TOWN OF SOUTH HADLEY

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Town Planner

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NOTICE
CERTIFICATE OF PLANNING BOARD DECISION APPROVING SPECIAL PERMIT APPLICATION

SUBMITTED BY:

APPLICANTS: Rivercrest Condominiums, LLC
co Craig Authier; 1421 Granby Road
Chicopee, MA 01020

DEVELOPMENT NAME: Rivercrest Condominiums

LOCATION: south side of Ferry Street with the frontage located approximately 700 feet from Brockway Lane
South Hadley, MA 01075
Assessor's Map #**47**-Parcel #**76**

SURVEYORS & ENGINEERS: R Levesque Associates, Inc.
40 School Street
P. O. Box 640
Westfield, MA 01085

PUBLIC HEARING: A public hearing was opened on March 10, 2014, continued on March 24, 2014 and concluded on April 7, 2014 in accordance with the South Hadley Zoning By-Law and the Massachusetts General Laws.

This Certificate is filed in accordance with the provisions of Chapter 40A, Section 9 of the Massachusetts General Laws and Section 9 of the South Hadley Zoning Bylaw to show that the Planning Board at its regular meeting on April 07, 2014 by a vote of **Five (5)** out of **Five (5)** members present **APPROVED** the above-referenced Special Permit including requests for waivers from the Subdivision Regulations subject to the conditions following conditions based on the findings specified herein.

Project Proposal Description:
The applicant proposed to construct 31 multifamily dwellings on this 10.831-acre site in a mixture of single-family and duplex structures with ranch and townhouse style of construction.

During the course of the public hearings, the applicant reduced the number of dwellings to 30 along with other changes which increased buffers with adjoining properties.

Project Reviews – Departments/Agencies

The application and related materials were distributed to various municipal departments and agencies, some of which responded as noted below:

- ***Fire District 2 Fire Chief David Keefe:***
  1). As indicated in the provided documents by the developer, he had provided comment when the original project was proposed and these documents seem very similar, and therefore his comments remain the same.
  2). Looking at the drawings he offered two thoughts regarding emergency vehicle access:
  3). Ensure that there is space at the end of the street for piling snow that will not impede the operations of fire apparatus. Note the end of the street, and going around the cul de sac is tight, and could be difficult during heavy snow periods.
  4). He routinely asks that in projects such as this that the developer and the town assign street addresses as soon as possible for emergency response as well as fire department inspection services. The Fire Department does not have the ability to work with lot numbers. Some sort of street sign out on Ferry Street, along with numbers in front of the structures as soon as feasible will help the police and fire departments should there be an emergency.
  5). He also included a copy of our current permit and fee schedule that of course is separate from the Town of South Hadley and requested that I forward it to the developer.
  6). He also commented that is available for questions if any should any come up.

  Chief Keefe's comments on the 2011 submittal were:
  - He reviewed the plans as submitted by the town planner
  - He did not find any issues that concerned him.
  - Some time ago he met with the developers at the District No.2 Fire station to go over their plans to develop the site, and they asked for his input so that they could address any issues raised by the Fire Department up front.
  - At this point based on the plans submitted, he noted he had no comments.

- ***Public Health Director Sharon Hart***
  Stated that she reviewed the Rivercrest Condominium Community application for a "Special Permit" and had no concerns with this application.

- ***SHELD Manager Wayne Doerpholz:***
  1). After reviewing the plans, he requested additional information before providing comment on the project. Information requested included: the proposed square footage of each type of unit, the estimated electric loads for each unit, and the size of the air conditioning for each unit, the proposed location of the owner's electric service, and the size (in horse power) of the force main sewer pump.

2). He noted that the project utilizes most of the open space and SHELD is working to locate potential sites for the electrical transformers. There are new regulations regarding the locations of these near combustible walls that SHELD must work into the design. SHELD is looking into the requirements for oil containment for the transformers as well.
3). He inquired as to who would be responsible for the electrical service to the sewer pump. (He noted that on some subdivisions such as Sycamore Park, the Town is responsible while on others the services are private.)

- ***Police Chief David Labrie:***
  1). Provided a copy of his comments from the previous application.
  2). He suggested that the difference in this request appears to be an increase of a few more units which should not have an impact on public safety. However, along with the stop sign at the exit he requested that the Condominium Sign be set back far enough so that it does not block the view of exiting motorists.

  Chief Labrie's comments regarding the 2011 application were as follows:

  - The department has no objection to the project plans as presented.
  - The proposed location of the access road off of Ferry Street should provide motorists with a clear line of sight in both directions. I assume a stop sign will regulate traffic exiting the proposed street. Current speed limits and traffic volume should allow for safe access to and from the proposed development. This proposal does not present any unusual safety concerns for vehicular or pedestrian traffic.

