


DOCKET NO. NNH-CV18-6079780-S : SUPERIOR COURT  
THE BLUFFS, LLC : JUDICIAL DISTRICT OF NEW HAVEN  
v. : AT NEW HAVEN  
TOWN OF EAST HAVEN PLANNING  
AND ZONING COMMISSION : JUNE 14, 2021  
DOCKET NO. HHD-CV20-6121108-S : SUPERIOR COURT  
THE BLUFFS, LLC : JUDICIAL DISTRICT OF  
v. : HARTFORD AT HARTFORD  
TOWN OF EAST HAVEN PLANNING  
AND ZONING COMMISSION : JUNE 14, 2021

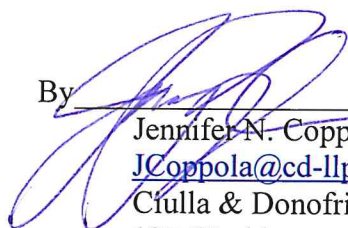
**MOTION FOR ENTRY OF STIPULATED JUDGMENT**

The parties in the above-captioned matters hereby respectfully request that the Court enter Judgment in accordance with the attached Stipulation for Judgment.

THE PLAINTIFF –  
THE BLUFFS, LLC

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**STIPULATION FOR JUDGMENT**

1. The action captioned above bearing Docket No. NNH-CV18-6079780-S was commenced by the plaintiff, The Bluffs, LLC (“The Bluffs” or “Plaintiff”) against the defendant, the Planning and Zoning Commission of the Town of East Haven (“Planning and Zoning Commission”, “Commission”, or “Defendant”) to appeal the decision of the Commission denying the Plaintiff’s application to change the zone of the real property located at 31 and 63 Sperry Lane in the Town of East Haven, Connecticut to permit it to develop a 415 unit Planned Elderly Facilities District (“PEFD”) residential development [“2018 Appeal”]. [The Plaintiff and Defendant may collectively be referred to as the “Parties.”]

2. Thereafter, the action captioned above bearing Docket No. HHD-CV20-6121108-S was commenced by the Plaintiff to appeal the decisions of the Commission denying the Plaintiff’s applications for a text amendment to create a new affordable housing district, to be known as the “Affordable Housing Development District” (“AHDD”), at Section 37A of the

Zoning Regulations of the Town of East Haven (“Zoning Regulations”) and a zone change to permit it to develop a 504 unit AHDD or an affordable housing residential development in accordance with the provisions of Connecticut General Statutes Section 8-30g (“C.G.S. § 8-30g”) on real property located at 31 and 100 Sperry Lane and 161 Foxon Road in the Town of East Haven, Connecticut (“Property”) [“2020 Appeal”].

3. During the public hearing related to the 2020 Appeal, the Plaintiff presented evidence that the Town of East Haven (“Town”) was not exempt from the provisions of C.G.S. § 8-30g because less than 10% of the housing stock in the Town qualified as affordable housing as defined by the statute.

4. Specifically, the Plaintiff argued there was a need for affordable housing in the Town in that only 7.96% of its housing stock was deemed affordable housing pursuant to the State of Connecticut Department of Housing (“DOH”) 2018 Affordable Housing Appeals List for the purposes of C.G.S. § 8-30g and submitted a draft Affordability Plan with the applications.

5. At the conclusion of the public hearing, the Commission denied the Plaintiff’s applications. The 2020 Appeal followed in a timely fashion.

6. It is the intent of the Parties to resolve these matters without the time, expense, and risk of further litigation and without any admission of liability or fault.

7. The Parties stipulate that Judgment should enter in these matters in accordance with the terms and conditions contained herein.

8. The Parties agree that the terms of the Judgment, subject to approval of the Court, shall be as follows:

(a) GENERAL TERMS AND CONDITIONS

(1) The general purpose of the specific terms of the Stipulation is to enable development of the Property pursuant to the site plan (“Settlement Plan”) as described in detail in section 8(b) herein.

(2) The Parties agree to the approval of a change in zoning designation for 31 and 100 Sperry Lane and 161 Foxon Road from “R3/R5” to the “PEFD” zone as defined by Section 27 of the East Haven Zoning Regulations, as herein amended (“Zone Change”).

(3) The Parties agree to the approval of zoning text amendments to Section 27, Planned Elderly Facilities District, of the Zoning Regulations, as said Section is herein amended (“Section 27 Text Amendment”), by the amendments attached hereto as “Exhibit A.” The Section 27 Text Amendment permits the assisted living facility use permitted by Section 28 of the Zoning Regulations in a PEFD development. The Plaintiff acknowledges and agrees that the regulatory provisions of Section 28 of the Zoning Regulations, not inconsistent with the terms and conditions of the Stipulation for Judgment including the amendments contained in Exhibit A hereto, shall be complied with in development of the Property.

(4) The Parties covenant that they are each willing to enter into easement agreements and other cooperative terms and conditions and agreements to coordinate development of the Property, consistent with the expressed purpose and terms of this Stipulation.

(5) The Plaintiff agrees to comply with the requirements of all federal, state, and local Codes, Regulations, Ordinances, and laws in developing the Property. The Plaintiff also understands and agrees that it must obtain approvals from the Commission and the Planning and Zoning Staff, the Inland Wetlands and Watercourses Commission, the Building Official, the Fire Marshal, and other officials, agencies, and authorities of the Town of East Haven prior to requesting and obtaining a Certificate of Occupancy in compliance with the Building Code and agrees it will provide access to the Town of East Haven’s Building, Fire, and Planning and Zoning Departments, and other officials, agencies, and authorities of the Town, for all required inspections and all inspections of the Property requested by the Town. Furthermore, if the Plaintiff desires and proposes to change any use of the Property in the future, the Plaintiff acknowledges and agrees that such change in use will require additional permits and/or approvals in accordance with the Zoning Regulations and all other applicable laws and agrees that such permits and approvals will be sought and obtained prior to such use being put into effect.

(6) It is expressly understood and agreed that no provision of this Stipulation shall be interpreted as requiring the issuance of any permit or approval by any official, employee, department, board, commission, agency, or authority of the Town of East Haven, but for approval by the defendant Planning and Zoning Commission of a site plan submitted by the Plaintiff which is in full compliance with the Settlement Plan described in section 8(b) below and all applicable federal, state, and local Codes, Regulations, Ordinances, and laws.

(b) THE SETTLEMENT PLAN

The Parties agree that the Plaintiff's Property can be developed pursuant to the conceptual site plan ("Settlement Plan") attached hereto as "Exhibit B", subject to a complete submission to and review and approval by the Planning and Zoning Commission and incorporation of and compliance with all Commission and departmental, official, agency, and authority comments and conditions, which complete site plan submission is to include the following:

(1) General Terms and Conditions

- (a) Four (4) multi-unit residential buildings to be constructed upon the Property. There shall be a total of 380 residential units and the Parties specifically agree that no additional units will be constructed without the express approval of the Commission upon submission of a modified site plan in the future. Three (3) of the buildings will accommodate age restricted housing containing a total of 260 units.\* The fourth building will contain 120 assisted living units.\* The residential buildings shall contain both one bedroom and two bedroom units. None of the residential buildings will exceed three (3) stories in height. A Clubhouse building will also be constructed as a resident amenity. (\* Denotes: The exact breakdown of the unit allocation between assisted and age restricted may change slightly based on final architectural building designs.)
- (b) All of the units shall be age restricted so that at least one of the tenants per unit is 55 years or older. No resident shall be less than 18 years of age. It is the Parties intention to fully comply with the "55 or Older" exemption to The Fair Housing Act. A recorded deed restriction relative to these age restriction requirements shall be filed on the East Haven land records prior to issuance of the initial building permit application or earlier if required by law.
- (c) The Plaintiff has agreed that 15% of the age restricted non-assisted units, or 39 units of the 260 non-assisted units, shall be deed restricted as "affordable housing units" as defined by C.G.S. § 8-30g, calculated at 80% of the median income applicable to the Town of East Haven. A revised Affordability Plan is attached hereto as "Exhibit C." An updated draft of the Affordability Plan with all referenced exhibits and schedules shall be submitted to the Commission by the Plaintiff with the draft site plan and shall be subject to approval by the Commission and the Town Attorney.

- (d) Approval by the Commission, subject to its discretion, of all architectural, landscaping and streetscape, and material and design standards and all parking, lighting, and signage shall be required.
- (e) The Plaintiff's submission shall comply with all requirements of the Zoning Regulations and the Inland Wetlands and Watercourses Regulations of the Town of East Haven, including but not limited to the submission of all required plans, reports, and documents and the Plaintiff shall conduct all necessary testing and studies for submission of same. The Plaintiff specifically acknowledges and agrees that it must obtain a permit to conduct regulated activity from the Inland Wetlands and Watercourses Commission to develop the Property and that a reduction in the total number of residential units provided for in the terms and conditions in section 8(b)(1)(a) above may be required in order to obtain said permit to conduct.
- (f) The Plaintiff shall post a bond in an amount to be determined by Town Staff in accordance with the applicable provisions of the Zoning Regulations and Connecticut General Statutes.

