts, the Board determined that the proposal, as amended during the hearing process and subject to the conditions listed below, will not endanger the health and safety of the occupants and abutters.

Over the course of the public hearing, the Board heard testimony and received written comments from town boards and officials, including the Town Planner, the Acting Director of the Department of Public Works ("DPW"), the Inspector of Buildings/Zoning Enforcement Officer, the Town Engineer, the Fire Chief, and the Town Engineer on behalf of the Groundwater Advisory Committee. The Applicant and its representatives, including its Development Consultant Paul E. Cusson of Delphic Associates, LLC, and its Engineer, David M. Beecy, P.E., of Outback Engineering, Inc. testified and submitted written documentation. The Board retained Michael Jacobs to review the Applicant's pro forma.

Among the issues raised by Town officials were access for emergency vehicles and fire safety, guest parking, snow storage, the design of the drainage system, the relocation of the stone wall encroaching within the layout of the public way, provision of sidewalks, size and location of outdoor recreation area, mix of unit sizes in terms of number of bedrooms, grading of steep slopes and building setbacks from lot lines and whether any fees customarily charged by the Town should be waived. In response, the Applicant submitted revised plans. The Board imposes by this decision a number of conditions to protect the Town's interest and address health and safety concerns.

Among other issues addressed by conditions in this Decision and/or revisions to the plans include the adequacy of fire hydrants and fire suppression systems, play area for children, adequacy of visitor parking space, the adequacy of turn-around space for fire department vehicles, and the relocation of the encroaching wall upon Hudson Street, a scenic road.

3. Statutory Requirements.

The Board determines that the Applicant has met the statutory requirements of G.L. c.40B to apply for the comprehensive permit; the Board recognizes that since the Town has met its statutory minimum affordable housing goals, although the Board is authorized to grant this comprehensive permit, its decision to grant this comprehensive permit with conditions, or to deny this permit, may not be appealed by the Applicant to the Housing Appeals Committee.

III. FINDINGS AND DECISION

After due consideration of the Application, the record of the proceedings and the materials submitted to the Board, the Board finds that the Project, as conditioned by this decision, will be consistent with local needs. The conditions provide a number of reviews, bonds, and other protections for the Town and the neighborhood.

Based upon the above determinations and the conditions listed below, the Board finds that the Project meets the requirements for a comprehensive permit under G.L. c. 40B.

The Board therefore votes to grant the requested comprehensive permit for the construction and occupancy of 28 units as described in the materials submitted by the Applicant as amended by the conditions listed below.

IV. CONDITIONS

Said grant is made subject to the following conditions that the Board deems necessary in order to assure consistency with the purposes of G.L. c. 40B:

A. Regulatory Conditions.

1. The total number of units that may be constructed on the site is limited to twenty eight (28) three-bedroom units. The units shall be located in duplex and triplex

structures. Except as more particularly provided for in this decision, the Project shall be constructed in conformance with the following plans of record:

Site Plans – Entitled “Dunia Gardens Residential Development in Northborough, Massachusetts,” consisting of seven sheets: Sheet 1 Site Plan dated January 19, 2006; Sheet 2 Existing Conditions Plan dated February 13, 2006; Sheet 3 Grading and Drainage Plan dated February 13, 2006; Sheet 4 Utility Plan dated January 19, 2006; Sheet 5 Plan and Profile dated January 26, 2006; Sheet 6 Details Sheet dated January 31, 2006; Sheet 7 Details Sheet dated January 31, 2006, all last revised May 10, 2006, prepared by Outback Engineering, Inc.; Project Implementation Plan revised May 12, 2006; Erosion Control Plan “Dunia Gardens” dated March 23, 2006; and plan entitled “Landscaping & Lighting Plan Dunia Gardens Location Northborough, Massachusetts, dated February 13, 2006, prepared by Meridian Associates, Inc.; and

Architectural Plans and Specifications – Entitled Dunia Northborough MA Unit Type A Floor Plan, Unit Type B Floor Plan, and Elevations/Profiles, dated February 10, 2006, prepared by The Architects’ Studio; plan entitled Dunia Gardens Landscape Exhibit Northborough, Massachusetts Prepared For: Mohamad Ziad Ramadan, dated March 28, 2006, prepared by Meridian Associates, Inc.; and Minimum Standard Features revised August 21, 2006 (the Site Plans and the Architectural Plans and Specifications being together referred to as the “Plans”)