- ***Town Engineer Dan Murphy:***
  1). With no proposed sidewalks or separated pedestrian pathways to the existing sidewalk on Ferry Street, pedestrian safety is a concern. Will any pedestrians, including those in wheelchairs, be able to access Ferry Street using only the roadway?
  2). What is the design life of the infiltration systems? If systems 1 and/or 2 were to fail, is the isolated wetland large enough to contain storm events with peak flow leaving site at a rate no greater than existing? Has the applicant consider using standard detention basin or constructing a supplemental basin with an outlet structure at the outlet of the flared end section location to maintain peak storm flow in the event of infiltration system failure bypass during maintenance?
  3). No overflows are shown for infiltration systems 4 & 5. Are none proposed?
  4). Regular O&M of the infiltration systems is a concern. What mechanism will ensure maintenance is regularly performed? Please provide the manufacturer's construction requirements and maintenance recommendations with any subsequent submittal.
  5). Please provide a typical roadway cross section.
  6). Consider raising finish floors at units 7 & 8 to meet minimum 2% grading from the plan note.
  7). If dewatering is needed during construction, the project proponent is required to file a dewatering permit and submit a copy to DPW.

8). Please advise on the status of sewer metering.
9). Please provide a detail showing the water main and sewer crossings in Ferry Street.
10). Confirm whether or not there is a minimum patio setback distance.
11). Please directly note the surveyor of record on the plan set or include a stamp by a licensed surveyor who has confirmed the site boundary.

- ***Conservation Commission Administrator Janice Stone:***
  1). The Conservation Commission appreciates the applicants keeping all work outside the 50-foot Conservation Zone, and outside the 200-foot Riverfront Area of Stony Brook.

  2). At this point she indicated that their main concern would be about the stormwater management for the site, especially the two infiltration basin #4s (both labeled the same) on the south side of the development, behind units 23 & 24, and between units 29 & 30. The peer reviewer from the last Notice of Intent for developing this property expressed concerns about infiltration and discharge too close to the steep slope, and the potential adverse impact on that soft and unstable steep slope. The Conservation Commission would need to see details to determine if there is still a problem with the new plan in this regard, but the reviewer did mention that the DEP stormwater regulations require at least a 100-foot setback from slopes of 20% or greater, and they may not be far enough away on this plan.

- ***Fire District 2 Water Superintendent Mark Aiken:***
  Stated that as for the special permit application filed for the Rivercrest Condominiums on Ferry Street, the Fire District No.2 Water Department has no objections to the proposed project. The project seems very similar to the one the department commented on in late 2010. He also noted that he will however have to go over the final plans with the developer, if the permit is granted, for final approval.

- ***Tree Warden Christopher Ryan:***
  The project has no impact on Town trees. He also stated that landscape plan is good.

- ***Building Commissioner Brenda Church***
  Stated she had "No Comment" and it "looks good".

The applicant's consultant provided written responses to the departmental comments. These responses were made part of the public hearing record.

Public Comments

The Planning Board conducted three (3) sessions of public hearings lasting over 8-1/2 hours. Most of the comments were in opposition to the application. During these public hearings, the Board received numerous verbal comments. Additionally, a number of written comments were submitted prior to and in between the public hearing sessions. The written comments were incorporated into and made part of the record of the public hearings. The Planning Board

reviewed and considered each of the written comments and all of the comments made during the public hearings.

Revised Site Plan

During the course of the public hearings, the applicants reduced the number of proposed dwellings from 31 to 30, changed the mix of townhouse and ranch building styles, duplex and single-family building types, realigned the proposed accessway, increased some of the building setbacks and buffers as well as made some related infrastructure changes. Reflecting these changes, the applicant submitted a revised plan which was reviewed at the April 7, 2014 session of the public hearing. Prior to that hearing, the departments were requested to provide comments on the revised plan. Only Conservation Commission Administrator Janice Stone provided responses and she stated:

> *Overall the impact looks pretty similar to the last plan, as far as wetlands are concerned. A few areas of road have become parking lot or building on this latest plan within the 100-foot buffer zone. The new unit 13 at the end of the road is the one obvious change where some grass or pervious surface is changed to impervious. Another is the new visitor parking area near the entrance. Perhaps the parking area could be porous pavement or pavers? They are still respecting the 50-foot no-disturb buffer zone, which we appreciate.*
>
> *I think the Conservation Commission's major concerns will be maintaining a stable slope on the steep soft south side of the property above the streams, and assurance that the stormwater management system works properly in the short and long run. Limit of clearing and construction, and discharge of water on the surface or subsurface could affect the slope stability.*

The applicant indicated several times during the public hearing sessions that they did not want the public hearing sessions to last indefinitely requested that the Planning Board close the public hearing and make a decision on April 7, 2014.

Findings – Special Permit

As required by Section 9(C) of the South Hadley Zoning Bylaw, the Planning Board made the following findings in regard to the first twelve (the "Mandatory") standards as well as two of the subsequent (the "optional") standards.