(2) Permitted Uses

Age restricted and assisted living residential uses. The assisted living building/facility shall comply with all State Health Department Regulations for Assisted Living, approved in 1994, amended in 2001, and as may be further amended from time to time, and the Department of Public Health and the Division of Health System Regulations, as may be amended from time to time. Additionally, the assisted living building/facility shall contain the mandatory supporting facility uses as required under Section 28.8 of the Zoning Regulations and optional supporting facilities, services, and uses, as permitted under Section 28.9 of the Regulations and approved by the Planning and Zoning Commission to provided amenities which will further enhance the quality of life of residents, including but not limited to indoor and outdoor recreational activities and locked storage facilities for residents. With respect to optional supporting facilities, services, and uses, a clubhouse building shall be constructed to be used as a resident amenity which clubhouse shall contain an administrative office for the property manager to receive resident calls, process applications/rental management, report maintenance issues, and schedule clubhouse events for residents. In

addition, a retail store dedicated to providing basic necessities, e.g., grocery items and paper products, at competitive prices shall be constructed to reduce off-site traffic generation and private security services shall be utilized to patrol the Property in its entirety and other security measures, including video surveillance, shall be utilized to reduce the need for emergency services.

(3) Quarry Prohibition

The Plaintiff, its successors, assigns, agents, contractors, subcontractors, and legal representatives and any other person(s) or entity(ies) as owner or tenant shall not conduct or allow to be conducted, the operation of a quarry on the Property. The Plaintiff's site plan application shall be accompanied by all of the information required for a special exception under Section 31 of the Zoning Regulations, providing the Commission with all the details it requests for all site-clearing, excavation, blasting, grading, filling, stockpiling, processing, and any other earth-moving or land clearing activities necessary to construct the development contemplated by the Settlement Plan, all such work shall be performed in a workmanlike and safe manner in accordance with industry best practices, and the site plan shall be designed to achieve a "balanced" site, to eliminate to the greatest extent possible, the need to remove or bring topsoil, sand, gravel, stone, or other materials from or to the Property, in an effort to reduce disturbance of the Property and avoid truck travel associated with said activities. The site plan application shall be governed by the criteria for granting of a special exception for earthwork removal as required by said regulatory provisions. The Parties acknowledge and agree that the on-site processing of those natural or earth materials which originate on the Property in order to utilize said materials as part of the project development would inure to the benefit of the Plaintiff as well as the Town and its residents. In the event that a completely balanced site cannot be achieved without unnecessary impact on other natural resources of the Property, including the removal of mature trees that provide buffering of the site to the neighboring environs, only 5,000 cubic yards of material maximum shall be permitted to be removed from the Property.

(4) Parking

The Plaintiff shall provide parking in accordance with Section 27.3.11 of the Zoning Regulations, as amended, in its site plan submittal. The final number of parking spaces required shall be within the discretion of the Commission to ensure that there is adequate parking for the use(s) to satisfy the anticipated parking demand. The parking space design and layout shall be approved by the Commission subject to its discretion.

(5) Blasting

- (a) In the event that blasting of the Property is necessary to construct the development contemplated by the Settlement Plan, the blaster must obtain a permit from the Office of the East Haven Fire Marshal (“Office of the Fire Marshal”) for each blasting job and comply with all requests for information and documentation, all requirements of local, state, or federal codes, regulations, ordinances, statutes, and/or any other laws, industry best practices, and insurance requirements, and all conditions of approval on the blasting permits as imposed by the Office of the Fire Marshal, including but not limited to a condition that the blaster obtain additional liability insurance, greater than that which is required, in the discretion of the Fire Marshal.
- (b) In addition, the blaster shall provide the Office of the Fire Marshal with the proposed schedule of blasting, including a proposed date and time for pre-blasting site inspection by the Office of the Fire Marshal to be completed before any blasting is performed, and at a minimum, anticipated commencement and completion dates for the blasting project.
- (c) All owners of neighboring properties that are within five hundred (500) feet of the boundaries of the Property when the blasting is to occur as defined by the Land Records shall be notified by certified mail return receipt requested and by first-class mail twenty-one (21) days in advance of the blasting, including: (1) the name of the property owner for the specific property or lot on which the blasting is to occur; (2) the address or a detailed description of the property or lot on which the blasting is to occur; (3) the name of the blaster; (4) the commencement date and anticipated completion date of the blasting activity; (5) the right of the neighboring property owner(s) being notified to request a pre-blast and post-blast survey and the individual or entity to contact to request a pre-blast and post-blast survey; (6) that said individual or entity responsible for receipt of requests for pre-blast and post-blast surveys must be contacted within fifteen (15) days of the date that the notice of blasting was mailed by the neighboring property owner(s) if a pre-blast and post-blast survey is desired; and (7) the individual or entity to contact if an emergency occurs or if a neighboring property owner(s) believes that the blasting activity resulted in damage to his/her/their property. For purposes of



determining the neighboring properties within the aforementioned five hundred (500) feet, measurement shall be taken from the outer perimeter of the property or lot on which the blasting is to occur in a straight line to any other properties within five hundred (500) feet. This mailing will be paid for by the blasting company, contractor, developer, or property owner(s) of the property on which the blasting is to occur and a copy of the mailing shall be provided to the Office of the Fire Marshal at the time of mailing. In addition, a log of all certified mailings and certified mail receipts as well as the name and address of all neighboring property owners who requested a pre-blast and post-blast survey shall be prepared and maintained and submitted to the Office of the Fire Marshal seven (7) days in advance of blasting.

- (d) Warning signs of sufficient size and number to be determined by the Office of the Fire Marshal shall be placed on all roadways, including Branhaven Drive, Foxon Road, Sperry Lane, and Wheelbarrow Lane, at locations to be determined by the Office of the Fire Marshal, forty-eight (48) hours prior to blasting and shall remain posted for twenty-four (24) hours following the completion of all blasting.
- (e) Each day of and prior to any blasting, the East Haven Fire Department shall be notified at (203) 468-3221.
- (f) A pre-blast and post-blast survey consisting of internal and external photographs or videotaping shall be conducted for all structures and dwellings within five hundred (500) feet of the property or lot on which the blasting is to occur as defined by the Land Records when requested by any neighboring property owner(s). Any neighboring property owner(s) who would like to request a pre-blast and post-blast survey will notify the individual or entity designated to receive such requests of their request for a pre-blast and post-blast survey within fifteen (15) days of the date that the above notice of blasting referenced in Section 8(b)(5)(c) was mailed. All requested pre-blast surveys must be completed prior to any blasting. Any and all costs associated with pre-blast and post-blast surveys shall be borne by the blasting company, contractor, developer, or property owner(s) of the property or lot on which the blasting is to occur.
- (g) Copies of the pre-blast and post-blast surveys, seismograph records, and proof of seismograph calibration must be made

available to the Office of the Fire Marshal or a representative thereof.

- (h) Hours of blasting shall be limited to weekdays only between the hours of 8:00 a.m. to 5:00 p.m. and may be further limited by the Office of the Fire Marshal. There shall be no blasting on weekends or federal holidays.
- (i) During the days in which blasting occurs, daily reports shall be filed with the Office of the Fire Marshal on forms to be prepared by the Fire Marshal which may be amended from time to time to include the information listed below and any other information that the Fire Marshal believes is necessary to keep record of:
  - (1) Date and exact firing time and limits of blast by station;
  - (2) Name of person or entity responsible for charge and blasting permit number;
  - (3) Unusual joint or seam conditions encountered in the rock;
  - (4) Type and strength of explosives, blasting caps, and distribution of delay periods used;
  - (5) Total explosive loadings per round and per group of delays;
  - (6) Type of stemming, matting, or cover used;
  - (7) Prevailing weather conditions, including direction and approximate velocity of wind, atmospheric velocity of wind, atmospheric temperature, relative humidity, and cloud conditions at the time of blast;
  - (8) Comments by blaster in charge regarding any misfires and/or unusual results or effects;
  - (9) An evaluation of the blast indicating areas of significant overbreak or underbreak and any recommended adjustments for the next blast; and
  - (10) Signature and title of person making record entries.

(6) Conservation Easement

A conservation easement shall be established, at a minimum for the ridgeline area in the northernmost portion of the Property that was previously proposed to be developed, which proposed development area to be conserved is depicted in Exhibit B hereto as containing two (2) additional residential buildings, parking, etc. in yellow. The applicant will submit a draft conservation easement with an accompanying easement map for review by Town Staff and the Town Attorney and subject to approval by the Commission during the site plan process; shall record said conservation easement and easement map as approved by the Commission, with any amendments or revisions as required thereby, on the East Haven land records within thirty (30) days of the Commission's approval; and shall submit proof of said recording to the Planning and Zoning Department. The Plaintiff specifically agrees that no site development work of any kind will occur in this northernmost portion of the Property heretofore described and depicted in Exhibit B, except as may be required by the conservation easement.

(7) Access to and from the Adjacent Property Owned by the Town of East Haven (East Haven High School)

- (a) As shown in the attached Settlement Plan, the real property at 35 Wheelbarrow Lane, the site of the East Haven High School which abuts the Property, shall be allowed gated access to the Property for emergency services ingress and egress.
- (b) Easement agreements and any necessary maintenance agreements will be prepared, executed, and filed on the East Haven land records to accomplish this access prior to the issuance of the initial building permit.
- (c) The Plaintiff will bear the cost of constructing the access area, driveway, and the access gate. Access to the operation of the gate shall be provided to the Town's designated emergency services personnel. The Plaintiff shall maintain the access area on its side of the gate to ensure its accessibility for emergency use. The size and type of gate will be determined by the Parties during the site plan review process with input from the Fire Chief and Police Chief.

(8) Road Improvements to Sperry Lane

The Plaintiff will construct and bear the cost of any improvements to Sperry Lane that are deemed necessary by the Commission for the

protection of the public health and safety and during the site plan approval process. A gate(s) will be erected and maintained of a type and size and in a location acceptable to the Commission to restrict use of Sperry Lane by construction vehicles. All construction vehicles to be utilized in development of the Property shall enter and exit the development site from Foxon Road via the entrance to be constructed at 161 Foxon Road and shall not enter or exit the development site at the intersection of Foxon Road and Sperry Lane. The Plaintiff shall notify all contractors and subcontractors of this restriction and take any and all legal action necessary to enforce this restriction.