2. The Applicant shall not receive any building permit until the Applicant has executed and delivered a Regulatory Agreement (the “Regulatory Agreement”) in the form approved by the Board.
3. Seven (7) of the units within the Project shall be low or moderate income as defined in M.G.L. c. 40B and the regulations promulgated thereunder (herein the “Affordable Units”). The Affordable Units shall be those units designated as units 11, 16, 19, 27, 2, 8 and 4 on the Site Plan. The Affordable Units shall be indistinguishable from the exterior from the market rate units and all affordable unit interiors shall be finished and shall include all customary appliances in accordance with the Specifications.
4. The Affordable Units shall be constructed on a schedule that provides for the construction of Affordable Units and market-rate units on the basis of one (1) Affordable Unit for every three (3) market rate units. In no event shall a certificate of occupancy be issued for a market rate unit unless a certificate of occupancy for a proportionate Affordable Unit has been issued.
5. All Affordable Units shall remain so in perpetuity or for the longest period permitted by law. An affordable housing restriction, enforceable by the Town of Northborough, requiring that the Affordable Units remain affordable in perpetuity, in the form approved by the Federal National Mortgage Association

(Fannie Mae”) and the Massachusetts Housing Finance Agency (“MassHousing”) and presently designated I:\DeedRiderSAR-Massachusetts (Universal) 5/3016, shall be recorded senior to any liens on the Affordable Units.

6. Insofar as allowed under M.G.L. c. 40B and the regulations promulgated thereunder and other applicable law, with respect to at least 70% of the Affordable Units, the Applicant shall provide a preference category for Northborough town employees, employees of the regional school district serving Northborough, Northborough residents, their parents and children. This preference shall be implemented through the designated monitoring agent, which shall also review the Applicant’s fair housing marketing plan, which shall also be reviewed by the Zoning Board of Appeals. The costs associated with the marketing plan, including the advertising and processing for the Affordable Units shall be borne by the Applicant.
7. The Board approves Citizens Housing and Planning Association (“CHAPA”) as the Monitoring Agent for the Project. Prior to issuance of a Building Permit the Applicant shall enter into a Monitoring Services Agreement, in form approved by the Board, with the Monitoring Agent. Services to be performed by the Monitoring Agent shall include but not be limited to:
 - a. review and approval of the affordable unit sales prices;
 - b. review and approval of the affirmative marketing plan for the Affordable Units;
 - c. review and approval of the selection process for purchasers of the Affordable Units;
 - d. review and approval of compliance of Affordable Units with respect to the Regulatory Agreement; and
 - e. compliance of the Applicant with the limited dividend requirements of G.L. c.40B.
8. If at any time it appears that the Applicant is in violation of the Regulatory Agreement, following a hearing of which the Applicant has been given prior written notice of no less than fourteen days, then the Board may pursue such enforcement rights as it may have under the Regulatory Agreement and/or the Affordable Housing Restriction and/or applicable law.
9. Prior to issuance of the Certificate of Occupancy for the last unit in the Project, the Applicant shall deliver to the Monitoring Agent an itemized statement of the total development costs together with a statement of gross revenues from the Project received by the Applicant to date prepared by an independent Certified Public Accountant according to generally accepted accounting principals

(GAAP), hereinafter referred to as the "Certified Cost and Income Statement"). The Monitoring Agent and/or its auditor shall have access to the Applicant's books and records with respect to this Project during normal business hours after reasonable notice to verify cost certification.

10. Applicant agrees that the profit to the Applicant or to the partners, shareholders or other owners of the Applicant or of the Project shall not exceed twenty (20%) percent of the allowable development costs of the Project (hereafter referred to as the "Allowable Profit"). All profits from the Project in excess of the Allowable Profit shall be paid by the Applicant to the Town for deposit in an affordable housing fund to be used for the purposes of encouraging, creating or subsidizing construction or rehabilitation of affordable housing in the Town of Northborough. Allowable development costs shall include the land value and soft costs as presented to the Board in the pro forma, except that allowable development costs shall not include any development or other fee paid to the Applicant other than a general contractor fee retained by the Applicant or paid by the Applicant to the Applicant or its related entities which may be included in the allowable development costs in an amount not to exceed the \$80,000 figure presented to the Board in the pro forma. Any real estate brokerage fees paid to the Applicant or its related entities shall not exceed 5% of the sale price. The amount of these allowable development costs may or may not be used for other calculations made by the subsidizing agency or other entities for other purposes, but will be used to calculate the Allowable Profit.
11. Prior to the issuance of any building permit, the Applicant shall have completed a plan of roadway improvements to Hudson Street (the "Roadway Improvements Plan") and such plan shall be approved by the Acting Director of the Department of Public Works and the Town Engineer, which approval shall not be unreasonably withheld, conditioned or denied; once approved, the Roadway Improvements Plan shall be deemed to be one of the Plans referenced in Condition 1 above, and the roadway improvements shall be constructed as shown on the Roadway Improvements Plan.
12. The condominium Master Deed shall grant an easement to the Town with the right, but not the obligation, to enter the Premises and repair the drainage system.
13. Any and all condominium or condominium association documents must be reviewed and approved by Town Counsel prior to the issuance of the first building permit.