A. Mandatory Standards

Standard 1 - Comply with all applicable land use district, overlay district, and other specific requirements of this and other bylaws and regulations, and be consistent with the purpose and intent of this bylaw and of the land use district in which it is located;

The Board determined that the Zoning Bylaw provides that the purpose of the zoning districts applicable to this property is to provide for residential uses. The proposed use is a form of residential land use which is allowed by Special Permit. The proposed development will comply with the Zoning Bylaw dimensional requirements, parking, fencing, and other requirements. Therefore, the Board found that the Rivercrest Condominiums proposal as submitted and revised meets Special Permit Standard 1.

Standard 2 - Be suitable to the surrounding neighborhood and the "Land Use Area" in which it is located. Land Use Areas are identified and described in the section of South Hadley's Master Plan entitled "Land Use Area Vision Statements" (pages 1-10 through 1-19). In making this determination the Planning Board shall take into consideration any guidance provided by the Land Use Goals articulated in South Hadley's Master Plan, goals articulated in South Hadley's Open Space and Recreation Plan, and input from relevant Boards, town officials, and the public.

The Board determined this standard is specific to the "Land Use Area" defined in the Master Plan and that there is not a "Land Use Area Vision" statement for this area in the Master Plan and that the various Boards and officials provided input regarding the development. Therefore, the Board found that the Rivercrest Condominiums proposal meets Special Permit Standard 2 to the extent that it applies but that the lack of a Land Use Area Vision statement for this area suggests that this Standard does not really apply to this development proposal.

Standard 3 - Be compatible with existing uses and uses allowed by-right in the neighborhood, Land Use Area, and zoning district.

The Board determined that this standard is specific to the use of the land and the use is allowed by Special Permit and the conditions of the Special Permit will increase compatibility, the development is proposed to be a residential use in a residential area, and the area is a mixture of one- and two-story buildings as proposed for this development. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 3.

Standard 4 - Be compatible with the existing character of the neighborhood and Land Use Area, and/or zoning district. "Character" shall be understood to include prevalent patterns of: site design; setbacks from property lines; amount and location of parking; amount, type, location and quality of open spaces and landscaped areas; amount, type, and location of impervious surfaces; distances and relationships between buildings; density of building(s) relative to land area; building massing; architectural style and detailing; materials; buffering from adjacent uses; traffic volume and timing; noise; odors; and light.

The Board determined that compatible does not mean that a development is the same as the neighborhood. Any development beyond a single family house will result an increase in an impervious surface. The revised plan as modified by the conditions (such as buffers, single-family residence on Ferry Street with landscaping behind it, visitor parking, landscaping, reduced sidewalk, rotating of some units, expanding some buffer depth) of the Special Permit contributed to making the development compatible with the surrounding area. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 4.

Standard 5 - Be suitable for the property on which it is proposed, considering the property's, scenic, cultural and historic significance, and its ability to be buffered or screened from neighboring properties and public roads.

The Board determined that the buffering and the conditions on changing the appearance on Ferry Street as well as the conditions for approval of the Stormwater Management Permit (such as no waivers) will ensure that this property is suitable for the development considering the area. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 5.

Standard 6 - Provide safe access for fire, police, and other emergency vehicles.

The Board noted that the Fire and Police Chiefs indicated that they did not have concerns regarding the development providing safe access. Therefore, the Board found that the Rivercrest Condominiums proposal as submitted and revised meets Special Permit Standard 6.

Standard 7 - Provide adequate water, drainage and waste disposal systems without causing significant harm to any natural water system or overloading any public water, drainage, or sewer system, or any other municipal facility.

The Board noted that the Fire District #2 Water Superintendent has not indicated any issue with the water system and that the drainage system will be addressed in the Stormwater Management Permitting process. The Board also noted the Town Engineer's comment regarding the sewer flow metering and that this could be addressed as a condition of the Special Permit results of which can be addressed through plan modifications if necessary. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 7.

Standard 8 - Not cause significant traffic congestion, impair pedestrian or bicycle safety, or overload existing roads, sidewalks and trails, considering their current width, surfacing, and condition, and any improvements proposed to be made to them by the applicant.

The Board noted that the Police Chief and Town Engineer did not express concern about traffic congestion. Concerns regarding pedestrian safety would be addressed by provision of sidewalks as a condition of the Special Permit. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 8.

Standard 9 - Not result in excessive air, water, noise, or light pollution, or create any other public or private nuisance;

The Board noted the distance and vegetation between the development and Jewett Lane as well as locations of the buildings on the southside of the proposed roadway would preclude excessive light pollution on Jewett Lane while the conditions of approval (such as buffers, site construction management, stormwater management permit) would assure that the development would not create nuisance due to excessive air, water, noise, or light pollution. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 9.

