



**TOWN OF MAYNARD**  
**Office of Municipal Services**  
MUNICIPAL BUILDING  
195 Main Street  
Maynard, MA 01754

Tel: 978-897-1302 Fax: 978-897-8489  
www.townofmaynard-ma.gov

**RECEIVED**

**AUG 15 2019**

TOWN CLERK'S OFFICE  
MAYNARD, MA 01754

---

***Maynard Planning Board***  
***Notice of Decision***

---

To: Michelle Sokolowski, Town Clerk  
195 Main Street  
Maynard, MA 017

July 7, 2019

Re: Site Plan and Special Permit approval for the plan entitled "42 Summer Street" (latest revision date June 24, 2019) drawn by LALA Associates Engineers LLC, 37 Old Village Road, Acton, MA 01720. Planning File # PB18-05.

Dear Ms. Sokolowski:

Please accept this Notice of Decision for 42 Summer Street, Maynard, MA. (Map 14, Parcel 171). This is for Site Plan approval with a Special Permit and it is ready for recording by the Maynard Town Clerk's Office.

**I. General**

On March 26, 2018, James MacDonald of MacDonald Development Inc. (hereinafter referred to as "the Applicant") submitted to the Maynard Planning Board (hereinafter referred to as "the Board") an application requesting Site Plan (with Waivers) and Special Permit approval for a Multi-Family Dwelling to be located at 42 Summer Street, Maynard, Ma. 01754. The project proposes new construction of 24 residential units utilizing the Downtown Overlay District regulations.

The Planning Board is designated as the Special Permit Granting Authority (SPGA) for each of the required permits or approvals required for this project.

Consistent with Section 9.4.5 of the Zoning By-laws (ZBL) the petitioner requested a reduced minimum lot area for the project to allow for nine "bonus units" making a total of 24 units (1,500 sf of lot area required per unit. Applicant's proposal provided 800 sf per unit).

In order to receive a density bonus, the ZBL require 25% of the bonus units (six units) be dedicated as “affordable” in perpetuity. Additionally, two other actions (separate from Site Plan and Special Permit) must occur. The applicant must:

- a. Execute a Development Agreement (DA) with the Town, and dedicate 25% of the units as affordable (Section 9.4.5 calls for 15% affordable however the Town’s Inclusionary Zoning By-law requires 25%).
- b. Make a Donation to Community Preservation Fund or equivalent fund dedicated to open space or recreation land (\$9,400 cap per bonus unit per Planning Board Regulations).

The applicant also requested waivers from applicable provisions of the Zoning By-laws (ZBL) and the Planning Board’s Rules and Regulations (PBRR). The Applicant’s list of requested waivers is contained in “Exhibit ‘A’”

**II. Plans and Documents Submitted in Support of the Application**

The following documents (hereinafter referred to as the “The Plans”) and supporting documents were submitted to and reviewed by the Planning Board either with the associated application, or during the Public Hearing process, and form the basis of this Decision.

<b>Document</b>	<b>Prepared by</b>	<b>Date</b>
Application for Site Plan Approval with list of requested waivers	MacDonald Development, Inc.	March 30, 2018
Site Plan	Lala Associates Engineers LLC	Original date: February 2, 2018 Final revision date: June 24, 2019
Application for Special Permit Approval for Multi-family use in GR Zoning District	MacDonald Development, Inc.	March 12, 2018
Maynard Point, 42 Summer Street Elevation Plans	Peter J. Karb Architect	Original date: May 20, 2019 Final revision date: June 25, 2019
42 Summer Street Planting Plan.	Elizabeth Hanna Morss, LA	Original date: May 3, 2019 Final revision date: June 21, 2019
Stormwater Report, 42 Summer Street, MA	Lala Associates Engineers LLC	Original date: April 18, 2019 Final revision date: June 24, 2019
Development Agreement		Approved and executed by the Planning Board in a separate action.

The Planning Board reviewed these materials and subsequent revisions of the same, during the application, public hearing and deliberation processes.