B. General Conditions

14. There will be no construction activity on the Premises before 7:00 a.m. or after 7:00 p.m., Monday through Friday and before 9:00 a.m. or after 5:00 p.m. on Saturday. There will be no construction on the Premises on Sundays or the following legal holidays: New Years Day, Memorial Day, July Fourth, Labor

Day, Thanksgiving, and Christmas, unless by written authorization of the Inspector of Buildings/Zoning Enforcement Officer.

15. The Applicant shall locate all utilities within the Premises underground.
16. The interior and exterior of all buildings and structures shall be constructed substantially as represented on the Plans submitted to the Board.
17. It is anticipated that the Project shall be serviced by municipal water and sewer and the Applicant shall grant any easement(s) as may be required to the Town for the extension of a water and/or sewer main and construction of booster pumps on the Premises. This decision does not constitute a grant of a water or sewer connection permit or a waiver of any water or sewer connection or use fee or assessment.
18. All lighting for the Project shall be installed and maintained in such a way that lights shall be shielded and directed so as to avoid the direct emission of light onto nearby residential properties.
19. The Applicant shall obtain, prior to construction, any order of conditions under the state wetlands protection act and Board of Health permits and approvals that may be required with respect to the Premises and the Project.
20. The Applicant will install the proposed water, sewer and drainage systems pursuant to the Plans. All utility work shall be performed and conducted in conformance with the regulations of the Town, if any. All such work shall be performed in accordance with current engineering and construction standards. All construction shall be done to best management standards. Final design of storm water management system shall comply with Department of Environmental Protection Storm Water Management Policy, in particular Volume 2 Best Management Practices and shall be, when completed, certified by the Applicant's Engineer as complying with said Storm Water Management Policy BMP Vol. 2 subject to review and approval of the Town Engineer or Board's consulting engineer, at Applicant's expense.
21. Streets within the Project will remain private in perpetuity. This condition is not intended to limit the authority of the Town under G.L. c. 82, §§ 21-24.
22. The Applicant shall demolish the wall currently within the layout of Hudson Street, shown on the Site Plan as "Exist Ret Wall to be Removed," shall grade and seed the area from which the wall is removed, and shall rebuild a new wall as shown on the Plans.
23. The Applicant shall install in each unit a fire-suppressant sprinkler system acceptable to the Fire Chief.

24. All infrastructure (utilities, roads, drainage, etc.) to service a unit shall be constructed as shown on the final development plans prior to construction of any building on that lot, with the exception that the roadways need only be completed to binder course prior to issuance of building permits and sidewalks and berms may be completed after issuance of building permits. Notwithstanding the foregoing, to minimize the length of time heavy equipment is present and working on site, the Applicant may construct all foundations simultaneously with the construction of the above-referenced infrastructure.
25. A submission of final site plans and computations shall be reviewed and approved by the Town Engineer or the Board's consulting engineer and the final site plans shall be endorsed by the Board as so approved, prior to issuance of any Building Permit for the Project, and all references to Site Plans in this Decision shall include the approved and endorsed final site plans
26. The bottom of the detention basin shall be at or above the seasonal high water table as specified in the Stormwater Management Policy. The bottom of any infiltration basin shall be at least 2 feet above the seasonal high water table as specified in the Massachusetts Stormwater Management Policy.
27. Prior to issuance of Building Permits, the Applicant shall provide to the Town Engineer:
 - a. an effective snow storage and management plan, including a narrative description and snow storage locations shown on the plans, in order to meet the "no untreated runoff discharging to wetlands standard" of the Massachusetts Stormwater Management Policy.
 - b. procedures that outline the specific operation and maintenance measures for all stormwater/drainage facilities that will be employed to minimize or eliminate the threat of transmission of mosquito born diseases to the residents of the project and nearby resident of Northborough.
 - c. a final approved erosion and sediment control plan that illustrates, at a minimum, locations of measure such as hay bales, silt fence, sedimentation basins, and all other erosion controls on the plans, and provides detailed construction sequencing and methods to protect the infiltration capacity of each infiltration system.
 - d. a final approved stormwater management operation and maintenance plan, including detail with respect to inspection, maintenance and potential repair, and including the specific activities needed to conduct the routine and less frequent maintenance required. The Applicant shall, in addition to the bonds required under conditions 39 and 43, provide to the Town a 5-year bond or other form of surety mutually agreed upon in an amount sufficient to ensure adequate operation and maintenance of the stormwater management system, in an amount determined by the Town Engineer, which surety shall not be released until the condominium budget shall reflect the fiscal resources required to operate and maintain the stormwater management system, in an amount determined by the Town Engineer.