(9) Traffic

The parties recognize that State Route 80/Foxon Road (“Rt. 80”), the road upon which the traffic will enter and exit the Property, is under the jurisdiction of the State of Connecticut Department of Transportation (the “DOT”) to assess the need or right to install a signalized intersection to the Property. However, in recognition of the concerns of the Commission and the public regarding potential traffic safety impacts at the intersection of the entrance to the development at the Property and Rt. 80, the Parties agree to jointly request at the time of submission of the site plan that the DOT authorize the installation of an automated signal at said intersection. If the initial request for authorization to install a signal is denied by the DOT, the Parties agree to review the accident history and other relevant traffic information pertaining to the intersection on an annual basis and renew their joint request for the signalization to the DOT in the event either party determines a renewal of their request is reasonably warranted. In the event that the DOT authorizes or requires a signalized intersection, the Plaintiff agrees to install, construct, and maintain such signalization at its cost.

(10) Timeframe for Completion of Site Plan Improvements and Reverter to Original Zoning District Designation

All site improvements in connection with the approved site plan shall be performed and completed in strict compliance with the site plan as approved by the Commission and shall be completed within five (5) years from the date of the Commission’s approval thereof. Any extensions of this five (5) year timeframe that may be permitted by the Connecticut General Statutes must be expressly approved by the Commission. Failure to complete all site improvements within the initial five (5) year period, or such longer period as may be permitted by approval of an extension by the Commission, shall result in automatic expiration of the approval of such site plan. In the event of automatic expiration, a new site plan must be submitted as the Settlement Plan will be void. In addition, in the event of automatic expiration, the zone changes agreed to by the Parties in section 8(a)(2) herein, shall be null and void and the Property shall automatically revert

back to its original zoning district designation, specifically 31 Sperry Lane shall revert to R-5, 100 Sperry Lane shall revert to R-3, and 161 Foxon Road shall revert to R-3.

9. In the event that it is necessary for any Party to file a Motion to Enforce any provision of this Stipulation, said Party shall be entitled to recover all costs incurred in connection with enforcement, including reasonable attorney's fees.

10. This Stipulation for Judgment will be recorded on the East Haven land records following entry of judgment in accordance therewith by the Court in the above-captioned actions.

11. This Court shall maintain continuing jurisdiction over these matters for purposes of enforcing the rights and obligations of the Parties as set forth herein.

12. All costs and attorney's fees incurred by the Plaintiff in pursuit of this action, for preparation and execution of the Settlement Plan, the preparation and submission of the full site plan to the Commission shall be borne by the Plaintiff alone and all costs and attorney's fees incurred for the drafting, execution, and recording of the easements and other necessary agreements shall be borne by the parties to said agreements.

13. The terms and provisions of this Stipulation shall inure to the benefit of and be binding upon the Parties and their respective heirs, legal representatives, successors, and assigns.

14. This Stipulation is absolute and unconditional and, together with the attached Exhibits, constitutes the full, complete and entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any prior negotiations, commitments, agreements, representations, promises, statements, warranties, covenants, or understandings, whether oral or in writing, that any party hereto may claim exists, all of which negotiations, commitments, agreements, representations, promises, statements, warranties, covenants, or understandings are expressly merged herein. No other representations, promises, statements,

warranties, covenants, or understandings or other prior or contemporaneous negotiations, commitments, or agreements, oral or written, respecting such matters that are not specifically incorporated herein shall be deemed in any way to exist or to bind any of the Parties hereto. Each of the Parties hereto acknowledges and affirms that it has not executed this Stipulation in reliance upon any representations, promises, statements, warranties, covenants, or undertakings not contained within this Stipulation. The Parties acknowledge that they were represented by legal counsel of their choice in connection with the review and negotiation of this Stipulation. This Stipulation shall be deemed to have been drafted by the Parties, not by any individual party. This Stipulation may not be amended, modified, altered, changed, limited, or terminated, except by a writing signed by the Parties hereto. This Stipulation contains the entire agreement between the Parties with respect to the matters set forth herein and may not be changed or terminated orally.

15. In accordance with the Rules of Practice, the Commission published notice of its consideration of this Stipulation in a newspaper of general circulation on April 29, 2021 advising interested members of the public that they could appear and offer public comment on same at its regular meeting held on May 5, 2021. The Commission also received public comment at a special meeting held on May 10, 2021 and permitted the public to submit further written comments for its consideration. After review and consideration of the Stipulation and all public comment received, at a special meeting held on May 25, 2021, the Commission voted to authorize undersigned counsel for the Commission to execute the Stipulation on its behalf.

16. This Stipulation may be executed by signature transmitted via facsimile or by e-mail in PDF format, each of which shall be an original signature. The Stipulation may be executed in any number of counterparts, each of which, when so executed and delivered, shall be

an original, but all of which together shall constitute one agreement binding upon the Parties hereto.

THE PLAINTIFF –  
THE BLUFFS, LLC

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THE DEFENDANT –  
PLANNING AND ZONING  
COMMISSION OF TOWN OF EAST  
HAVEN

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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing was served via electronic mail on this 14th day of June 2021 on all counsel of record as follows and said counsel has consented to service via electronic mail:

Bernard Pellegrino, Esquire  
The Pellegrino Law Firm  
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New Haven, CT 06511  
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\_\_\_\_\_  
Jennifer N. Coppola



# EXHIBIT A

**EXHIBIT A****SECTION 27: PLANNED ELDERLY FACILITIES DISTRICTS [P.E.F.D.](amended 7/13/2009)**

**27.1 PURPOSE:** Planned Elderly Facilities Districts may be established by the Commission within any Residence, R-1 R-2, R-3 District **and LI-2 District (as of 7/13/2009)** in accordance with the procedures, standards and conditions herein specified when necessary and appropriate for the following purpose:

**27.1.1** To permit tracts of land to be developed, redeveloped and improved as design units with a broad range of specialized facilities for ~~the elderly~~ persons as defined by Section 4.15 of these Regulations, including housing specifically designed for, and occupied by elderly persons, geriatric or convalescent care facilities, social and recreation facilities and other associated uses, including non-residential uses that are designed to serve the residents of the development; ~~but excluding Assisted Living Facilities, as described in section 28 of these Regulations;~~ and when such tracts are of sufficient size to accommodate such design units in a manner consistent with the character of the Town and the long range improvement of the neighborhood, and when significant common open space is provided and/or natural features of the terrain are preserved and retained.

~~27.1.1~~**27.1.2** Assisted Living Units: In any Planned Elderly Facilities District, a limited number of optional, separate assisted residential elderly housing units may be permitted at a ratio not to exceed one third (1/3) of the total non-assisted living units in the District. The assisted living units shall comply with the requirements of Section 28 of these Regulations to the extent that said requirements do not conflict with this Section, all State Health Department Regulations for Assisted Living, approved in 1994, amended in 2001, and as may be further amended from time to time, and the Department of Public Health and the Division of Health System Regulations, as may be amended from time to time.

**27.2 PRE-SUBMISSION CONSIDERATION:** The Commission recommends that prior to the submission of a formal petition for the establishment of a Planed Elderly Facilities District, the petitioner review with the Commission and/or its staff, in a preliminary and informal manner, any proposal for a P.E.F.D. The Commission recommends that four [4] copies of preliminary plans be submitted, meeting the basic requirements for general development under section 27.4.2 of these Regulations, together with such additional information that may be necessary to possibly render a “non-binding” opinion by the Commission.

**27.3 STANDARDS:** Planned Elderly Facilities Developments shall conform to the following standards and requirements:

**27.3.1 Site Area, Shape and Characteristics:** The site for a Planned Elderly Facility shall contain a minimum of five [5] acres of “generally buildable” land with suitable soils, topography and other natural features. Ponds, marshes and wetland areas shall not be used for more than ten [10] percent of the site area, for purposes of computing

allowable density. Natural features of the land shall be retained when reasonably possible. Each site shall have a minimum frontage of 50 feet on a street, and be of such a shape that a square, with a minimum dimension of 300 feet will fit on the site.

**27.3.2 Density:** The total number of dwelling units in a Planned Elderly Facility shall be determined as follows:

**27.3.2.2** For sites having an area from five [5] to twenty five [25] acres, the minimum lot area, per dwelling unit shall be as follows:

Efficiency units:	2,500 sq. ft. per dwelling unit
One bedroom units:	3,000 sq. ft. per dwelling unit
Other dwelling units:	4,000 sq. ft. per dwelling unit

**27.3.2.3** For sites having an area of 26 to 50 acres, the minimum lot area per dwelling unit shall be as follows:

Efficiency units:	2,000 sq. ft. per dwelling unit
One bedroom units:	2,500 sq. ft. per dwelling unit
Other dwelling units:	3,000 sq. ft. per dwelling unit

**27.3.2.4** For sites having an area of 51 acres or more, the minimum lot area per dwelling unit shall be as follows:

Efficiency units:	1,200 sq. ft. per dwelling unit
One bedroom units:	1,700 sq. ft. per dwelling unit
Other dwelling units:	2,500 sq. ft. per dwelling unit

27.3.2.5 For sites of any size proposing Assisted Living Units, the minimum lot area per assisted living dwelling unit shall be as follows:

<u>Efficiency units:</u>	<u>2,500 sq. ft. per dwelling unit</u>
<u>One bedroom units:</u>	<u>3,000 sq. ft. per dwelling unit</u>
<u>Other dwelling units:</u>	<u>4,500 sq. ft. per dwelling unit</u>

**27.3.3 Setbacks:** Buildings and other structures may extend to within 30 feet of any street or property line, except that any portion of a building or other structure exceeding 30 feet in height shall be set back from any property or street line by one [1] additional foot for each foot, or fraction thereof by which such portion exceeds 30 feet in height.