### III. Review Criteria

The project is located within, developed under, and subject to, the Downtown Overlay District (DOD) zoning regulations. The project required Town approvals for:

- a. **Site Plan:** Site Plan review is required per Section 10.5.1 of the ZBL.
- b. **Special Permit:** The proposal is for a multi-family dwelling use in the DOD. The Special Permit criteria are located in Section 10.4 of the ZBL.
- c. **DOD Special Permit:** The Planning Board shall apply Section 9.4.6 of the ZBL for projects within the DOD criteria in addition to those located in Section 10.4 of the ZBL.
- d. **Design Review:** The project is subject to Design Review per Section 10.6 of the ZBL.
- e. **Waivers:** The applicant is requesting waivers from the ZBL and the PBRR as contained in Exhibit "A".

#### **Internal Review**

- a. Health Agent: No comment
- b. Building Commissioner: No comment
- c. Conservation Administrator: Revisions made based on input. Stormwater Management permit issued by the Conservation Commission on July 9, 2019.
- d. Town Engineer: Revisions made based on input.
- e. Police: No comment.
- f. Fire: Comments addressed.
- g. Design: Comments provided. Applicant revised elevations based on input.

### IV. Public Hearings(s) and Vote(s) of the Planning Board

The Planning Board began Public Hearings for the project on May 8, 2018 and closed the Public Hearing on June 25, 2019. Notice for the public hearing was published in the Beacon-Villager on April 19 and April 26, 2018. It was sent to abutters of the property and other interested parties by certified mail according to the Assessors' Certified Abutters List.

In order to reset the hearing and allow for new Planning Board members to participate, a second notice for the public hearing was published in the Beacon-Villager on February 12 and February 21, 2019. It was sent to abutters of the property and other interested parties by certified mail according to the Assessors' Certified Abutters List.

- a. **Special Permit for Multi-family Residential in the GR Zoning District:**  
The Board determined the following Special Permit requests are consistent with the requirements for the issuance of Special Permits as described in Section 10.4.2 "Criteria" of the ZBL.

#### Board Findings:

1. **Social, economic, or community needs which are served by the proposal;**  
*The project provides six (6) units designated to Affordable Housing, benefiting both the accessibility for high-quality, new rentals in the downtown area, as well as the Town of Maynard's Affordable Housing obligation.*
  
2. **Traffic flow and safety, including parking and loading;**  
*This location is a pre-existing Downtown location. The project creates a modest increase in traffic flow on Summer Street, which will be addressed by safety measures such as a stop sign on the property, adequate setbacks for site distance when entering/exiting the property, and newly constructed sidewalks. Site will also include 34 parking spaces, an adequate supply for the demand of the 24 units.*
  
3. **Adequacy of utilities and other public services;**  
*This site is currently served by utilities. All utilities will all be newly constructed and built to meet current code.*
  
4. **Neighborhood character and social structures;**  
*This location is in a pre-existing Downtown mixed-use (residential/business) location. It is sited in a location consistent with the requirements of the Zoning By-laws. The Planning Board's Conditions of Approval include mitigation measures to ensure minimal –if any- disruption to the social structure. Public input was incorporated into the final design. The design compliments the neighborhood character by utilizing a modern design of a classic “shaker” style home. The design keeps with the current style of siding, the pitched roof, and the color yellow to respect and embrace what the neighbors and residents admire about the current dwelling.*
  
5. **Impacts on the natural environment;**  
*The project improves current stormwater runoff conditions by creating a closed system that allows for no stormwater runoff the site, effectively preventing runoff onto neighboring properties and from flowing into the Assabet River.*
  
6. **Potential fiscal impact, including impact on town services, tax base, and employment.**  
*The project benefits the Town by yielding Property Taxes (estimated annual taxes are between \$50,000-\$90,000 based on similar projects in Town owned by the Applicant), as well as creating more housing for potential entrepreneurs and/or employees of local businesses.*

**Planning Board Vote: to GRANT a Special Permit to allow a Multi-family Residential in the GR Zoning District.**

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes

William Cranshaw  
Christopher Arsenault

Yes  
Yes

**b. Special Permit for the Downtown Overlay District**

The Board determined the following Special Permit requests are consistent with the requirements for the issuance of Special Permits within the Downtown Overlay District as described in Section 9.4.6 "Criteria" of the ZBL.