- e. documentation showing that all of the Massachusetts DEP stormwater management standards have been met, including but not limited to, water quality volume requirements, recharge requirements, and total suspended solids (TSS) removal.
28. The final roadway design for the access driveway shall be reviewed and approved by the Town Engineer or the Board's consulting engineer and endorsed as so approved by the Board prior to issuance of any Building Permits, such design to include:
- a. design data (width, radii, paving sections, etc.) for the proposed driveways;
 - b. driveway profiles including all utilities; and
 - c. details, including but not limited to, all proposed drainage and stormwater elements, proposed retaining walls and proposed pavement, water supply, wastewater and all other applicable design elements, and a schedule of elevations for all drainage facilities, including detention pond outlet structures, subject to approval by the Town Engineer
29. The final water and sewer system design shall be reviewed by the Town Engineer and approved by the Board prior to issuance of any Building Permits. The procedure for flushing, disinfecting and pressure testing of the water mains shall be approved by the Town Engineer and the DPW Director. As-built drawings of roadway, utilities and buildings acceptable to the Town must be submitted prior to the release of the bond.
30. All rim and invert elevations for all drainage structures shall be provided. Clear labeling of which catch basins will be double catch basins, and clear labeling of types of grates to be used, shall be provided.

C. Construction and Bonding

31. With respect to the work to be done by Applicant on private ways within the Premises, no certificate of occupancy for Phase I (as shown on the Erosion Control Plan "Dunia Gardens", dated March 23, 2006) shall be issued by the Town until the Applicant has completed all site drainage work and installed a binder course on roadways within Phase I and no certificate of occupancy for Phase II (as shown on said plan) shall be issued by the Town until the Applicant has completed all site drainage work and installed a binder course on roadways within Phase II of the Premises. A bond or other form of surety mutually agreed upon in the amount to be determined by the Town Engineer shall be given to the Town in an amount sufficient to ensure the completion of site work within each Phase prior to issuance of the first certificate of occupancy for that Phase.
32. The Applicant shall pay all reasonable fees imposed for the purpose of monitoring the compliance of the Project's construction with the terms of this permit, local bylaw requirements not waived by this permit, and other permits and approvals issued with respect to this Project for which the Town has monitoring

responsibility. Consistent with Town practice, the Town Engineer will be used for this purpose where applicable, or, if the Town Engineer determines that a consulting engineer is required, such a consulting engineer shall be used.

33. In accordance with G.L. c.44, §53G, the Applicant shall pay the costs and fees for the Board's consultants, including Town Counsel, and engineer regarding the performance of any of the services contemplated herein, and including fees incurred prior to the date of this decision. The Board's consultant fees shall be paid by the Applicant within 30 days of the receipt by the Applicant of the consultant's bill for services.
34. All plan revisions required by this decision shall be incorporated into the record set of Plans which shall be submitted for endorsement by the Board. If the Plans are not submitted for endorsement as required herein, the Board may vote to rescind this decision. These Plans as endorsed are incorporated into the decision by reference and made part hereof.
35. A bond or other form of surety mutually agreed upon ("Bond") in the amount to be determined by the Town Engineer shall be given to the Town prior to starting any activity authorized by this decision ("Authorized Activity"), to ensure the proper and timely completion of all infrastructure work and completed stabilization of the site and shall be held by the Town Treasurer until she is notified by the Board to release the Bond. Requests to reduce the Bond may be submitted as work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The Bond retained shall be based on the work remaining.
36. Prior to starting any Authorized Activity, the Applicant and the general contractor shall meet with the Inspector of Buildings, a DPW representative and the Town Engineer to review this decision.
37. Prior to starting any Authorized Activity, the Applicant shall provide to the Inspector of Buildings:
 - a. the name, address and business telephone number of the individual who shall be responsible for all activities on site;
 - b. a copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Premises have been paid.
 - c. proof that all required federal, state and local licenses and permits have been obtained;
 - d. proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work.