#### **27.3.4 Building Bulk and Coverage:**

**27.3.4.1** Maximum floor area as percent of Site Area:

Sites 5 to 25 acres in size:	20 percent
Sites 26 to 50 acres in size:	15 percent
Sites 51 acres or more in size:	10 percent

**27.3.4.2** Maximum lot coverage as a percent of the Lot area

Area of a site 5 to 25 acres:	10 percent
Area of a site 26 acres or more:	8 percent

**27.3.4.3** Where the tract of land is sixty (60) acres or more, and where the proposed development consists of three (3) stories or less, the **maximum lot coverage** allowed may increase to **twenty (20) percent** and the **maximum floor area** may increase to **forty (40) percent**. The increase in coverage and floor area is to discourage multiple story elderly housing above three (3) stories.

The limits on total floor area shall not apply to areas in, or on a building used for off-street parking or loading spaces when such floor area does not exceed 10 percent of the area of the site, or is located inside the downward extension of the perimeter walls of the building to which the spaces are accessory. The limitations on total floor area as applied to dwellings containing two [2] or more dwelling units may be increased by 10 percent of the area of the site, or fraction thereof, by which the aggregate ground coverage of such dwelling is reduced below the maximum ground coverage specified in Schedule B.

**27.3.5 Height:** In appropriate locations, as approved by the Commission, buildings and other structures may extend to a maximum height of 15 stories, or 120 feet; whichever is lesser.

**27.3.6 Permitted Uses:** Any site in an approved Planned Elderly Facilities District shall be used only for specialized facilities for the elderly, including housing, geriatric and convalescent care facilities for the elderly and accessory structures as well as home/office and customary home occupations as specified in Schedule A of these Regulations. In addition, certain non-residential uses as set forth in section 27.3.7 may be permitted as supporting facilities.

**27.3.7 Supporting Facilities:** Certain supporting facilities related to the principal use are permitted to serve the needs of the elderly residents. These include recreational and social facilities such as tennis courts, swimming pools, walking and cycling trails, arts and craft centers, meeting rooms, administrative offices, storage facilities and trash removal facilities. Service facilities to the extent required to serve the needs of sizeable, elderly residential development are also permitted, dependent upon overall size and location. An elderly housing facility designed to accommodate 200 or more dwelling units may provide an area for limited, retail store use, primarily for the service and convenience of its residents, subject to the approval of the Commission for each proposed commercial use. The total area of such commercial space shall not exceed 20 square feet of gross floor area per dwelling unit. Such commercial use shall not be authorized until substantial, actual construction of the equivalent number of residential units has begun.

For any assisted living building contained in a Planned Elderly Facilities District, the Mandatory Supporting Facilities contained in Section 28.8 of these Regulations shall be provided and the Optional Supporting Facilities contained in Section 28.9 of these Regulations may be required by the Commission in its discretion.

**27.3.8 Utilities:** All Planned Elderly Facilities shall be served by municipal sanitary sewers and public water supply. All utilities including, but not limited to, electric, telephone, gas, water and sanitary sewers shall be located underground.

**27.3.9 Site Design:** The site plan and architectural design of buildings and other structures shall of such character as to avoid undue traffic congestion on any street, to harmonize with the neighborhood, accomplish a transition in character between areas

of unlike character, protect property values, and preserve and enhance the appearance and beauty of the community. Interior streets and drives shall be designed to

minimize through traffic, reduce traffic speeds and provide for adequate circulation within the development and to its supporting facilities, open spaces, etc. Pedestrian paths shall be provided between structures and supporting facilities and shall be separated, whenever possible, from vehicular traffic. Site layout and architectural design shall take advantage of topography and other physical features. Buildings and other structures shall be located so as not to obstruct views from within the building, nor to obstruct such views from other buildings. Consistency of scale and architectural design shall be maintained throughout the development.

**27.3.10 Open Space:** All proposed open space areas shall be delineated to establish use and controls as appropriate, and labeled in a manner approved by the Commission to indicate that the land is not to be used for building purposes. Dwellings shall be provided with suitable, usable outdoor open space areas having an aggregate area of not less than 150 square feet per dwelling unit. The area so set aside shall be properly arranged, graded and landscaped for recreational purposes and may contain improvements such as tennis courts, swimming pools and other appropriate facilities. The method of preservation of the open space lands shall be subject to the approval of the Commission. The method may include, but is not limited to, one of the following:

**27.3.10.1** Establishment of a private association to own and maintain the land for open space purposes intended.

**27.3.10.2** Offer, and transfer of the land to the Town of East Haven, subject to agreement by the Town of East Haven to accept the land.

**27.3.10.3** Transfer of the land to an institution, person, organization or other entity to own and maintain the land for open space purposes intended.

**27.3.11 Parking:** ~~Off-street parking spaces shall be provided~~ designed as required by section Section 42 of these Regulations. All parking facilities shall be designed as an integral part of the overall site design, properly arranged to prevent undue concentrations of parking facilities, and attractively landscaped through ample use of trees, shrubs, hedges, walls, fences, and concrete curbing.

~~27.3.11 Permitted supporting facility uses shall be provided with at least one~~

27.3.11.1 1.5 vehicle spaces shall be provided for each single bedroom elderly “non-assisted” housing unit.

27.3.11.2 2.5 vehicle spaces shall be provided for each two bedroom elderly “non-assisted” housing unit.

27.3.11.3 0.5 vehicle spaces shall be provided for each elderly “assisted” housing unit.



**27.3.11.1-4 Permitted supporting facility uses shall be provided with at least one off-street parking space for each 400 square feet of floor area. ~~All parking facilities shall be designed as an integral part of the overall site design, properly arranged to prevent undue concentrations of parking facilities, attractively landscaped through ample use of trees, shrubs, hedges, walls, fences and concrete curbing.~~**

The Commission may authorize a lesser or greater number of off-street parking and loading spaces based on the nature, intensity, and mix of the proposed uses in the proposed PEFD development in keeping with the standards and conditions contained in 42.6 of these Regulations.

**27.3.12 Landscaping:** All portions of the site shall either be undisturbed natural terrain or shall be suitably landscaped with trees, shrubs, lawns and other landscape features. All new trees shall have a minimum caliper of three [3] inches; of which, at least 30 percent of which shall be evergreen trees. Parking areas shall contain, evenly distributed, landscaped areas that are protected by solid concrete curbing every tenth [10th] space in a row of parking spaces. Parking areas shall be suitably

screened from streets, adjoining properties, refuse disposal locations and recreational areas as required

**27.3.13 Streets and Drives:** Major access streets, whether private, or proposed to be dedicated as a public street, shall be constructed to the minimum Town road standards with concrete sidewalks and curbing. Interior driveways shall have a paved roadway width of at least 12 feet for one-way travel and at least 22 feet for two directional travel with no parallel parking allowed.

**27.3.14 Other Improvements:** Concrete sidewalks having a minimum width of five [5] feet shall be provided between all buildings and parking areas, streets and drives. Appropriate exterior lighting shall be designed and provided at building entrances, along walkways, in parking areas, at all access points to streets and such other locations as may be required for the safety of vehicular and pedestrian traffic. Suitable, screened areas and facilities shall be provided for the adequate reduction, collection and disposal of refuse. All laundry and clothes drying facilities shall be contained within a structure. All signs shall be designed as part of the overall design concept and shall meet the requirements of these Regulations for signs in Residential Districts. In addition, for supporting facility uses, one [1] commercial sign, not exceeding 16 square feet in area shall be permitted for each approved use.

**27.3.15 Professional Standards:** All maps, plans and technical drawings shall be designated by, and bear the seal of a qualified, licensed professional engineer, architect, landscape architect and/or surveyor. All site and landscape plans shall be designed by a registered landscape architect, architect or civil engineer; all structures, intended primarily for human occupancy, shall be designed by a registered architect; all boundary surveys and property maps shall be prepared by a registered land surveyor; all engineering design road and utility plans and sanitary sewerage facilities designs shall be prepared by a registered civil engineer.

**27.3.1527.3.16 DWELLING UNITS:** The minimum area of dwelling units designed for occupancy in any Planned Elderly Facilities District shall be:

27.3.16.1 One bedroom unit: 650 square feet;

27.3.16.2 Two bedroom unit: 800 square feet; and

27.3.16.3 Assisted living unit: 300 square feet.

**27.4 SUBMISSION:** A petition for the establishment of a Planned Elderly Facilities District shall conform to the standards set forth in section 27.3, and shall be submitted to the Commission, in writing, shall be signed by the owner or owners of all the parcels within the proposed district and shall be accompanied by the following:

**27.4.1 Statement:** A written statement, in 12 copies, relative to the nature of existing development around the proposed District, the concepts relating to open space proposals and their preservation, a description of the types of proposed uses, types of dwelling units, proposed ownership and design features.