**Board Findings:**

1. Section 9.4.6.1: The proposal meets the standard constituting a high quality development in regards to construction materials, architectural design, which will enhance the downtown and immediate neighborhood and provide a significant benefit to the residents of Maynard.

*The building has been designed to foster a vibrant, attractive, and durable downtown by establishing a new residential development built with high quality materials. It has been designed to include site and architectural features consistent with the properties that the Town has articulated as the "best" developments within the DOD, in partnership with the Town appointed "Design Review Consultant." Building design has been modeled after the "shaker" style, in an effort to keep consistency of the spirit and style of the neighborhood, which consists of both larger 2.5 to 3 story residential homes as well as commercial properties. By designing a 24 unit building in the shape of a "shaker" style home (uniquely simple, regularized windows, focus on functionality), the proposed building design bridges the gap between the commercial and residential ends of Summer Street. The building enables a modest increase in density of the downtown area with a 24 unit building, including 15 by-right units, and 9 bonus units. The building increases the effectiveness of the allocation of parking spaces due to its proximity to downtown, allowing the residents to use their residential parking rather than public parking when visiting the downtown area.*

2. Section 9.4.6.2: When applicable, the proposed development will provide effective protection of the Assabet River from storm water runoff from new impervious surfaces being proposed.

*The proposal, although not directly abutting the Assabet River, provides effective protection of stormwater runoff from reaching the Assabet River, or any other property. The proposal includes an engineered closed stormwater system, creating essentially no stormwater runoff. This is an improvement from the current site's stormwater runoff impact on surrounding properties as well as the Assabet River.*

3. Section 9.4.6.3: The proposal shall improve the function of the downtown by at least one of six means outlined in ZBL 9.4.6.3. The proposal improves the function of the downtown in four of the six means:

*9.4.6.3.A - The proposal will improve the usage of public parking spaces in the downtown area by developing a downtown building in close proximity to the shops, restaurants, and other downtown attractions, allowing the residents of the building to navigate to, and throughout, the downtown without a vehicle. By using their residential parking instead of public parking, public spots are freed up for additional downtown visitors/customers.*

*9.4.6.3.C - The proposal shall significantly improve the pedestrian experience in downtown Maynard by creating a brand new, vibrant, attractive, and tastefully designed piece of real estate, designed in conjunction with the Town-appointed Design Review Architect to meet the standards outlined in section 10.6 "Design Review"; the reconstruction of the Summer Street sidewalk along the North end of the property (aligning with the Town's Complete Streets section of the Master Plan); and attractive landscaping (designed by licensed Landscape Architect Elizabeth Hanna Morss of Concord, MA) adjacent to the Rail Trail. The proposal shall improve the pedestrian experience by maintaining the landscaping on the Town owned parcel of land situated along the Rail Trail / retaining wall, indefinitely, in the same manner and with the same care as the Owner's property adjacent to it. In addition to the already evidenced improvements to the pedestrian experience, the Applicant will also improve the pedestrian experience in the Downtown Area by redeveloping the Thomas Street parcel, as part of the Development Agreement between the Applicant and the Town of Maynard. As outlined in the proposal's Development Agreement, the Applicant will transform the town-owned Thomas Street parcel from an unused, inaccessible river front property to a visitor friendly, public use amenity which capitalizes on both access to and views of the Assabet River, aiding in the Town's goal of reclaiming riverfront access.*

*9.4.6.3.E - The proposal shall significantly increase views and access to the Assabet River by improving the town owned parcel of land on Thomas Street in the following ways:*

- Demolishing and removing the current dilapidated garage and shed.*
- In partnership with the Conservation Commission, designing an open space area with community bike racks, benches, picnic tables, pathway to the Assabet River, and parking.*
- Constructing this community amenity area, highlighting and capitalizing on the unique access and view of the Assabet River.*