38. The Applicant shall keep the site clean during construction. Upon completion of all work on site and prior to site As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Board shall be notified in writing of the final disposition of the materials.
39. The Project as approved shall not increase the peak rate of runoff from the 2, 10, 25 and 100 year storm events. A Registered Professional Engineer shall submit to the Town Engineer an As-Built plan on the entire drainage system. In Said Registered Professional Engineer shall certify in writing that there is no increase in the peak rate of runoff from the 2, 10, 25 and 100 year storm events. The area to be included in the drainage calculations used for this certification shall be the whole drainage area contributing runoff to the site.
40. All catch basins and detention basins shall be cleaned at the end of construction. Thereafter, the Applicant and subsequently the condominium association shall be responsible for maintaining the site's storm- water management system in accordance with generally accepted practice, as the same may, from time to time, change. The Applicant and subsequently the condominium association shall send notice to the Town Engineer prior to the commencement of any such cleaning and the entity engaged by the Applicant or the condominium association for such cleaning shall certify to the Town Engineer that such cleanings were conducted in accordance with generally accepted practice.
41. Adequate erosion and sedimentation control measures to be implemented by the Applicant shall be submitted to the Town Engineer for his approval, prior to the start of any Authorized Activity. Said measures shall be maintained throughout the project and until all disturbed areas have been permanently stabilized with either an adequate vegetative or asphalt cover in accordance with Plans.
42. All construction material, debris, fill and excavated material shall be stockpiled in areas on the Premises designated by the Applicant after consultation with the Town Engineer. Said material shall be stabilized to prevent erosion and to control dust. All excess fill and excavated materials that are not used in conjunction with construction shall be removed from site and disposed of in accordance with state laws and regulations. The Board shall be notified in writing of final disposition. At no time shall any debris or other material be buried or disposed of within a Resource Area as defined by G.L. c. 131 §40.
43. The Applicant shall establish a Condominium Association for all units in the development, and the Applicant and subsequently the Association shall be responsible for:
 - a. contracting for plowing, sanding, and snow removal;
 - b. retaining a service provider for site maintenance and establishing a regular schedule for site maintenance;

- c. repairing and maintaining all roadways, including drainage structures and utilities therein;
 - d. conducting yearly inspection, maintenance and cleaning of all elements of the drainage system, including but not limited to catch basins, drain manholes, detention basins, swales and pipelines;
 - e. filing an annual report with the Town Engineer, not later than April 30, that the annual drainage system inspection ~~and required subsurface wastewater treatment system inspection~~ have been completed and all deficiencies corrected;
 - f. establishment and maintenance of a reserve fund sufficient, in the opinion of the Town Engineer or the Board's consulting engineer, to fund requirements for maintenance of the drainage system;
 - g. maintaining any and all easements shown on the Plans; and
 - h. street lights
44. The Applicant shall provide a recreational area in the location shown on the Site Plan improved with a basketball half-court and a handball court, and shall provide \$2,500 for use by the condominium association in constructing a children's play area within said area.
45. This Comprehensive Permit shall issue to Dunia Gardens LLC and shall not be transferable, except in accordance with the provisions of M.G.L. c. 40B and with prior written approval of the Board.
46. This comprehensive permit shall expire, if the Applicant has not, for whatever cause, obtained building permits for the units within three years of the date this decision becomes final, or if Applicant has not completed construction on the Project within five years of the date this decision becomes final unless extended by the Board. The decision is deemed to have become final upon the date the decision is filed with the Town Clerk if no appeal is filed and otherwise the date the last appeal is decided or otherwise disposed of.

V. WAIVERS:

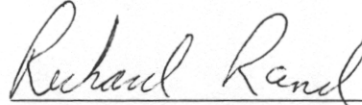
The Applicant shall comply with all State land use and development, wetland protection and other laws and regulations and permits issued thereunder, and shall comply with the Town of Northborough current Zoning Bylaw, Rules and Regulations for the Subdivision of Land, Wetlands Protection Bylaw, Earth Removal Bylaw, and other local development controls except as provided in the Waiver Request List attached to this permit as Exhibit A.

VI. SUCCESSORS AND ASSIGNS

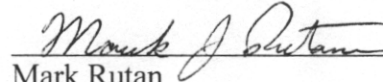
The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of the Applicant, and the obligations hereunder shall run with the land. In the event that the Applicant sells, transfers, or assigns any of its interest in the Project, this Comprehensive Permit shall be binding upon the purchaser, transferee or assignee, and any such sale, transfer or assignment, except the sale of units to homebuyers in accordance with this Comprehensive Permit, shall be subject to the prior approval of the Zoning Board of Appeals, which approval shall not be unreasonably withheld or delayed.

Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by G.L. c.40A, §17.

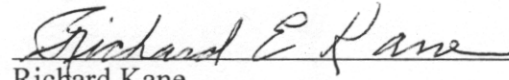
NORTHBOROUGH ZONING BOARD OF
APPEALS



Richard Rand, Chairman



Mark Rutan



Richard Kane

Date: August 22, 2006

This is to certify that twenty days have elapsed since filing the above decision with this office and no appeal has been filed or an appeal has been filed and denied in this case.