Standard 10 - Not degrade the scenic, rural, or historic character of the town with structures or other lot features which are deemed visually objectionable in light of prevailing community as reflected in the goals articulated in South Hadley's Master Plan;

The Board noted that "degrade" and "visually objectionable" are high standards and which the development does not reach; further that the conditions of approval related to changing the Ferry Street appearance, buffers, etc. would address the concerns raised by this Standard. Therefore, the Board found that the Rivercrest Condominiums proposal as submitted and revised meets Special Permit Standard 10.

Standard 11 - Be consistent with the South Hadley Master Plan, provided that the Comprehensive Plan provides legally sufficient guidance and that the applicable provision of the Master Plan is not inconsistent with any specific provision of this Bylaw;

The Board noted that the Master Plan speaks of providing a variety of housing types and be compatible with the neighborhood. The conditions of approval will provide that the development is compatible with the neighborhood as noted under Standard #2. Therefore, the Board found that the Rivercrest Condominiums proposal as submitted and revised meets Special Permit Standard 11.

Standard 12 - Comply with applicable criteria for site plans under Section 12E.

The Board noted that the Standard refers to "applicable criteria for site plans" which typically refers to commercial/industrial developments. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 12.

B. Optional Standards

While Section 9(C) of the Zoning Bylaw does not require the Board to make any findings in regard to the seven (7) optional standards, the Board made the following findings in regards to the following two standards:

Standard 15 - The adequacy and configuration of off-street parking and loading areas, including their nuisance impact on adjoining properties and on properties generally in the district;

The Board noted that the proposed development has sufficient parking and the conditions of approval will ensure that there will not be any nuisance impact on adjoining properties. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 15.

Standard 16 - Harmony of signs and exterior lighting, if any, with surrounding properties

The Board noted that the development is to use standard residential lighting and the development will likely have to comply with the Town's General Bylaw regarding outdoor lighting which will likely require a public hearing before the Selectboard. Therefore, the Board found that the Rivercrest Condominiums proposal with the outlined conditions meets Special Permit Standard 16.

Based on these findings, the Planning Board voted 5-0 to grant a Special Permit for the Rivercrest Condominiums with conditions consistent with the Board's findings and discussion.

Conditions of Approval

In its vote to APPROVE the Special Permit for the above-referenced project, the Planning Board attached the following conditions (any references to specific unit numbers are as they are identified on the April 1, 2014 revision to the Site Plan):

1. *Area Included in Plans and Limit on Number of Dwellings.* The Condominium Development includes approximately 10.83 acres depicted and described on the Plans submitted with the application and as subsequently revised. The property is generally described as the property identified on Assessor's Map #**47** as Parcel #**76**. The Plan is approved for no more than

TWENTY-NINE (29) dwelling units to be located in no more than **SIXTEEN (16)** structures with attached garages.

2. *Limits on Usage including Maximum Number of Dwellings and Principal Structures.* This Special Permit is to allow for the development and use of, the subject project location, for no more than **TWENTY-SIX (26)** attached duplex dwellings and **THREE (3)** single-family residential dwellings in no more than **SIXTEEN (16)** buildings with attached garages (subject to further conditions of this decision).

3. *Structures and Structure Types.* The structures are to be developed as provided in the plans submitted as part of the Application for the Special Permit.

   a. The development is approved to allow for construction of up to **SEVENTEEN (17)** "townhouse" style dwellings and up to **TWELVE (12)** "ranch" style dwellings.
   b. *Substitution Allowed.* However, the Applicant may substitute alternative "townhouse" dwellings for some of the proposed structures; provided they submit and obtain Planning Board endorsement of different building structure plans. Such substitutions will not require amending the Special Permit provided the substitutions do not increase the number of dwellings, increase the total amount of impervious surface, alter the buffer areas, or in any other way conflict with the Board's original findings as stated in this decision or with the other conditions stated in this decision.

4. *Replacement of Proposed Duplex.* The proposed duplex containing dwellings #1 and #2 as depicted on the revised plan dated February 4, 2014 with a revision date of April 1, 2014 and presented at the April 7, 2014 session of the public hearing, is to be replaced by a dwelling containing a single dwelling which shall have its front entrance facing Ferry Street and include a garage located to the "rear" of the building and its driveway having access solely off of proposed Rivercrest Way. Behind the garage, the applicant is to plant and maintain a diverse vegetative buffer to screen the view from Ferry Street of the remainder of the development. The primary purpose for this condition is to maintain an appearance compatible with the dominant appearance along Ferry Street of single-family detached residences.

5. *Shifting of Structures.* As proposed by the applicant's consultant during April 7, 2014 public hearing session, the applicant is to revise the project to "shift" or move the duplex containing proposed dwellings #14 and #15 (and, if necessary, the duplexes containing proposed dwellings #16 through #21) southerly so as to be able to "shift" or move the duplex containing proposed dwellings #12 and #13 to provide at least a 20 foot vegetative buffer between dwelling #12 and the northerly property line.