*9.4.6.3.D - Although not directly abutting the Assabet River, the proposal, provides effective protection of stormwater runoff from reaching the Assabet River and abutting properties, by an engineered closed stormwater system, where there will essentially be no stormwater runoff. This is an improvement from the current site's stormwater runoff.*

*9.4.6.3.F - The proposal shall provide a significant improvement to the functioning of the downtown area by aiding in the Town's development of downtown rental housing*

*market, whereby creating residential units attracting working-class professionals to shop, work, eat, and/or open new businesses in the downtown. Continuing to diversify housing options in the downtown will increase consistency in overall foot traffic and profit for our local downtown businesses, aiding in both the functionality and sustainability of downtown.*

Planning Board Vote – Special Permit: to GRANT a Special Permit to allow development within the Downtown Overlay District.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

**c. Waivers from Zoning By-laws and Planning Board Rules and Regulations**

The Board considered each of the Applicant's Waiver requests:

Planning Board Vote – Waiver #1: The Board hereby GRANTS a waiver from ZBL Section 9.4.10 to allow a total of 34 rather than 36, parking spaces for the project.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver #2: The Board hereby GRANTS a waiver from ZBL Section 6.1.10.3 providing relief from the required 20 foot front yard parking space setback to allow a setback of 6.9 feet and relief from the required 10 foot side yard parking space setback to allow a setback of 2.0 feet.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 3: The Board hereby GRANTS a waiver from ZBL Section 6.1.10.6 to allow an 18 foot interior driveway width (24 feet required).

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 4: The Board hereby GRANTS a waiver from ZBL Section 6.1.11.1 to allow utilization of parking spaces with a reduced size of 8 feet x 18 feet (9 feet x18.5 feet required).

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 5: The Board hereby GRANTS a waiver from ZBL Section 9.4.4 to provide relief from the minimum required lot area of 1,500 square feet per residential unit, to allow 24 units at (956 square feet per unit). Note: the applicant has met the requirements for a density bonus by complying with ZBL Section 9.4.4.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 6: The Board hereby GRANTS a waiver from ZBL Section 9.4.4 providing relief from the maximum 10 foot front yard setback to allow a setback of greater than 10 feet in parts of the structure.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 7: The Board hereby GRANTS a waiver from PBRR Section A.8 allowing a 1'=10' scale on sheets C2.1, C3.1, C4, and C5.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 8: The Board hereby GRANTS a waiver from PBRR Section D.4 requiring a traffic circulation/impact study.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

Planning Board Vote – Waiver # 9: The Board hereby GRANTS a waiver from PBRR requiring a survey plan be prepared by a Professional Land Surveyor. The survey is prepared and stamped by a Professional Engineer (PE).

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

**d. Site Plan Review**

The Board determined the Site Plan is consistent with Section 10.5 of the ZBL and the PBRR.

Planning Board Vote: to GRANT Site Plan Approval for the plans entitled “42 Summer St. Maynard” with a revision date of June 24, 2019 and containing the waivers granted above and subject to the Conditions of Approval as contained in Section V of this Decision.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

**e. Design Guideline Approval**

The Board determined the project demonstrated consistency with Section 10.6 (Design Review) of the ZBL and the PBRR.

Planning Board Vote: to determine if the request meets the criteria for Design Guidelines as described in Section 10.6 of the ZBL.

Greg Tuzzolo	Yes
Andrew D'Amour	Yes
Jim Coleman	Yes
William Cranshaw	Yes

**V. Conditions of Approval**

The following conditions apply to the Planning Board's approval of this project:

1. Project shall be developed consistent with the Development Agreement, Clerk date-stamped July 15, 2019 (Exhibit “B”).
2. The Applicant shall provide additional material requested by the Town Design Consultant for final approval. Applicant shall provide the Planning Board with materials describing any and all architectural/design changes, clarifications or other modifications made to overall design. This includes seating under the tree

(front yard on Summer Street) adjacent to the existing stone bench feature on the northeast portion of the property to enhance gathering space.