**27.4.2 General Development Plan:** A complete, general development plan for the proposed development, in 12 copies shall be submitted. As appropriate, and where applicable, plans shall be prepared and certified by an architect licensed to practice in the State of Connecticut. Where possible, maps should be drawn at a minimum scale of 1" = 40'; but in no case, less than 1" = 100', and showing the information required below:

- 27.4.2.1** Property Map: A map showing the location, size of the property of the proposed development with an accuracy meeting, or exceeding the standards for a "Class A-2 Transit Survey", as defined by the Connecticut Technical Council, Inc.; which map is to show the precise boundaries of the proposed district, as well as any existing zoning boundaries, the adjoining properties within 500 feet of the proposed district and the names of the owners of such properties as appear on the latest records in the Office of the Assessor.
- 27.4.2.2** Existing Conditions Map: A separate map, showing the existing conditions, including existing structures by their use, topography, vegetation, significant natural features and the boundaries of any officially designate area of wetlands.
- 27.4.2.3** Land Use Plan: A preliminary plan of proposed land uses in the proposed development and acreage of each use, as well as existing and future land uses in the surrounding area.
- 27.4.2.4** Site development Plan: A preliminary plan showing the location of proposed buildings and structures, roads and parking and other paved areas, walkways, recreational facilities, open space areas and limits of proposed development stages; and including a tabulation of the required standards and the design standards used.
- 27.4.2.5** Grading and Utilities Plan: A separate, preliminary plan of proposed grading and a schematic layout of proposed storm drainage and utility systems, including water supply, sanitary sewers, electric, telephone, gas and other utilities shall be placed underground.
- 27.4.2.6** Landscaping Plan: A preliminary plan of existing and proposed landscaping treatment, including major tree areas, water bodies, treatment of open space areas, screening, existing and proposed topography, location of lighting fixtures, hydrants and the location of signs.

**27.4.2.7** Architectural Plans: Preliminary, generalized floor plans, exterior elevations, perspective drawings and descriptive information on the number and size of the units, rooms per unit, types of building materials and specific exterior materials and finishes to be used.

**27.4.2.8** Reports: A preliminary report in six [6] copies showing the proposed method of handling sewage disposal, water supply, storm water discharge; including capacity of water courses, volume of additional discharge, improvements needed and design basis, protected development scheduling and contemplated financing program.

**27.4.2.9** Additional Information: Any additional information which the Commission may reasonably require or the applicant may wish to submit, including information on traffic, soil conditions, marketability, environmental impact, project model, proposed covenants, easements, deeds, etc.

**27.4.3 Fees:** A petition fee of \$ 610.00 shall accompany any petition submitted under this section. The Commission may vote to waive said submission fee for a petition submitted by the Town of East Haven, or by the local Housing Authority.

**27.5 PROCEDURES:** After receipt of a petition for the establishment of a Planned Elderly Facilities District, the Commission and it's staff shall review the petition for completeness and, during this review, may confer with the petitioner and request additional information. Copies of the applicable plans and reports will be referred to the appropriate Town Departments, such as the Engineering, Building, Police and Fire Departments, etc. The Commission shall then hold a Public Hearing on the petition in the same manner, and with the same notice as is required for an amendment of these Regulations. The Commission may request the following information for presentation to, or at the Public Hearing:

**27.5.1 Sanitary Sewerage:** Evidence from the Sewer Commission that sewers are available to the project for tie-in and that the sewer lines, sewage treatment plant and related appurtenances have the capacity for the projected volumes.

**27.5.2 Solid Waste:** Evidence from the Regional Health District Director on the adequacy of solid waste disposal and, if no public sewers are available, the adequacy of a private sewage disposal system.

**27.5.3 Traffic:** Evidence that the proposal will not cause any undue traffic hazards.

**27.5.4 Fire Protection:** A statement from the Fire Marshall that the proposal meets the Fire Safety Standards and the firefighting feasibility of the proposed plan is adequate.

**27.5.5 Public Works:** Evidence from the Town Engineer with reference to the adequacy of

the basic drainage system; the public or private street design; and the design of elements to be served by the Public Services Department of the Town.

- 27.5.6 Other Information:** Statements, studies or analyses from any other municipal department or advisory committee whose opinion is deemed appropriate by the Commission.
- 27.6 ACTION:** Within 65 days after the close of the Public Hearing, unless such time is extended upon written consent of the petitioner; the Commission may give approval to the General Development Plan, or approval subject to modifications. The Commission shall, simultaneously deny or adopt, with or without modifications, the Planned Elderly Facilities District, thereby amending the zoning map, only after making certain findings necessary for the amendment of these Regulations. Approval of the General Development Plan and the adoption of the Planned Elderly Facilities District does not constitute final approval of the proposed development; but does authorize the submission of an application for Final Approval of the development. Notice of the adoption of the Planned Elderly Facilities District shall be given as required for the amendment of these Regulations and Map, and a copy of the statement, General Development Plan and the Commission's Resolution of Adoption shall be filed, by the applicant, in the Offices of the Town Clerk. The time limits for action by the Commission, set forth above, are directory only; and the failure of the Commission to act within the time specified does not constitute an automatic approval and shall not preclude the Commission from taking such action at any time thereafter, and said action when taken shall have the same force and effect as if taken within the time specified.
- 27.7 FINAL SUBMISSION:** Within one [1] year of the date of the Commission's approval of the General Development Plan, the applicant shall submit an Application for Final Approval for the entire proposed development, or a stage thereof, in accordance with the approved General Development Plan. The scope of any stage encompassed by an Application for Final Approval may be reduced in size with the approval of the Commission; but the minimum amount of land to be included within any single stage shall be five [5] acres.

Each stage must encompass a logical area of development and proper divisions must be made for supporting facilities. Each stage shall conform to the standards of this Section and each shall be succeeding stages. Application for Final Approval of each subsequent stage of development shall be submitted within one [1] year of the date of the approval of the last stage, except the time limits for submission of each subsequent stage may be extended upon written request of the applicant and acceptance by the Commission. If the applicant should abandon all or a part or parts of the General Development Plan, or fails to submit an application for final approval within the prescribed time allowed, or any approved extension thereof, the General Development Plan shall automatically become null and void, and the Commission shall be deemed authorized by the owner or owners of the land within the Planned Elderly Facilities District to amend these Regulations and Zoning Map, deleting all, or part of said District; and establishing, for such area, the provisions of the previous or another Zoning District.

**27.8 APPLICATION for FINAL APPROVAL:** The application for final approval shall cover all, or a portion of, the adopted Planned Elderly Facilities District and shall be in accordance with the General Development Plan as approved by the Commission. The application shall be submitted in a form prescribed by the Commission in six [6] copies and, shall include, but not be limited to the following:

**27.8.1 Statement:** A written statement, setting forth the relationship of the Application to the previously approved General Development Plan, identifying what differences, if any exist; and what changes were made to comply with any conditions of approval. Said statement shall contain a proposed time schedule for carrying out the entire plan as well as updated and additional information relative to the financing plans and proposals. At the request of the Commission, additional information concerning the financial ability of the applicant to carry out and complete the proposed stage of development may be required.

**27.8.2 Detailed Development Plans:** Detailed Development Plans shall be submitted in conformance with, and including all the information required by the approved General Development Plan. Any plans for stage [phase] completion shall reflect all stages of development completed and/or approved as of the date of submission and shall show those features and elements beyond the limits of this stage that are to be completed as part of this stage in order to assure a complete, self-sufficient existence without the completion of the remaining stages. Maps should be drawn at a minimum scale of 1" to 40' and shall include at least the following:

**27.8.2.1 Site Plan:** A detailed plan of all site plan proposals showing the layout of all buildings, drives, parking areas, walkways, recreational facilities and other pertinent elements, and including a tabulation of the required standards and the design standards used.

**27.8.2.2 Engineering Plans:** Plans presenting detailed engineering designs and information supporting all the engineering elements of the site improvements, including proposed drives, parking areas, grading, drainage, sewers, water supply, utilities and other improvements.

**27.8.2.3 Landscaping Plans:** Plans showing all proposed areas to be planted and landscaped, types of plantings by common & botanical names, size and location. Any areas to be maintained by someone other than the Applicant shall be so designated. Topography and other natural features shall be shown to the extent they are significant to the landscaping treatment. Locations of signs and lighting fixtures shall be indicated.

**27.8.2.4 Architectural Plans:** Drawings of all proposed buildings shall be submitted, including floor plans of all levels; elevations of all sides of all structures, including accessory buildings, perspective drawings and

renderings to the extent necessary to portray building designs and relationships, and general specifications of types of construction proposed, including exterior materials and finishes.

**27.8.2.5** Other documents: Any other plans, reports or documents required as part of the approval of the General Development Plan, copies of restrictive covenants, easements, deeds to open space areas and such additional information as the Commission may request, concerning use, control, maintenance and liability relative to all open space areas and common facilities.

**27.8.2.5** Fees: A fee of \$ 50.00 and, for residential developments, an additional fee of \$ 2.00 per each dwelling unit. The Commission may vote to waive the fee for any Application submitted by the Town of East Haven, or by the local Housing Authority.

**27.9 APPROVAL:** Upon receipt of an application for Final Approval, the Commission shall determine the completeness of the application. Within 65 days of the receipt of a complete application, the Commission shall approve, modify and approve, or disapprove the Application. The applicant may consent, in writing, to any extension of time for action.

Failure of the Commission to so act within the 65 day period, or any lawful extension thereof, shall be considered as an approval; and a certificate to that effect, approving the Application for Final Approval as submitted, shall be issued by the Commission within 30 days after the 65 day period for action.

The grounds for disapproval shall be stated by the Commission for its records. The Application may be approved only after the Commission makes the following findings:

- 27.9.1** The Detailed Development Plan meets the standards set forth in this Section.
- 27.9.2** The Detailed Development Plan is consistent with the approved General Development Plan.
- 27.9.3** The proposed streets and drives are suitable and adequate to accommodate the projected traffic volumes and the Town's street system will not be overburdened.
- 27.9.4** The proposed utility systems, sanitary sewers and storm drainage facilities are adequate to accommodate projected demands and the facilities servicing the neighborhood will not be overburdened.
- 27.9.5** The proposal, as contained in the Detailed Development Plan will conform to all Federal, State and local requirements and will have no adverse effect on the environment.