6. *Buffers – northerly property line (northerly portion).* Beginning at a point approximately 324 feet along the northern and western property line from Ferry Street and extending to the Conservation Zone boundary southwest of proposed dwelling #12, the applicant shall provide an "undisturbed, vegetated" buffer within the required building setback line which shall have a depth of at least 75% of the distance between the proposed dwelling (inclusive of any patio or deck) and the northern property line but no less 20 feet.

a. *Exception.* The buffer may be eighteen (18) feet in depth along the portion of Rivercrest Way which is within 20 feet of the property line.

7. *Buffers –adjoining 34 Ferry Street.* From Ferry Street to the beginning of the buffer required under condition #6, the applicant shall provide an "undisturbed, vegetated" buffer at least six (6) feet in height within the required building setback line which shall have a depth of at least five (5) feet.

8. *Buffers – southerly property line.* The applicant is to maintain the vegetated wetlands and Conservation Zone on the southern portion of the property.

9. *Buffers – adjoining 20 Ferry Street.* The applicant is to plant and maintain a row of shrubs/trees which provide year-round screening to the maximum height feasible along the western and southern property lines of 20 Ferry Street – to the extent allowed by Section 7(K) of the Zoning Bylaw.

10. *Purpose and Character of Buffers – Condition #6, #7, and #8.* The purpose of the "undisturbed, vegetated" buffers required under conditions #6, #7, and #8 is to provide year-round visual screening between the proposed dwellings and the existing residences located on the properties abutting the proposed development line. Where the existing vegetation is not sufficiently deep or of a sufficient character to meet this purpose, the existing vegetation is to be supplemented by additional diverse vegetation in accordance with the landscape plan which is to be prepared by a licensed landscape architect and approved by the Planning Board as part of the Form H endorsement process.

11. *Proposed 5 foot vinyl fence.* The 5' vinyl fence proposed to be one foot off the property line as depicted on the site plan is not permitted by the Zoning Bylaw and is to be replaced by the buffers specified in conditions #6 through #10 above.

12. *Buffer – Between Units 11 and 12.* To mitigate the potential impact of vehicular lights on residents and guests at 15 Brockway Lane, in addition to the buffer required under condition #6 above, the applicant shall install a row of evergreen vegetation which maintains dense foliage for a height of four feet as measured from the ground between the end of the pavement and the building setback line but in such a manner as to minimize damage from snowplowing and similar operations.

13. *Pre-permitting site disturbances prohibited.* The applicant shall not alter, remove, or otherwise damage any existing vegetation or soils on the site unless and until all approvals for the project have been granted by the South Hadley Conservation Commission and the Planning Board including but not limited to endorsement of the Form H Plan and issuance of a Stormwater Management permit. However, this restriction does not preclude limited activities which are necessary for obtaining the necessary permits such as digging of test pits. If the applicant anticipates undertaking any such work, they shall notify the Town Planner at least two working days (48 hours) before undertaking the work and provide a plan which details what site disturbances are to be undertaken – any such disturbances shall be the absolute least amount necessary to complete the permitting tasks. In no instance shall the applicant clear trees prior to obtaining all of the necessary permits including the Town Planner's approval of the plan submitted.

14. *Visitor Parking Areas.* The applicant is to construct the visitor parking areas proposed along the south side of Rivercrest Way between proposed units #23 and #24 and between proposed units #27 and #28 using grass pavers so that the surface is permeable. Additionally, the applicant may change the visitor parking area between proposed units #27 and #28 to a parallel parking area in which case Rivercrest Way is to be shifted slightly south to provide for a full 20 foot wide vegetated buffer along the north property line abutting Rivercrest Way.

15. *Stormwater Runoff on to adjoining property – prohibited.* The development including, but not limited to, the stormwater management system must be designed and constructed so as not to deposit any additional runoff onto any adjoining property.

16. *Additional soils testing.* Recognizing that the Board of Health representatives did not observe all of the test pits and there is substantial concern regarding the suitability of the soils to accommodate the construction and operation of the development including the proposed stormwater management system, the applicant shall undertake additional test pits in the locations of the proposed infiltration system and at least two of the proposed duplexes proposed for the westerly side of the property abutting properties at 34 Ferry Street and along Brockway Lane.

17. *Stormwater Management Permit.* This project requires a Stormwater Management Permit issued by the Planning Board under the South Hadley Stormwater Management Bylaw. As the applicant has sought and obtained a Special Permit for the project without submitting the materials required for a Stormwater Management Permit as part of their Special Permit application, the applicant shall not request nor shall the Planning Board grant any waivers of the Stormwater Management Bylaw without first amending the Special Permit Decision following a separate application and hearing on any such amendment request. In submittal of their application for this permit, the applicant is to take particular note of, and address, the comments and concerns expressed by Conservation Commission Administrator Janice Stone and Town Engineer Dan Murphy.