3. The Final Plans shall incorporate all requested changes provided by the Town Engineer. A revised set of plans shall be submitted and shall be stamped by the Engineer.
4. The Engineer shall provide a detailed cross section of the proposed drainage line and infiltration system with all pavement and materials above the proposed pipe and infiltration systems dimensioned with elevations for clarity. If adequate coverage is not provided the pipe or infiltration system, the Applicant shall return to the Planning Board and Conservation Commission with a modified design.
5. The Applicant shall provide a photometric plan prior to the start of construction the shows light levels as they relate to the property lines.
6. A bike rack shall be provided on site near the proposed seating areas for the use of the bike path patrons.
7. Additional test pits shall be provided prior to construction to determine if soil is consistent within areas of proposed infiltration. If any design changes are required based on this additional information the Applicant shall return to the Planning Board and Conservation Commission with a modified design.
8. The Applicant shall comply with all comments received from Stantec in the Stantec Memos on Water and Sewer dated January 31, 2019 and May 7, 2019.
9. All outstanding Peer Review balances incurred by the Town shall be paid prior to the issuance of the Planning Board Decision.

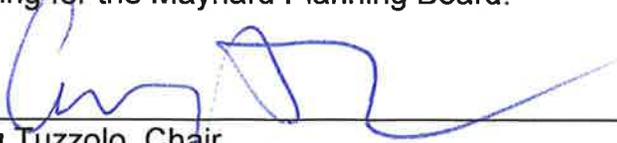
\*\*\*\*\*

THIS SECTION INTENTIONALLY LEFT BLANK

**VI. Planning Board Endorsement**

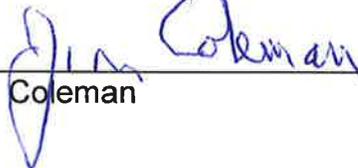
The Planning Board's approval is hereby approved with the Findings and Conditions contained herein.

Signing for the Maynard Planning Board:

  
\_\_\_\_\_  
Greg Tuzzolo, Chair June 25, 2019  
Date

  
\_\_\_\_\_  
Andrew D'Amour June 25, 2019  
Date

  
\_\_\_\_\_  
William Cranshaw June 25, 2019  
Date

  
\_\_\_\_\_  
Jim Coleman June 25, 2019  
Date

**Exhibit "A"**  
**Requested Waivers**

# LALA ASSOCIATES ENGINEERS LLC

EIN 83-0920782

M.ASCE, M.SEI, M.NSPE, M.I.E.(India), M.LAMWS, M.ACI, M.ICC

**37 OLD VILLAGE ROAD, ACTON, MA 01720**

I.C.# 40460-C(MA), 13350(MD), 09227(NH), 084611(NY), 007736(VI)

[www.lalaengineers.tk](http://www.lalaengineers.tk)

Ref:12293.33

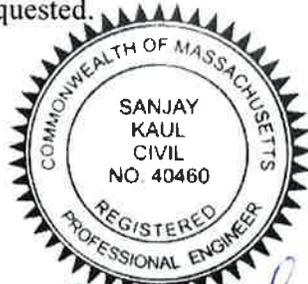
June 20,2019

Mr. Greg Tuzzolo, Chair  
Town of Maynard Planning Board  
195 Main Street  
Maynard, MA 01754

Re: Application for Special Permit and Site Plan Approval - 42 Summer Street  
**LIST OF WAIVERS REQUESTED**

Following is the list of waivers requested from the zoning requirements:

1. **9.4.10** - For the 24 units proposed, the parking spaces as required are 36 at the rate of 1 ½ spaces per unit; 34 spaces are proposed. A waiver is requested from the regulation.
2. **6.1.10.3** - Proposed front yard setback to the 1<sup>st</sup> parking space is a minimum of 6.9ft, and a maximum of 11.2ft. The side/rear yard setback is 2ft. A waiver is requested from the regulation requiring 20ft front yard setback for the 1<sup>st</sup> parking space, and 10ft side/rear yard setback, for the two handicap parking spaces.
3. **6.1.10.4** - Proposed 18ft minimum, 26.6ft maximum driveway width for two-way traffic next to parallel parking. A waiver is requested from the 24ft minimum.
4. **6.1.11.1** - Proposed spaces are 8x18 parallel and perpendicular parking. A waiver is requested from the standard size requirement of standard size 9x18.5. (Compact parking is 8x15. None of the proposed parking stalls are smaller than 8x18).
5. **9.4.4** - Minimum Area of 1,500 SF per residential unit is not met with current proposal. For providing less square footage i.e. 24 units at 956sf per unit proposed, a waiver is requested from the 1500 sf requirement.
6. **9.4.4** - Maximum front yard setback of 10-feet is not met with the current proposal. The angular setting of the building has varying setbacks at the front property line and is greater than 10-feet in some areas. A waiver is requested from this requirement.
7. **A.8** - Four (4) sheets (C2.1, C3.1, C4, and C5) are drawn at 1'=10' scale for clarity. A waiver is requested from the regulation.
8. **D.4** - A traffic circulation/impact study has not been provided for both the site and surrounding areas. A waiver is requested from the regulation.
9. **4.2.1** - The survey plan is stamped by a P.E. - not a Professional Land Surveyor. A waiver is requested.



Sanjay Kaul

(978)337-5252

*Sanjay Kaul*  
[lalaengineers@gmail.com](mailto:lalaengineers@gmail.com)

Page 1 of 1

**Exhibit "B"**  
**Development Agreement**

DEVELOPMENT AGREEMENT  
Between  
THE TOWN OF MAYNARD  
And  
MACDONALD DEVELOPMENT INCORPORATED

This document constitutes a Development Agreement between MacDonald Development, Inc. and the Town of Maynard ("Agreement") in accordance with Section 9.4.5 Mixed use and Multi- Family Reduced Area Requirement. The commitment and terms listed in this agreement shall be incorporated into the final Special Permit to be issued by the Planning Board.

The parties to this agreement are:

- a. The Town of Maynard, Massachusetts, by and through its Board of Selectman ("Maynard"). As used in this agreement, the term "Maynard" shall also mean the Town of Maynard as a municipal entity, and/or its Boards, Commissions, Departments and staff, as applicable in the context within which that term is used.
- b. MacDonald Development Incorporated, 10 Main Street, Maynard MA, who is the owner of the property located at 42 Summer Street, Maynard, MA ("Owner").

The property that is the subject of this agreement is located at 42 Summer Street, Maynard, MA and identified as Assessor's map number 14 and parcel number 74 ("the Property"). A plan of the Property is attached hereto.

**RECITALS**

Whereas, said By-Law requires a Development Agreement between the Owner and Maynard under Section 9.4.5 Mixed use and Multi-Family Reduced Area Requirement (the "By-Law");

Whereas, the Owner, among other improvements, is proposing to construct 24 units of rental housing on the Property;

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and for the mutual promises set forth herein, the Town and the Owner hereby agree as follows:

A.

**9.4.5.1**

Owner, by and through Mr. James MacDonald, shall dedicate 6 out of the 24 units (25%) of rental housing to meet the Massachusetts Department of Housing and Community Development's definition of "affordable house" such that all 24 of the units qualify for the Town of Maynard Subsidized Housing Inventory ("SHI"). These units will be provided in the existing structure in parcel 74.

The 6 units designated to affordable housing will be indistinguishable from market rate units. The units will consist of the same materials, finish, number of rooms, number of parking spaces and use of amenities as the market rate units.

The 6 units designated to affordable housing will be floating, as opposed to specific designated affordable units. But at all times, there will be 6 units being rented as affordable units.

The Local Initiative Program (LIP) and administrative costs associated with having units approved as affordable by the DHDC are the responsibility of the Owner. The Owner shall designate four of the affordable units as local preference to the extent allowable by the law.

The Owner in cooperation with the Town shall submit to DHCD all of the required documents for determination and dedication of the affordable units for DHCD's review. The Owner shall submit the Regulatory Agreement, Marketing Plan, Lottery Plan, Local Action Unit Application or related documents to the Town prior to the issuance of a building permit. Prior to the issuance of a Certificate of Occupancy for any structure on the Property, the Owner shall provide proof of recording of the Regulatory Agreement and approval by DHCD that all 24 units in this project have been determined eligible to be included in the SHI.