- 27.9.6** The application contains workable proposals which, when implemented, will adequately provide for the maintenance, use and enjoyment of all recreational areas, open spaces and other public or common areas.
- 27.9.7** The proposed development schedule and financing proposals will enable completion of the proposed development in a satisfactory and timely fashion.

The modified and approved or disapproved Application shall be revised and re-submitted within six [6] months or any extension thereof that is granted by the Commission for cause shown. If the applicant fails to re-submit within the prescribed time allowed, the General Development Plan shall become null and void, and the Commission shall be deemed authorized by the owner or owners of land within the Planned Elderly Facilities District to amend these Regulations and the Zoning Map, deleting all or part of said District and establishing for such area the provisions of the previous or another Zoning District.

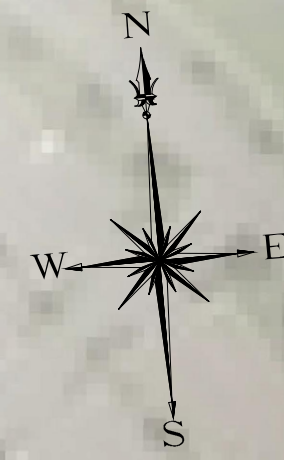
- 27.10 PERFORMANCE BOND:** The applicant shall file with the Commission, a performance bond, in form, amount and surety approved by the Commission, to guarantee the faithful performance of all site improvement work required by the approved application within a specified period but not less than two [2] years from the date of the approval of the Application for Final Approval.
- 27.11 APPLIANT NOTIFICATION:** Within 15 days of its decision, the applicant shall be notified by the Commission, in writing, by certified mail, setting forth the conditions of approval; the modifications required [if any] or the reasons for disapproval . Upon final approval, after all conditions of approval have been satisfied and the performance bond has been filed, the Commission Chairman shall be authorized to endorse the Detailed Development Plan.
- 27.12 FAILURE TO PROCEED:** If the applicant fails to commence and proceed with the actual construction within six [6] months of the date of the endorsement of approval of the Detailed Development Plan, or within any time extension granted in writing by the Commission, the approval of the Application for Final Approval shall become null and void.
- 27.13 CHANGES AFTER APPROVAL:** Any proposal or required changes in the approved Detailed Development Plan shall be submitted to the Commission for review and action prior to implementation of such changes. Minor revisions, which do not increase the intensity of the development; number of dwelling units; number of bedrooms; or which do not decrease the amount of open space or alter other conditions imposed by the Commission, may be approved by simple resolution of said Commission.

Major changes that increase the density of development; the dwelling unit density; increase the bedroom count; decrease open space areas, or alter or significantly change the approved Detailed Development Plan, will require the submission of a revised Application for Final Approval, which shall be processed in accordance with these Regulations.



**27.13 VIOLATIONS:** Failure to comply with any of the terms, conditions, restrictions or requirements of the Detailed Development Plan, or any other documents and provisions in connection with an approved application for Final Approval shall constitute a violation, whereby the Commission is empowered to revoke such approval. Notice of such action shall be sent to the applicant within five [5] days of such action by the Commission. During the construction period, the zoning enforcement officer shall periodically review progress, compare it with the projected time schedule and report his findings to the Commission. If the Commission determines any substantial and undesirable deviations from the timetable relative to the establishment of open space areas, or provisions of public or common facilities, it shall order, in writing, compliance. The Commission is also empowered to suspend further construction in other areas until necessary compliance is achieved.

# **EXHIBIT B**



**COMPARISON BETWEEN AHDD  
AND AGE-RESTRICTED HOUSING**

DATE: MARCH 17, 2021  
SCALE: 1"=100'

**LEGEND**

- AHDD
- AGE-RESTRICTED

# EXHIBIT C

EXHIBIT C

**THE BLUFFS, LLC**

**PLAN FOR AFFORDABLE HOUSING  
UNITS AT THE BLUFFS**

DRAFT FOR STIPULATION AND JUDGMENT

## INTRODUCTION

The Bluffs, LLC ("The Bluffs") has prepared this Affordability Plan to carry out its planned construction and subsequent sale and/or leasing of affordable housing units in The Bluffs, located at 31 and 100 Sperry Lane and 161 Foxon Road, East Haven, Connecticut.

The Bluffs has proposed 260 age-restricted units (the "units"), to be contained within three (3) buildings, fifteen (15%) percent of which, or thirty-nine (39) of the units, will be designated as "affordable housing units" as defined in Connecticut General Statutes ("Conn. Gen. Stat.") § 8-30g, at 80 percent of the area median income or 80 percent of the state median income, whichever is less, as determined by the U. S. Department of Housing and Urban Development ("HUD"). This Affordability Plan describes how the regulations regarding affordability will be administered.

### **I. Units Designated For Affordable Housing.**

Thirty-nine (39) of the units at The Bluffs will be designated as affordable housing units, as defined by Conn. Gen. Stat. § 8-30g. There are two (2) age-restricted unit types that will be offered at The Bluffs, one (1) bedroom units and two (2) bedroom units. Fifteen (15%) percent of the units within each of the unit types, if constructed, will be designated as affordable housing units under the statute. The affordable units will be dispersed throughout the site. Exhibit 1 is attached depicting the Unit Styles with floor plans and exterior elevations.

### **II. Period Of Designations.**

The affordable units shall be designated as affordable housing units for forty (40) years. The forty (40) year affordability period shall be calculated separately for each affordable unit, and the period shall begin on the date of sale or rental to a unit owner/lessee.

### **III. Development Sequence.**

The affordable units will be built and offered for sale or rent at the same pace as construction and sale or rent of market-rate units. It is the Developer's intent, therefore, to build and offer one affordable unit for every six market-rate units built.

### **IV. Nature Of Construction Of Affordable Units And Market-Rate Units.**

Within The Bluffs affordable units shall be comparable to the square footage of the market-rate units in their class (i.e., approximate footprint size) and shall be constructed with the architectural design and using exterior materials comparable to and compatible with those used in market-rate units.

**V. Entity Responsible For Administration And Compliance.**

This Affordability Plan will be administered by The Bluffs, or its successors and assigns. Lexington is a real estate company with personnel experienced in affordable housing. The entity with responsibility to ensure compliance with this plan shall be known as the "Administrator." The Administrator, which will be identified in writing to the East Haven Planning and Zoning Commission, shall submit a status report to the Town Planner on compliance with this Affordability Plan annually on or about January 31 of each year.

**VI. Affirmative Fair Housing Marketing Plan.**

The sale or lease of both affordable units and market rate units in The Bluffs shall be publicized, using State regulations for affirmative fair housing marketing programs as guidelines. The purpose of such efforts shall be to apprise residents of municipalities of relatively high concentrations of minority populations of the availability of such units. The Administrator shall have responsibility for compliance with this section. Notices of initial availability of units shall be provided, at a minimum, by advertising at least two times in a newspaper of general circulation in such identified municipalities. The Administrator shall also provide such notices to the East Haven Planning and Zoning Commission, the Town of East Haven, the local housing authority, and the East Haven Board of Education. Such notices shall include a description of the available affordable units(s), the eligibility criteria for potential lessees or purchasers, the Maximum Sale Price or Rental Price (as hereinafter defined), and the availability of application forms and additional information.

Using the above-referenced State regulations as guidelines, dissemination of information about available affordable and market rate units shall include:

- A. Analyzing census, Connecticut Department of Economic and Community Development town profiles, and other data to identify racial and ethnic groups least likely to apply based on representation in East Haven's population, including Asian Pacific, Black, Hispanic, and Native American populations.
- B. Announcements/advertisements in publications and other media that will reach minority populations, including newspapers, such as The New Haven Register, or radio stations serving New Haven and other towns in the metropolitan statistical area and regional planning area, and advertisements or flyers likely to be viewed on public transportation or public highway areas.
- C. Announcements to social service agencies and other community contacts serving low-income minority families (including churches, civil rights organizations, housing authority and other housing authorities in towns represented in the Greater New Haven Regional Planning Agency, legal services organizations, etc.).

- D. Assistance to minority applicants in processing applications.
- E. Marketing efforts in geographic area of high minority concentrations within the housing market area and metropolitan statistical area.
- F. Beginning affirmative marketing efforts prior to general marketing of units, and repeating again during initial marketing and at 50 percent completion.

All notices shall comply with the federal Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* and the Connecticut Fair Housing Act, Conn. Gen. Stat. §§ 46a-64b, 64c (together, the "Fair Housing Acts").

#### **VII. Eligibility.**

Eligibility of families or households to purchase or rent an affordable unit in the The Bluffs shall be determined by the Administrator in accordance with Conn. Gen., Stat. § 8-30g, as amended.

Households whose income is less than or equal to 80 percent of the area median income or 80 percent of the state median income, whichever is less, as determined by the U. S. Department of Housing and Urban Development ("HUD"), shall be eligible to buy or lease seventy-five of the affordable units designated for 80 percent median income.

#### **VIII. Application Process.**

A household seeking to purchase and/or lease the affordable units ("Applicant") must complete an application to determine eligibility. The application form and process shall comply with the Fair Housing Acts.