18. *Peer Review Process – Stormwater Management Permit.* As part of the Stormwater Management permit process, the South Hadley Planning Board anticipates needing to engage a qualified engineer to conduct a peer review of the proposed stormwater management system and accompanying report to advise the Planning Board as to the system's compliance with the South Hadley Stormwater Management Bylaw requirements. Based on prior experience of the Planning Board and the Conservation Commission, the Planning Board anticipates this process to involve at least one review resulting in revisions and a subsequent review with several reports to the Planning Board (and probably the Conservation Commission) as well as several meetings of the Planning Board and the peer reviewer with the applicant's engineer. The applicant is to be responsible for the entire cost of this peer review process in terms of the cost of the peer reviewer as well as their own consulting engineer. The process for funding the peer review and for the Planning Board's selection of the peer review engineer shall be undertaken in accordance with the Planning Board's rules regarding MGL c.44, s.53G. The Planning Board is to use all reasonable care to ensure that the cost of the peer review engineer is kept at a reasonable level – experience with the prior application indicates that the peer review engineer's costs may be in the neighborhood of

$2,500 to $5,000; however, this range of figures is just an estimate as no firm amount may be determinable until the Planning Board hires a peer review engineer and the work is undertaken.

19. *Stormwater Management System – Performance Guarantee.* No engineering analysis or plans of and for this development in regards to the stormwater management system have been provided. Therefore, while the applicant's representative has outlined a proposed stormwater management system which it is alleged would not result in increased rates of stormwater runoff or sedimentation down gradient or otherwise onto adjoining properties, the potential for down gradient harm may be substantial if the system does not function as designed. Additionally, the Planning Board will not be able to make its own assessment of the stormwater management system (such system could be modified) until the Stormwater Management permitting process is completed. Accordingly, it is determined that a Performance Guarantee to remedy any such failures is appropriate. Therefore, pursuant to Section 9(D)3 of the Zoning Bylaw, the developer is required to maintain a Performance Guarantee in a form and of an amount approved by the Planning Board to cover the event that the stormwater management system or parts thereof (i.e., detention basins and all related elements of the stormwater management system) fail to function as designed.

    a. *Amount.* The Planning Board, prior to approval of the Stormwater Management Permit, shall set the amount of the Performance Guarantee.
    b. *Time of Deposit.* The initial deposit of the Performance Guarantee shall be deposited with the Town prior to the Planning Board endorsing the Form H Plan.
    c. *Maintenance of Amount.* If at any time the Planning Board utilizes a portion of the Performance Guarantee, the developer shall make a subsequent deposit within 30 days of notification of such usage to maintain the Performance Guarantee at the amount originally determined appropriate by the Planning Board. If the developer fails to maintain the amount of the Performance Guarantee, the Board may place a freeze on any and all building permits and Certificates of Occupancy and freeze other work on the development.
    d. *Purposes.* The Performance Guarantee is intended to be used for ensuring that the stormwater management system functions as designed as approved in the Stormwater Management Permit. In the event the Planning Board determines (based on input from the Town Engineer and/or a consultant engineer retained by the Planning Board) that the system is not functioning as designed (such as, not infiltrating as anticipated and resulting in increased run off onto adjoining properties) the Board may utilize proceeds of the Performance Guarantee to have work undertaken to remedy the deficiencies. Terms of the Performance Guarantee shall be spelled out in a Performance Guarantee Agreement based on Form D in the Subdivision Regulation Forms. If the Planning Board determines that a third party engineer should review the site and make recommendations as to whether the system needs to be modified and/or identify modifications needed to achieve the stormwater management system's goals, the Board may utilize portions of the Performance Guarantee for employment of such an engineer.
    e. *Duration.* The Performance Guarantee requirement shall not be released until Certificates of Occupancy have been issued for seventy-five percent (75%) of the dwellings and 100% of the building foundations and the roadway have been installed.
    f. *Cooperation.* The developer and their successors in title are required to cooperate with any third party engineer hired by the Planning Board or the Town pursuant to this

provision. Failure to cooperate may result in revocation of the Special Permit and any other penalties allowed by law.

g. *Conservation Commission Performance Guarantee.* In the event that the Conservation Commission requires a Performance Guarantee for this project regarding the stormwater drainage system, the Planning Board may i.) allow the applicant/developer to submit a single Performance Guarantee with the Planning Board and the Conservation Commission as the joint holders of the Performance Guarantee or ii.) waive the requirement for the Performance Guarantee under this condition as long as a satisfactory Performance Guarantee remains in effect with the Conservation Commission.
h. *Town Access.* The applicant, by accepting this Special Permit, ascents to the Town and its agents entering the subject property to remedy any above described deficiencies.