Town Clerk

Date

Appendix A

DUNIA GARDENS COMPREHENSIVE PERMIT NORTHBOROUGH MASSACHUSETTS

Minimum Standard Features


August 21, 2006

All minimum conditions, installations and grading of products will conform to the Massachusetts One and Two Family Dwelling Code, 780 CMR 36, Sixth Edition and related codes & regulations.

Foundation:

- 10" x 20" Footing, 10" minimum foundation wall with 3,000 PSI concrete with steel reinforcing at critical locations.
- Exterior foundation damp proofing.
- Anchor bolts/straps connecting foundations to wood frames.
- 4" minimum 3,000 PSI concrete garage and basement floor with stress release joints where necessary/required.
- Vinyl windows at full basement locations.
- Outside perimeter drain at full basement locations set in stone with filter fabric as gravity drain.

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Framing:

All framing work to conform to *Sections 780 CMR 3605, 3606, 3608* of the building code addressing *Floor, Wall and Roof-Ceiling Construction*.

Pressure-treated lumber for foundation sill plates.

2"x4" nominal SPF Exterior walls, @ 16" on center with 1/2" osb (or equal).

2"x4" nominal SPF Interior walls, @ 16" on center.

3/4" osb subfloor glued and ring-nailed to minimize floor squeaks. The subflooring also has a tongue and groove edge that strengthens the complete floor system.

Plywood or OSB wall and roof sheathing.

All lumber, plywood and sheathing are agency-certified to guarantee quality.

All lumber is kiln-dried to reduce shrinkage.

Floor Joists 2" x 10" nominal SPF @ 16" o.c (or equal).

Roof Rafters 2" x 10" nominal SPF @ 16" o.c., or manufactured Wood Trusses @ 24" o.c.

Walkout Wall (Rear Elevation Wall in Walkout Basement only) studded and insulated.

Roofing:

15 lb. Roofing Felt or equal applied to plywood under shingles.

Ice and Watershield waterproofing barrier (modified asphalt and rubber bituthane membrane or equal) is used at the roof eaves (3' up); also in valleys to reduce damage from ice dams, etc.

Continuous ridge venting.

Aluminum or vinyl continuous Soffit Venting.

30 year Architectural asphalt shingles.

Siding:

- Wind and weather resistant building wrap and integral vapor retarder of Tyvek (or equal).
- Nominal 1/2" x 6" vinyl siding by Harvey (or equal).
- All exterior trim to be vinyl or wood wrapped in aluminum.

Insulation:

- Exterior walls with vapor barrier: R-13 minimum.
- Interior Walls (party walls, some interior walls) Primarily acoustic in nature: ranging from R-8 to R-11 to achieve STC rating of 45.
- Floors above unheated basement: R-19 minimum.
- Ceiling plane/roof: R-30 minimum.
- Perimeter Slab on grade locations: R-5 minimum.

Doors and Windows:

- Vinyl double-hung tilt-out per plan with 5/8" insulated glass and screens; U-factor of 0.37.
- Exterior front insulated steel door, U-factor of 0.35 (*per Table J1.5.3b*)
- Exterior patio vinyl doors with full view tempered insulated glass and screen as per plan; U-factor of 0.37.
- Garage overhead doors are insulated aluminum.
- Interior doors - raised six-panel moulded door, standard white Masonite.

Hardware:

- "Schlage" door hardware or equal.

Interior Trim:

- 2-1/2" Jalco Colonial wood millwork at doors and windows painted off-white.
- 3-1/2" Colonial wood base molding in all rooms painted off-white.

Kitchens & Baths:

- Cabinets — Particleboard box cabinets with wood veneer (or other veneer), doors shall be solid construction. Include knobs and pulls
- Counter - Formica countertop with sink

Stairs:

- Carpeting 28 oz, cutpile (or equal).

Drywall:

Typical interior walls: ½" drywall taped and joint compound applied; two coats of finish paint.
Garage walls: 5/8" Type "X" fire code drywall on garage walls (and ceiling locations under finished/occupied second floors). Drywall to be taped and min. 1 coat of joint compound
Ceilings. ½" Drywall with light Texture Finish.

Party wall separations between units will be a minimum of 1/2 hour rated construction per the *One and Two Family Dwelling Code 780 CMR 36*.