Owner shall provide an annual report showing rents and income of each tenant occupying an affordable unit.

Affordable units shall have a minimum lease period of one year.

B.

#### **9.4.5.2**

- a. Owner, by and through Mr. James MacDonald, shall provide \$ 5,000 to the Town of Maynard to be deposited in the Town of Maynard's Conservations Fund or fund as directed by the Conservation Commission. Payment shall occur prior to issuance of the first building permit.
- b. Owner, by and through Mr. James MacDonald, shall pay foreclosure costs associated with the Thomas Street parcel identified in the Town of Maynard Assessor's Records as Map \_14\_ Lot 57\_\_ ("Park Property"). The Town owns the Park Property by tax foreclosure. The Owner shall pay to the Town its legal costs associated with the tax taking in an amount not to exceed \$ 10,000. Payment shall occur prior to issuance of the first building permit.
- c. Owner, by and through Mr. James MacDonald, shall, at its own expense, undertake and have completed a surveyed site plan for the Park Property which will include all necessary information to allow the Town to apply for an Order of Conditions for the work to be performed on the Park Property. Said Plan to be provided to the Town on or before August 1, 2019. The Town shall not be required to submit a Notice of Intent until said plan is provided.
- d. Owner, by and through Mr. James MacDonald, shall, at its own expense, provide the machinery, supplies and labor to demolish the two dwellings located on the Park Property. The Owner shall comply with all federal, state and local regulations regarding the demolition and disposal of the structures and related features. Approximate cost: \$ 20,000. The estimated cost is provided for valuation purposes only. The Owner shall complete this activity regardless of final cost and prior to the issuance of a Certificate of Occupancy for the Property.

- e. Owner, by and through Mr. James MacDonald, shall, at its own expense, provide machinery, supplies and labor remove debris from the property related the the demolition located on the Park Property. The Owner shall comply with all federal, state and local regulations regarding the demolition and disposal of the structures and related features  
Approximate cost: \$ 22,000. The estimated cost is provided for valuation purposes only. The Owner shall complete this activity regardless of final cost and prior to the issuance of a Certificate of Occupancy for the Property.
- f. Owner, by and through Mr. James MacDonald, shall, at its own expense, provide the time and resources involved in both the plan and the design of the community amenity area, in partnership with the Town's Conservation Commission and an Architect of MacDonald's choosing, located on the Park Property, ensuring accessibility to, and views of, the Assabet River. The Owner and the Conservation Commission shall reasonably agree upon the final design keeping in mind the goals of the Town.  
Approximate cost: \$ 8,000. The estimated cost is provided for valuation purposes only. The Owner shall complete this activity regardless of final cost and prior to the issuance of a Certificate of Occupancy for the Property. The Town shall be responsible for obtaining an Order of Conditions for the proposed work on the Park Property. In the event the Owner violates the Order of Conditions during the construction of the improvements on the Park Property, the Owner shall be responsible for any and all penalties and costs associated coming into compliance.
- g. Owner, by and through Mr. James MacDonald, shall, at its own expense, provide machinery, supplies and labor involved in land clearing, grubbing and/or scalping the land in accordance with the agreed-upon design.  
Approximate cost: \$ 2,500. The estimated cost is provided for valuation purposes only The Owner shall complete this activity regardless of final cost and prior to the issuance of a Certificate of Occupancy for the Property.
- h. Owner, by and through Mr. James MacDonald, shall, at its own expense and consistent with the plan agreed upon by the Conservation Commission, provide materials for footpath, landing area, bike rack, benches, and parking area located on the Park Property, for the use of the public, dedicated to the Town's open space and recreation land.  
Approximate cost: \$ 12,000. The estimated cost is provided for valuation purposes only. The Owner shall complete this activity regardless of final cost and prior to the issuance of a Certificate of Occupancy for the Property.
- i. Owner, by and through Mr. James MacDonald, shall, at its own expense, supply the labor to construct the footpath, landing area, bike rack, and benches on the Park Property for the use of the public, dedicated to the Town's open space and recreation land.  
Approximate cost: \$ 15,000. The estimated cost is provided for valuation purposes only. The Owner shall complete this activity regardless of final cost. Work shall be approved by the Conservation Commission prior to the issuance of a Certificate of Occupancy for the Property.
- j. Owner, by and through Mr. James MacDonald, shall, at its own expense, supply the labor to construct a parking area on the Park Property for the use of the public, dedicated to the Town's open space and recreation land. All of the foregoing work and installation and purchases shall be completed on or before the certificate of occupancy is issued for any building on the Property.  
Approximate cost: \$6,000. The estimated cost is provided for valuation purposes only. The Owner shall complete this activity regardless of final cost.