20. *Landscaping Plan.* Prior to submittal of the Form H Plan for endorsement or as part of the Stormwater Management Permit application, the applicant shall submit a landscaping plan for the development prepared by a licensed landscape architect. This plan shall at least provide and detail plans and schedules regarding the following

    a. Extensive landscaping of the entranceway off Ferry Street
    b. Screening of the visitor parking areas
    c. Buffers required as conditions of this decision
    d. Buffers and landscaping areas are to be evergreen but include a variety of species

21. *Snow Removal Plan.* As stated by the applicant and/or the applicant's representative during the public hearings, snow removal plans entail removal of the snow from the premises and not stockpiling the snow in the wetlands, Conservation Zone, undisturbed vegetated buffers, nor along the building setback area. Therefore, the applicant is to take measures to implement the snow removal plans and to provide that their successor entity (the Condo Association) is aware of their ongoing responsibility to follow the snow removal plan. As part of their snow removal plan and practices, the applicant (and their successors) must take note of the comments from the Fire Chief for Fire District #2 and ensure that pile up of snow does not impede the effective movement of emergency apparatus and personnel to all of the residences in Rivercrest Condominiums.

22. *Snow Removal and Stormwater Management.* Since the piling up of snow and subsequent melting may impact the level of runoff, the Stormwater Management Plan is to include management of the snow removal as a component of the Operations and Maintenance Plan.

23. *Rubbish/Trash removal.* As stated by the applicant in the application and during the public hearings, trash removal is to be curbside in front of each of the units without a central dumpster or collection points.

24. *Expiration - Clarification.* The Zoning Bylaw provides that a Special Permit expires if work has not commenced within one (1) year and if the work is not substantially completed within two (2) years. The Planning Board interpretation of this provision provides that the "common infrastructure" (roadways, utilities, etc.) and most of the dwellings are completed and the buffers, etc. are installed (December 9, 2013 Planning Board minutes). Therefore, this deadline will be extended for good cause for an additional two (2) years to allow for substantial completion provided the developer has installed the "common infrastructure",

buffers, and maintained compliance with the Special Permit conditions. In no instance is this expiration deadline intended to imply that all of the residential dwellings have to be completed within the four (4) year time frame.

25. *Sidewalks.* Sidewalks shall be installed on the north/west side of Rivercrest Way from Ferry Street to the driveway of proposed dwelling #1 and between the driveway for proposed dwelling #6 and the driveway for proposed dwelling #7. Therefore, the portions of sidewalk depicted on the 4-1-2014 revision of the Site Plan as being in front of dwelling units #2, #3, #4, #5, #7, #8, #9, and #10 are not to be developed but all other portions of the sidewalks depicted on the 4-1-2014 revision of the Site Plan are to be installed.

26. *Development Signage.* Section 8(F) of the Zoning Bylaw prohibits signage as proposed by the applicant.

27. *Street and Traffic Signs.* The developer is to install, and their successors are to maintain, a stop sign on Rivercrest Way to ensure that existing motorists are notified to stop for traffic on Ferry Street. Additionally, the developer is to install, and their successors are to maintain, a street sign with the name of "Rivercrest Way" at the intersection with Ferry Street.

28. *Construction Site Management.* During construction, the applicant shall undertake reasonable measures to control dust during site preparation and construction, including, but not limited to, maintenance of a water truck on site.

29. *Addresses.* The dwelling units shall be assigned addresses to the private way (to be named "Rivercrest Way") being constructed to serve the dwellings. The address listing shall be affixed to the Form H plan when submitted for endorsement.

30. *Wetlands buffer – no disturbance.* The applicant shall not disturb the portion of the wetlands buffer defined as the "Conservation Zone" in Section 1503 of the South Hadley General Bylaws unless authorized to do so by the South Hadley Conservation Commission.

31. *Sewer line metering and sewer line flow capacity.* The applicant is to undertake sewer line metering at a time and date deemed appropriate by the Town Engineer to determine that the existing sewer line on Ferry Street has sufficient capacity to accommodate the development. The applicant is to provide the Town Engineer with the results and the Town Engineer will advise the Planning Board and applicant as to whether the sewer line has sufficient capacity for the development as approved. If the Town Engineer determines that there is insufficient capacity in the existing sewer line, the applicant shall either provide the Town Engineer with plans to upgrade the sewer line to provide sufficient capacity or otherwise revise the development so that the sewer line is able to accommodate the development's sewage discharge.

32. *Modifications of Special Permit Site Plan.* The Planning Board may customarily approve minor modifications of a Special Permit Site Plan. However, in this instance, since the applicant chose to seek the Special Permit without submittal of the detailed engineering including the Stormwater Management plans, any modification of the Special Permit Site Plan (except as modified to conform to the specific conditions detailed in this Decision)

shall, except as provided in condition #33 below, require an amendment to the Special Permit Decision following a separate application and hearing on any such amendment request.