Painting:

| | |
|-----------|---|
| Garage: | One primer coat only. |
| Interior: | Walls sealed with one coat of primer and White two coats of latex paint. |
| Trim: | Sealed with one coat of primer and two coats of latex paint - antique white |

Flooring:

30 year warranty Linoleum flooring (Kitchen, Dining, Bathrooms, & Entries).
Carpet in all other areas. Minimum pile weight to be 28 oz. installed over a nominal 1/2".

Plumbing:

- Kitchen: Double bowl stainless steel kitchen sink with garbage disposal.
- Bathrooms: One piece sink top - chrome single-lever Delta faucets (or equal) for all bath sinks.
- Water Closets: Standard white vitreous china by Delta (or equal).
- Shower Stall: One-piece fiberglass 36" x 48" shower unit by Lasco (or equal) in guest bath.
- Tubs: Master Bath: White fiberglass tub/shower unit.
- Faucets: Chrome "Delta Monitor" for shower stalls and tubs.
- Kitchen: 450-WF chrome single faucet (or equal).
- Exterior: One frost-proof sill-cock.
- Hot water: 30-gallon gas hot water heater.

Heating:

- Forced hot air by fueled by gas or oil, using a "Bryant" (or equal) furnace, distribution by insulated ductwork.
- One-zone heating. Installation of the work.
- Mechanical unit to be A/C ready for upgrade (from heat only) by buyer. Upgrade to include the addition of cooling coil, outside condenser, and other components to complete the A/C system.

Electrical allowance to include:

- 100-amp service 120/240 volts single phase.
- GFI receptacles and outlets.
- Hardwired smoke detectors on each level per Life Safety Code.
- Hardwired CO detectors on each level.
- All light fixtures supplied by builder to also be supplied with light bulbs.
- Fan light combination in all baths.
- Surface mounted light fixtures in Kitchen, Dining, each Bedroom, as well as garage.
- Exterior (egress) lighting to include 1 entrance and 1 deck area light fixture.
- one pre-wired cable outlets.
- Garage door operator with integral light.
- Venting to outside provided for Owner's supplied dryer.

Appliances:

- Included are a hood, Energy Star large capacity Dishwasher and 30", Gas Range, all to be Whirlpool or equal.
- Alternately, an allowance of \$800.00 can be provided for the buyer towards the purchase of Kitchen appliances.

Exterior Front Steps:

- Pre-cast concrete steps with guardrail and/or handrail per code when necessary.

Walkways:

- Drop flagstone.

Individual Unit Driveways (Not Access Driveways):

- 2" minimum of bituminous concrete (1" base course and 1" top course) over a 12" minimum compacted gravel base.

Landscaping: See Landscape Plan Utilities:

- Water: Public Water
- Sewer: Town Sewer


Appendix B

WAIVER REQUEST LIST DUNIA GARDENS COMPREHENSIVE PERMIT NORTHBOROUGH MASSACHUSETTS Latest Revision August 2006

TOWN OF NORTHBOROUGH ZONING BYLAW Part 7 of the Municipal Code, June 2005

A general waiver is requested to delete Planning Board and insert Zoning Board of Appeals (ZBA) wherever the Planning Board is given authority in the regulations. Procedural items administered by the Planning Board should be administered by the ZBA as this project is a Comprehensive Permit. However, in addition to the general waiver, the following items identify more specific items that are being requested for waiver from the Towns Zoning By-Laws.

1. **Chapter 7-04-050 Definitions:** under definitions waive only one dwelling per lot to allow 10 residential buildings per lot.
2. **Chapter 7-12-010 Schedule of Use Regulations:** waiver from the RC/IB to allow single family attached dwellings
3. **Schedule of Dimensional Requirements;** the site is currently divided between a Residence C and Industrial B district, with Industrial B located along and parallel to Hudson Street. The following waivers are being requested, Residence C: waive requirements for: rear yard setbacks from 25 feet to no less than 20 feet for buildings (Unit 23) and 6 feet for retaining walls (associated with the proposed handball/basketball court). Industrial B; waive requirements for: front yard setbacks from 20 feet to 0 feet for the construction of a retaining wall along the Hudson Street right of way (buildings are designed at a minimum of 25 feet off the property line); side yard setback from 20 feet to no less than 4 feet for construction of a retaining wall along the southerly property line abutting parcel 36-90.
4. **Chapter 7-20-040 Site Plan Approval; Chapter 7-20-040-C Business and Industrial Districts; Chapter 7-20-040-D General Site Plan Approval:** waiver from any requirement for site plan review/approval by Planning Board. All site plan review/approval will be conducted by the ZBA.
5. **Chapter 7-20-040-D-6 General Site Plan Approval;** waive all requirements for Earth Removal review by the Planning Board. All Earth Removal review will be conducted by the ZBA.