- k. Owner, by and through Mr. James MacDonald, shall, at its own expense, maintain the Town-owned property adjacent to the Property, located at 42 Summer Street, in the same condition as when it is first improved, indefinitely as shown on the Landscape Plan attached hereto and dated May 3, 2019. (The portion of the property on top of the retaining wall, adjacent to the Rail Trail). By and through this Development Agreement the Board of Selectmen hereby authorize a right of entry on the town owned land as depicted on the attached plan for the purpose planting and maintenance of the landscaping as shown.
  
- C. The agreement shall run with the Property and shall be binding upon and inure to the benefit and burden of the Town and Owner and their successors in interest and assigns, and all persons claiming any rights under the Owner.
  
- D. Notwithstanding anything to the contrary in this Agreement, the Owner shall not assign or transfer any of its rights and obligations under this Agreement to any person or entity without the express written consent of the Maynard Board of Selectman.
  
- E. This Agreement may only be amended in writing by the signatories to this Agreement.
  
- F. The undersigned hereby agree that the Agreement shall be interpreted, and any dispute arising from this Agreement shall be resolved, in accordance with the laws of Massachusetts and the courts of that Commonwealth, to who's jurisdiction the parties hereby assent.
  
- G. It is expressly understood and agreed by and between the Board of Selectmen and the Owner that by agreeing to the terms hereunder pursuant to the Zoning Bylaw as recited, neither the Town nor the Planning Board make a representation or promise that it will act on the Application in any particular way other than by the Planning Board's normal and regular course of conduct and in accordance with their rules and regulations and any statutory guidelines governing them.

IN WITNESS THEREOF, the parties hereto have caused the presents to be signed in their respective name, by their proper officers and their seals to be affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Signed, Sealed and  
Delivered in the presence of :

MacDonald, Development, Incorporated:  
Mr. James MacDonald

---

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

\_\_\_\_\_, 2019

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared James MacDonald, and proved to me through personal knowledge/[other], to be the person whose name is signed above, and acknowledged to me that he/she signed it voluntarily for its stated purpose and as his/her free act and deed, before me

\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:

Town of Maynard:

*Board of Selectmen*

\_\_\_\_\_  
Chairman Chris DiSilva

\_\_\_\_\_  
Clerk Melissa Anne Levine-Piro

\_\_\_\_\_  
Selectman David Gavin

\_\_\_\_\_  
Selectman Armand Diarbekirian

\_\_\_\_\_  
Selectman Justine St. John

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

\_\_\_\_\_, 2019

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared James MacDonald, and proved to me through personal knowledge/[other], to be the person whose name is signed above, and acknowledged to me that he/she signed it voluntarily for its stated purpose and as his/her free act and deed, before me

\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES:

Town of Maynard:

*Planning Board*

\_\_\_\_\_  
Chairman Greg Tuzzolo

\_\_\_\_\_  
Vice-Chair Andrew D'Amour

\_\_\_\_\_  
Member Jim Coleman

\_\_\_\_\_  
Member Bill Cranshaw

\_\_\_\_\_  
Member Christopher Arsenault

Approved as to from:

\_\_\_\_\_  
Town Counsel