##### **A. Application Form.**

The application form for affordable units shall be provided by the Administrator and shall include an income certification form. In general, income for purposes of determining an Applicant's qualification shall include the Applicant family's total anticipated income from all sources for the twelve (12) month period following the date the application is submitted ("Application Date"). If the Applicant's financial disclosures indicate that the Applicant may experience a significant change in the Applicant's future income during the twelve (12) month period, the Administrator shall not consider this change unless there is a reasonable assurance that the change will in fact occur. The Applicant's income need not be re-verified after the time



of initial purchase but shall be re-verified whenever a lease is renewed. In determining what is and is not to be included in the definition of family annual income, the Administrator shall use the criteria set forth by HUD and listed on Schedule A, attached.<sup>1</sup>

B. Applicant Interview.

The Administrator shall interview an Applicant upon submission of the completed application. Specifically, the Administrator shall, during the interview, undertake the following:

1. Review with the Applicant all the information provided on the application.
2. Explain to the Applicant the requirements for eligibility, verification procedures, and the penalties for supplying false information.
3. Verify that all sources of family income and family assets have been listed in the application. Make clear that the term "family" includes all individuals who are to occupy the home, and that no relationship by blood or marriage is required.
4. Request the Applicant to sign the necessary release forms to be used in verifying income. Inform the Applicant of what verification and documentation must be provided before the application is deemed complete.
5. Inform the Applicant that a decision as to eligibility cannot be made until all items on the application have been verified.
6. Review with the Applicant the process and restrictions regarding resale and lease.

C. Verification of Applicant's Income.

Where it is evident from the income certification form provided by the Applicant that the Applicant is not eligible, additional verification procedures shall not be necessary. However, if the Applicant appears to be eligible, the Administrator shall require verification of the Applicant's reported income before an affordable unit is sold or leased to that applicant.

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<sup>1</sup> See 24 C.F.R. § 5.609. Federal regulations are subject to change, and it is the intent of this Affordability Plan, including Schedules A and B, to use as guidelines HUD regulations with respect to income certification, as such regulations may be amended from time to time.

If applicable, the Applicant shall provide the documentation listed on Schedule B, attached hereto, to the Administrator. This list is not exclusive, and the Administrator may require any other verification or documentation as the Administrator deems necessary.

**IX. Prioritization of Applicants For Offer.**

In the event that the number of qualified Applicants exceeds the number of affordable units, then the Administrator shall establish a priority list of applicants based on a “first come, first served” basis, subject to the applicant’s income pre-certification eligibility and the preferences established in this Section IX. The affordable units will be offered according to the applicant’s numerical listing. In the event that affordable units are built in phases, the same procedure shall be held for each phase.

**X. Maximum Initial Sale Price And Maximum Resale Price; Maximum Rental**

Calculation of the maximum initial sale price or maximum resale price ("Maximum Sale Price") or Maximum Rental for a Housing Opportunity Unit ("Maximum Rental Price"), so as to satisfy Conn. Gen. Stat. 8-30g, shall utilize the lesser of the area median income data for the Town of North Haven or the statewide median as published by HUD as in effect on the day a purchase and sale agreement is accepted by the owner of the Housing Opportunity Unit ("Owner"), or the day a lease has been executed by both lessor and lessee so as to create a tenancy.

The Maximum Sale or Resale Price shall be calculated as follows:

Calculation steps for a sale unit at 80 percent of area or statewide median

1. Determine (relevant year) area median income or statewide median, adjusted for family size (calculated at 1.5 persons per bedroom), as published by HUD.
2. Calculate 80 percent of Step 1.
3. Calculate 30 percent of Step 2, representing the maximum portion of a family's income that may be used for housing.
4. Divide Step 3 by twelve (12) to determine the maximum monthly outlay.
5. Determine by reasonable estimate monthly expenses, including taxes, insurance, heat and utility costs, excluding telephone and cable television, but including any required common interest ownership or similar fee.
6. Subtract Step 5 from Step 4 to determine the amount available for mortgage principal and interest.

7. Apply amount available from Step 6 to standard mortgage term at then-prevailing interest rate to determine the financeable amount.
8. Determine down payment (see Section XI).
9. Add Steps 7 and 8 to determine the MAXIMUM SALE OR RESALE PRICE.

Calculation steps for a rental unit at 80 percent of area or statewide median

1. Determine (relevant year) area median income or statewide median, adjusted for family size (calculated at 1.5 persons per bedroom), as published by HUD.
2. Calculate 80 percent of Step 1.
3. Calculate 30 percent of Step 2, representing the maximum portion of a family's income that may be used for housing.
4. Divide Step 3 by twelve (12) to determine the maximum monthly housing payment.
5. By reference to published HUD tables, determine the HUD Fair Market Rent for unit with comparable number of bedrooms. Multiply this amount by one hundred twenty percent (120%).
6. Maximum monthly payment for this rental unit is the lesser of amount calculated in Step 4 or 5 above.
7. Determine by reasonable estimate monthly expenses for heat and utility costs, excluding telephone and cable television, but including any fee required of all tenants.
8. Maximum monthly outlay for rent plus estimated monthly expenses may not exceed the amount determined in Step 6.

**XI. Down Payments.**

The maximum allowable down payment used in calculating for an affordable unit that is sold/purchased shall be the lessor of twenty percent (20%) of the purchase price or twenty percent (20%) of the Connecticut Housing Finance Authority (CHFA) maximum sales price for a comparably sized unit in the area, as published by CHFA. However, this Plan does not require, and shall not be interpreted to require, a twenty percent (20%) down payment for each unit that is sold or purchased, and thus the downpayment may be reduced. There shall be no maximum or minimum down payment.

**XII. Required Fees And Access To Amenities.**

All owners and lessees of affordable units shall have the same rights and privileges as owners and lessees of market-rate units within the development, including access to and use of recreational and community amenities. Fees charged to owners or lessees of affordable units shall not be set so as to cause such owners or lessees to pay more than the maximum monthly payment as determined in the preceding sample calculations.

**XIII. Principal Residence.**

Affordable units shall be occupied only as the principal residence of the Unit Owner or Lessee.

**XIV. Requirement To Maintain Condition.**

All Owners or Lessees are required to maintain their units. The Owner or Lessee shall not destroy, damage or impair the unit, allow the unit to deteriorate, or commit waste on the unit.

**XV. Resale Of A Housing Opportunity Unit (If Converted).**

An Owner may sell his or her affordable unit provided the Owner complies with the restrictions concerning the sale of units as set forth in this Affordability Plan and in any applicable deed restrictions. If the Owner wishes to sell, the Owner shall notify the Administrator in writing. The Administrator shall then work with the Owner to calculate a Maximum Sale Price, as set forth in Section X, above. The Administrator shall provide written notice in the same manner as was followed for the initial sale, as set forth in Section VI, above. The Administrator shall bring any purchase offers received to the attention of the Owner.

The Owner may hire a real estate broker or otherwise individually solicit offers, independent of the Administrator's action, from potential purchasers. The Owner shall inform any potential purchaser of the applicable affordability restrictions before any purchase and sale agreement or lease agreement is executed by furnishing the potential purchaser with a copy of this Affordability Plan. The purchase and sale agreement shall contain a provision to the effect that the sale is contingent upon a determination by the Administrator that the potential purchaser meets the eligibility criteria set forth in this Plan. Once the purchase and sale agreement is executed by the Owner and potential purchaser, the potential purchaser shall immediately notify the Administrator in writing. The Administrator shall have thirty (30) days from such notice to determine the eligibility of the potential purchaser in accordance with the application process set forth in Section VIII, above. The Administrator shall notify the Owner and the potential purchaser of its determination of eligibility in writing within said thirty (30) day period. If the Administrator determines that the potential purchaser is not eligible, the purchase and sale

agreement shall be void, and the Owner may solicit other potential purchasers. If the Administrator determines that the potential purchaser is eligible, the Administrator shall provide the potential purchaser and the Owner with a signed certification to the effect that the sale of the particular affordable unit has complied with the provisions of this Affordability Plan.

In the event of any sale or transfer of an affordable unit by the Owner pursuant to this Paragraph, then, upon the closing of title with respect to such sale or transfer, the Owner shall pay a reasonable fee to the Administrator. Such reasonable fee shall be set by the administrator to cover expenses related to determining eligibility, calculating maximum sale price, and providing notice.

**XVI. Change Of Income Or Qualifying Status Of Tenant Of Rental Unit.**

If an affordable unit is rented, in the event that an affordable unit tenant's income changes so as to exceed the qualifying maximum, or if the tenant otherwise becomes disqualified, such tenant must provide notice to the Administrator within seven (7) days of the disqualification. Upon being disqualified, such tenant, following the procedures set forth below, shall have the option to vacate the unit within ninety (90) days, or to remain in the unit paying a market-rate rent. Within fifteen (15) days of receiving notice of a tenant's disqualification, the Administrator shall provide written notice to the tenant of the market-rate rent for the unit. The tenant shall notify the Administrator within fifteen (15) days of receipt of such notice whether the tenant will accept the market-rate rent or vacate. If the tenant elects to remain in the unit at the market rate, the Administrator shall offer the next available unit as an affordable unit, if necessary, in order for the development to comply with the minimum set aside for affordable units. So long as these procedures are followed, the project shall not be out of compliance with the minimum.

**XVII. Enforcement.**

The East Haven Planning and Zoning Commission shall retain all enforcement powers granted by the Connecticut General Statutes, including § 8-12, which powers include, but are not limited to, the authority, at any reasonable time, to inspect the property and to examine the books and records of the Administrator to determine compliance of affordable units with the affordable housing regulations. Should any affordable units be sold, affordability deed restrictions shall be included in each deed of an affordable unit during the forty (40) year period in which the affordability program is in place to provide notice of the affordability restrictions and to bind future purchasers.

**XIII. Deed Restrictions.**

The Deed Restrictions contained in Schedule C shall be included in each deed of an affordable unit during the forty (40) year period in which the affordability program is in place to provide notice of the affordability restrictions and to bind future purchasers.

A violation of this Affordability Plan or the deed restrictions shall not result in a forfeiture of title, but the East Haven Planning and Zoning Commission shall otherwise retain all enforcement powers granted by the Connecticut General Statutes, including § 8-12, which powers include, but are not limited to, the authority, at any reasonable time, to inspect the property and to examine the books and records of the Administrator to determine compliance of affordable units with the affordable housing regulations.