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6. **Chapter 7-20-040-K-1a Contents of the Site Plan;** waive requirements of a locus map at 100 scale and accept a locus map of 800 scale.
7. **Chapter 7-20-080 Affordable Housing;** the application being submitted falls under the jurisdiction of the Massachusetts Comprehensive Permit for affordable housing. Therefore we are requesting a waiver of all requirements of this section and to defer to the State requirements for affordable housing.
8. **Chapter 7-28 Groundwater Protection Overlay District;** waive all requirements to obtain a Special Permit for the development of the site within the Groundwater Protection Overlay, Area 3. Chapter 7-28 identifies limitations on post development impervious requirements for sites located within Groundwater Protection Overlay, Area 3 in an effort to maintain groundwater recharge. The intent of the proposed site design is to increase the infiltration capability of the site from pre to post development by conveying the majority of storm water runoff into subsurface infiltration structures. Thus, in accordance with State requirements, there will be no increase in runoff from the site and all runoff captured will be conveyed through pretreatment devices prior to being recharged into the ground.
9. **Chapter 7-36-050 Scenic Roads, Procedures;** Hudson Street has been identified by the Town of Northborough as a Scenic roadway, which requires procedural approval for any work required within the street right of way including, but not limited to, installation of driveway cuts, stone wall work and tree cutting. The Project is proposing to construct a proposed site entrance drive (with sidewalk and bus shelter), relocate an existing retaining wall out of the towns right of way and to install site support utilities, all of which require work within the street right of way and necessitate minimal cutting of decaying trees, demolishing and reconstructing a retaining wall and razing an existing dilapidated barn. Therefore, we are requesting a waiver of all submittal and approval requirements associated with work along a Scenic Road.

SUBDIVISION RULES AND REGULATIONS

Chapter 10 Municipal Code

As amended through June 2003

The proposed project consists of condominium development under the jurisdiction of a Comprehensive Permit of MGL Ch 40B. Thus a general waiver is requested from all subdivision rules and regulations as they do not apply to condominiums and no subdivision is proposed. The intent is to build the condominium access road(s) and utility installations according to the material specifications and construction standards of the subdivision regulations. More specifically, the Project will conform to the Subdivision Rules and Regulations associated with:

Chapter 10-36-010 – E, Utilities; all utilities will be installed underground

Chapter 10-36-050 – C, Road Grades; maximum grade for secondary streets will not exceed 10%; vertical curves will be incorporated whenever changes in grade exceed 2%; no street will intersect another street with a grade exceeding 4%.

Chapter 10-36-070, Storm Sewers; Catch basins and manholes will adhere to the Towns regulations, drainage pipe requirements will be adhered to although we reserve the right to discuss the possibility of using plastic pipe in lieu of RCP, all drainage will be designed in accordance with the DEP Stormwater Management Guidelines and subject to review by the Town Engineer.

Chapter 10-36-090, Electrical, Intelligence and Communications; all subject utilities will be installed underground as required by the Town.

Chapter 10-36-100 Sanitary Sewers; the Project will meet with and adhere to the requirements of the Towns Water and Sewer Commission.

Chapter 10-36-110 Street Lighting; the Project will review and solicit approval of all proposed site lighting installations with the ZBA.

Chapter 10-36-150 Fire Hydrants; the project will meet and solicit comments from the Towns fire department for approval of all installations.

Chapter 10-36-160 Water Main and Appurtenances; the project will meet and solicit comments from the Towns water department for approval of all installations.

RULES AND REGULATIONS GOVERNING THE BOARD OF HEALTH

The proposed project will connect to the existing sewer located on Hudson Street. Therefore, no Board of Health waivers are necessary at this time.

WETLAND BYLAW AND WETLAND REGULATIONS Amendments to Regulations Effective January 1, 2000

1. Section 4.3.3 Performance Standards, Riverfront Area, General Performance Standards; The current Town Wetland Regulations restrict work activity within the 200 ft annual high water level of any river, also known as the Outer Riparian Zone. The Project as designed will require work to be performed within this zone

for the construction of an entrance drive, some buildings, relocation of an existing retaining wall (per town request), and a drainage leaching system. Thus we are requesting a waiver of the Towns Wetland Regulations associated with no activity within the 200-foot offset from the annual mean high water level of the Assabet River and defer to the States policy for alteration requirements within the Outer Riparian Zone, 310 CMR 10.58 (4)(d). The States policy allows up to 10% alteration of the Outer Riparian Zone or 5,000 sf of alteration, whichever is greater. We are still required to file a Notice of Intent and to meet with the Conservation Commission to review the Project, solicit comments and ensure thresholds will not be exceeded.