33. *Changes in the Plans.* If changes in the Plans become necessary, the applicant must submit the revised plans to the Town Planner to determine if further Board review is warranted. Generally, the change will require further Planning Board review; however, if it does not substantively impact any of the buffers, building, or landscaping conditions or plans, the Board may determine that it is minor and not require a public hearing to modify or amend the Special Permit Decision.

34. *Revised Plans.* Applicant is to submit revised plans reflecting changes required by the conditions of the Planning Board approval of the Special Permit for this project. These revised plans shall be submitted in sufficient time for the Town Planner and any impacted departments to review and comment on the revisions prior to submittal of the Form H Plan for endorsement.

35. *Fully Engineered Plans.* As the applicant completes their detailed engineering for this development, they are to submit them to the proper departments for review and approval and provide the Town Planner with notification as to when the plans have been submitted and documentation of approvals. In this process, the applicant is to note and adhere to condition #33.

36. *Waiver – Section 7.01 Subdivision Regulations.* The restriction on maximum length of a Cul-de-sac or dead end street, minimum width of paved roadway, and configuration of the turn around on a cul-de-sac or dead end street as detailed in Section 7.01 of the Subdivision Regulations is hereby waived with the proposed Rivercrest Way to be constructed as depicted on the Revised Site Plan as may be changed in accordance with the other conditions of this Decision.

37. *Waiver – Section 8.05.1 Subdivision Regulations.* The requirement for construction of a sidewalk as detailed in Section 8.05.01 of the Subdivision Regulations is hereby waived except as required pursuant to condition #25 of this Decision.

38. *Departmental Comments.* All comments received from the various departments by the Planning Board as noted elsewhere in this Decision are incorporated into and made a part of this decision. The applicant is to take particular note of comments submitted by Fire District #2 Fire Chief David Keefe, Police Chief David Labrie, Conservation Commission Administrator Janice Stone, Fire District #2 Water Superintendent Mark Aiken, and Town Engineer Dan Murphy.

39. *Minutes.* Minutes of the following hearings and meetings regarding this project are also incorporated into and made part of this Decision:

    a. Planning Board public hearings on Special Permit held on March 10, 2014, March 24, 2014, and April 07, 2014.
    b. Planning Board meetings held April 07, 2014 and April 10, 2014.

40. *Application Materials and Revisions Incorporated.* Application Materials and Revisions Incorporated. All application materials (including subsequent revisions thereto) submitted to, and received by the Planning Board as part of the applicant's "Form SP – Application for Special Permit" received by the Town Clerk on February 11, 2014 and other materials referenced herein are hereby incorporated into and made part of this Decision. Said application and related materials specifically include, but are not limited to, the following:

    a. Application Manual Submittal titled "Special Permit Request – Application, Narrative, and Supporting Documents".
    b. Plan Sheets C-1 through C-4, titled "Proposed Rivercrest Condominium Community – Ferry Street, South Hadley, MA Site Plans" prepared by R Levesque Associates, Inc. dated February 4, 2014.
    c. Revised Plan Sheet C-1, titled "Site Layout Plan" prepared by R Levesque Associates, Inc. with varying revision dates through April 01, 2014.
    d. Document prepared by R Levesque Associates, Inc. responding to departmental comments and received during the March 10, 2014 public hearing.

41. *Decision Appeal Period.* This Special Permit shall not take effect until:

    a. a copy of the decision bearing certification of the Town Clerk that twenty (20) days have elapsed is recorded in the Hampshire County Registry of Deeds within twenty (20) days following this certification of the Town Clerk.

42. *Proof of Filing.* Proof of this filing (Condition #41) must be submitted (1) to the Building Commissioner prior to obtaining a Certification of Occupancy, and (2) to the Planning Board.

This decision shall constitute an approved Special Permit for the above-described project with conditions set forth above. Copies of this decision have been filed with the Town Clerk, Building Commissioner, and Board of Selectmen. Appeals, if any, shall be made pursuant to Massachusetts General Law, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing of this NOTICE in the office of the Town Clerk.

The Special Permit shall expire if the work or change involved is not commenced within one (1) year of its taking effect, and if the work or change is not substantially completed within two (2) years. The Planning Board acting as the Special Permit Granting Authority may grant an extension of time for good cause.

Failure of the applicant to adhere to the provision of this Special Permit shall constitute a violation of the Zoning By-Law, and is punishable by a fine of up to $200.00 for each violation. Each day that such violation continues shall constitute a separate offense.

ATTESTED AND AFFIRMED

S/ _____
Jeff Squire, Chairman
South Hadley Planning Board

April 10, 2014
Date

RECEIVED
TOWN OF SOUTH HADLEY
APR 1 1 2014
TREASURER

Cc: Town Clerk (Date Filed: _____)
Selectboard
Building Commissioner
Rivercrest Condominiums LLC
Conservation Commission
DPW Superintendent
Town Engineer
Fire District #2 Fire Chief
Fire District #2 Water Superintendent
Joel Bard, Esq. – Special Counsel