**XIX. Binding Effect.**

This Affordability Plan shall be binding on the successors and assigns of The Bluffs.

**SCHEDULE A**  
**DEFINITIONS AND ELEMENTS OF ANNUAL FAMILY INCOME**

1. Annual income includes, but is not limited to, the following:
  - (a) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, bonuses and other compensation for personal services;
  - (b) The net income from operations of a business or profession, before any capital expenditures but including any allowance for depreciation expense;
  - (c) Interest, dividends, and other net income of any kind from real or personal property;
  - (d) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, or other similar types of periodic payments;
  - (e) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay;
  - (f) Welfare assistance. If the welfare assistance payments include an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance to be included as income consists of the following:
    - (i) The amount of the allowance exclusive of the amounts designated for shelter or utilities, plus
    - (ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities;
  - (g) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing with the Applicant (e.g. periodic gifts from family members, churches, or other sponsored group, even if the gifts are designated as rental or other assistance);
  - (h) All regular pay, special pay and allowances of a member of the armed forces; and
  - (i) Any earned income tax credit to the extent it exceeds the income tax liability of the Applicant.

2. Excluded from the definition of family annual income are the following:
  - (a) Income from employment of children under the age of 18;
  - (b) Payments received for the care of foster children;
  - (c) Lump-sum additions to family assets, such as inheritances, insurance payments, capital gains and settlement for personal or property losses;
  - (d) Amounts received that are specifically for, or in reimbursement of, the cost of medical expense for any family member;
  - (e) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran in connection with education costs;
  - (f) Amounts received under training programs funded by HLTD;
  - (g) Food stamps; and
  - (h) Temporary, nonrecurring or sporadic income (including gifts that are not regular or periodic).
  
3. Net family assets for purposes of imputing annual income include the following:
  - (a) Cash held in savings and checking accounts, safety deposit boxes, etc.;
  - (b) The current market value of a trust for which any household member has an interest;
  - (c) The current market value, less any outstanding loan balances of any rental property or other capital investment;
  - (d) The current market value of all stocks, bonds, treasury bills, certificates of deposit and money market funds;
  - (e) The current value of any individual retirement or Keogh account;
  - (f) The cash value of a retirement or pension fund which the family member can withdraw without terminating employment or retiring;
  - (g) Any lump-sum receipts not otherwise included in income (i.e., inheritances, capital gains, one-time lottery winnings, and settlement on insurance claims);



(h) The current market value of any personal property held for investment (i.e., gems, jewelry, coin collections); and

(i) Assets disposed of within two (2) years before the Application Date, but only to the extent consideration received was less than the fair market value of the asset at the time it was sold.

4. Net family assets do not include the following:

- (a) Necessary personal property (clothing, furniture, cars, etc.);
- (b) Vehicles equipped for handicapped individuals;
- (c) Life insurance policies;
- (d) Assets which are part of an active business, not including rental properties; and
- (e) Assets that are not accessible to the Applicant and provide no income to the Applicant.

**SCHEDULE B**  
**DOCUMENTATION OF INCOME**

The following documents shall be provided, where applicable, to the Administrator to determine income eligibility:

1. Employment Income.

Verification forms must request the employer to specify the frequency of pay, the effective date of the last pay increase, and the probability and effective date of any increase during the next twelve (12) months. Acceptable forms of verification (of which at least one must be included in the Applicant file) include:

- (a) An employment verification form completed by the employer.
- (b) Check stubs or earnings statement showing Applicant's gross pay per pay period and frequency of pay.
- (c) W-2 forms if the Applicant has had the same job for at least two years and pay increases can be accurately projected.
- (d) Notarized statements, affidavits or income tax returns signed by the Applicant describing self-employment and amount of income, or income from tips and other gratuities.

2. Social Security, Pensions, Supplementary Security Income, Disability Income.

- (a) Benefit verification form completed by agency providing the benefits.
- (b) Award or benefit notification letters prepared and signed by the authorizing agency. (Since checks or bank deposit slips show only net amounts remaining after deducting SSI or Medicare, they may be used only when award letter cannot be obtained.)
- (c) If a local Social Security Administration (SSA) office refuses to provide written verification, the Administrator should meet with the SSA office supervisor. If the supervisor refuses to complete the verification forms in a timely manner, the Administrator may accept a check or automatic deposit slip as interim verification of Social Security or SSI benefits as long as any Medicare or state health insurance withholdings are included in the annual income.

3. Unemployment Compensation.

- (a) Verification form completed by the unemployment compensation agency.

(b) Records from unemployment office stating payment dates and amounts.

4. Government Assistance.

(a) All Government Assistance Programs. Agency's written statements as to type and amount of assistance Applicant is now receiving, and any changes in assistance expected during the next twelve (12) months.

(b) Additional Information for "As-paid" Programs: Agency's written schedule or statement that describes how the "as-paid" system works, the maximum amount the Applicant may receive for shelter and utilities and, if applicable, any factors used to ratably reduce the Applicant's grant.

5. Alimony or Child Support Payments.

(a) Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules.

(b) A letter from the person paying the support.

(c) Copy of latest check. The date, amount, and number of the check must be documented.

(d) Applicant's notarized statement or affidavit of amount received or that support payments are not being received and the likelihood of support payments being received in the future.

6. Earned Income Tax Credit.

(a) For credits applied in one lump sum against tax liability, use income tax return (IRS Form 1040 or 1040A).

(b) For credits applied through regular salary paychecks, use IRS Form W-5 (Earned Income Credit Advance Payment Certificate).

7. Net Income from a Business.

The following documents show income for the prior years. The Administrator must consult with Applicant and use this data to estimate income for the next twelve (12) months.

(a) IRS Tax Return, Form 1040, including any:  
Schedule C (Small Business)

Schedule E (Rental Property Income)  
Schedule F (Farm Income)

(b) An accountant's calculation of depreciation expense, computed using straight-line depreciation rules. (Required when accelerated depreciation was used on the tax return or financial statement.)

(c) Audited or unaudited financial statement(s) of the business.

(d) A copy of a recent loan application listing income derived from the business during the previous twelve (12) months.

(e) Applicant's notarized statement or affidavit as to net income realized from the business during previous years.

8. Recurring Gifts.

(a) Notarized statement or affidavit signed by the person providing the assistance. Must give the purpose, dates and value of gifts.

(b) Applicant's notarized statement or affidavit that provides the information above.

9. Scholarships, Grants, and Veterans Administration Benefits for Education.

(a) Benefactor's written confirmation of amount of assistance, and educational institution's written confirmation of expected cost of the student's tuition, fees, books and equipment for the next twelve (12) months. To the extent the amount of assistance received is less than or equal to actual educational costs, the assistance payments will be excluded from the Applicant's gross income. Any excess will be included in income.

(b) Copies of latest benefit checks, if benefits are paid directly to student. Copies of canceled check or receipts for tuition, fees, books, and equipment, if such income and expenses are not expected to change for the next twelve (12) months.

(c) Lease and receipts or bills for rent and utility costs paid by students living away from home.

10. Family Assets Currently Held.

For non-liquid assets, collect enough information to determine the current cash value (i.e., the net amount the Applicant would receive if the asset were converted to cash).

- (a) Verification forms, letters, or documents from a financial institution, broker, etc.
- (b) Passbooks, checking account statements, certificates of deposit, bonds, or financial statements completed by a financial institution or broker.
- (c) Quotes from a stock broker or realty agent as to net amount Applicant would receive if Applicant liquidated securities or real estate.
- (d) Real estate tax statements if tax authority uses approximate market value.
- (e) Copies of closing documents showing the selling price, the distribution of the sales proceeds and the net amount to the borrower.
- (f) Appraisals of personal property held as a investment.
- (g) Applicant's notarized statements or signed affidavits describing assets or verifying the amount of cash held at the Applicant's home or in safe deposit boxes.

11. Assets Disposed of for Less Than Fair Market Value ("FMV") During Two Years Preceding Application Date.

- (a) Applicant's certification as to whether it has disposed of assets for less than FMV during the two (2) years preceding the Application Date.
- (b) If the Applicant states that it did dispose of assets for less than FMV, then a written statement by the Applicant must include the following:
  - (i) A list of all assets disposed of for less than FMV;
  - (ii) The date Applicant disposed of the assets;
  - (iii) The amount the Applicant received; and
  - (iv) The market value to the asset(s) at the time of disposition.

12. Savings Account Interest Income and Dividends.

- (a) Account statements, passbooks, certificates of deposit, etc., if they show enough information and are signed by the financial institution.
- (b) Broker's quarterly statements showing value of stocks or bonds and the earnings credited the Applicant.

(c) If an IRS Form 1099 is accepted from the financial institution for prior year earnings, the Administrator must adjust the information to project earnings expected for the next twelve (12) months.

13. Rental Income from Property Owned by Applicant.

The following, adjusted for changes expected during the next twelve (12) months, may be used:

- (a) IRS Form 1040 with Schedule E (Rental Income).
- (b) Copies of latest rent checks, leases, or utility bills.
- (c) Documentation of Applicant's income and expenses in renting the property (tax statements, insurance premiums, receipts for reasonable maintenance and utilities, bank statements or amortization schedule showing monthly interest expense).
- (d) Lessee's written statement identifying monthly payments due the Applicant and Applicant's affidavit as to net income realized.

14. Full-Time Student Status.

- (a) Written verification from the registrar's office or appropriate school official.
- (b) School records indicating enrollment for sufficient number of credits to be considered a full-time student by the school.