

DONALD J. O'NEIL

COUNSELOR AT LAW

10 MECHANIC STREET, SUITE 150  
WORCESTER, MASSACHUSETTS 01608-2419  
TELEPHONE: 508-755-5655  
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RECEIVED  
TOWN CLERK'S OFFICE  
2016 SEP 13 P 3:37  
SOUTHBOROUGH, MA

September 13, 2016

VIA HAND DELIVERY

James F. Hegarty, Town Clerk  
Town of Southborough  
Town House  
17 Common Street  
Southborough, MA 01772

Re: Yan Huang, et al v. Leo F. Bartolini, Jr. et al as members of the Southborough Board of Appeals, Park Central, LLC, and William, A. Depietri.  
Worcester Superior Court Docket No. 16-13593

Dear Mr. Hegarty,

Pursuant to G.L.c. 40A, §17, please take notice of the filing of the above referenced appeal from a decision of the Southborough Zoning Board of Appeals filed with your office on August 25, 2016. A copy of the Complaint, as filed in the Worcester Superior Court today, is attached.

Also enclosed is an extra copy of this letter. Please date-stamp this copy and return it to me with my messenger.

Thank you for your cooperation.

Very truly yours,



Donald J. O'Neil

CIVIL ACTION COVER SHEET

DOCKET NUMBER

16-1359B

Trial Court of Massachusetts  
The Superior Court



PLAINTIFF(S): YAN HUANG ET AL

ADDRESS: 75 FLAGG ROAD, SOUTHBOROUGH, MA 01772

COUNTY: WORCESTER  
RECEIVED  
TOWN CLERK'S OFFICE

DEFENDANT(S): LEO F. BARTOLINI, JR. ET AL

2016 SEP 13 P 3 36

SOUTHBOROUGH, MA

ATTORNEY: DONALD J. O'NEIL

ADDRESS: 10 MECHANIC STREET, SUITE 150

WORCESTER, MA 01608

ADDRESS: TOWN HALL, 17 COMMON STREET,

SOUTHBOROUGH, MA 01772

BBO: 542324

TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)

CODE NO.

CO2

TYPE OF ACTION (specify)

ZONING APPEAL G.L. c. 40A

TRACK

F

HAS A JURY CLAIM BEEN MADE?

YES

NO

\*If "Other" please describe:

STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(attach additional sheets as necessary)

A. Documented medical expenses to date:

- 1. Total hospital expenses ..... \$ \_\_\_\_\_
- 2. Total doctor expenses ..... \$ \_\_\_\_\_
- 3. Total chiropractic expenses ..... \$ \_\_\_\_\_
- 4. Total physical therapy expenses ..... \$ \_\_\_\_\_
- 5. Total other expenses (describe below) ..... \$ \_\_\_\_\_

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SEP 13 2016

Subtotal (A): \$ \_\_\_\_\_

B. Documented lost wages and compensation to date ..... \$ \_\_\_\_\_

C. Documented property damages to dated ..... \$ \_\_\_\_\_

D. Reasonably anticipated future medical and hospital expenses ..... \$ \_\_\_\_\_

E. Reasonably anticipated lost wages ..... \$ \_\_\_\_\_

F. Other documented items of damages (describe below) ..... \$ \_\_\_\_\_

CLERK OF COURTS  
WORCESTER COUNTY

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

TOTAL (A-F): \$ \_\_\_\_\_

CONTRACT CLAIMS

(attach additional sheets as necessary)

Provide a detailed description of claims(s):

TOTAL: \$ \_\_\_\_\_

Signature of Attorney/Pro Se Plaintiff: X

Date:

RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.

CERTIFICATION PURSUANT TO SJC RULE 1:18

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

Signature of Attorney of Record: X

*[Handwritten Signature]*

Date: SEPT. 13, 2016

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

WORCESTER, SS.

CIVIL ACTION NO. 16-1359B

YAN HUANG, WEN YU CHEN, EMILY SMITH, )  
RONALD DEAN TRUSTEE OF FLAGG ROAD )  
REALTY TRUST, CARRIE DUBLOIS-MELLO, )  
EDWARD WEBB, CHARLES GENNARI, )  
MARNIE HOOLAHAN, ATTILA HERCZOG, )  
NINAN POLACKAL, MATTHEW BROWNELL, )  
BIMAL PATEL, L'ABRI FELLOWSHIP )  
FOUNDATION, ERICA HIGGINS, WILLIAM )  
RUFO, KAREN HANLON SHIMKUS, DAVID )  
WINAND, HOWARD ROSE, LINDA PERKINS, )  
MARK RUTHFIELD, AND PETER REISZNER, )

Plaintiffs,

COMPLAINT

v.

LEO F. BARTOLINI, JR., DAVID EAGLE, AND )  
PAUL DEPRANOS, as members of the TOWN OF )  
SOUTHBOROUGH BOARD OF APPEALS, and )  
PARK CENTRAL, LLC AND WILLIAM A. )  
DEPIETRI, )

Defendants.

I. Introduction.

1. This is an action for judicial review pursuant to M.G.L.c. Chapter 40 A, §17 from a decision of the Southborough Zoning Board of Appeals filed with the Office of the Town Clerk on August 25, 2016, granting a Comprehensive Permit pursuant to M.G.L.c Chapter 40B, to the Defendant, Park Central, LLC, and William A. Depietri for the construction of 180 apartment units in two four story buildings with associated infrastructure improvements.

II. Parties.

2. Plaintiffs, Yan Huang and Wen Yu Chen ("Huang and Chen"), are direct abutters residing at 75 Flagg Road, Southborough, Massachusetts and are aggrieved parties.

3. Plaintiff, Emily Smith ("Smith"), is a direct abutter residing at 72 Flagg Road, Southborough, Massachusetts and is an aggrieved party.
4. Plaintiff, Ronald Dean Trustee of Flagg Road Realty Trust ("Dean"), is an abutter to an abutter residing at 71 Flagg Road, Southborough, Massachusetts and is an aggrieved party.
5. Plaintiff, Carrie Dublois-Mello ("Dublois-Mello") is an individual residing at 21 Flagg Road, Southborough, Massachusetts and is an aggrieved party.
6. Plaintiff, Edward Webb ("Webb"), is an individual residing at 1 Deerfoot Road, Southborough, Massachusetts and is an aggrieved party.
7. Plaintiff, Charles Gennari ("Gennari") is an individual residing at 18 Deerfoot Road, Southborough, Massachusetts and is an aggrieved party.
8. Plaintiff, Marnie Hoolahan ("Hoolahan"), is an individual residing at 26 Clifford Road, Southborough, Massachusetts and is an aggrieved party.
9. Plaintiff, Attila Herczog ("Herczog"), is a direct abutter residing at 4 Jacobs Lane, Southborough, Massachusetts and is an aggrieved party.
10. Plaintiff, Ninan Polackal ("Polackal"), is a direct abutter residing at 6 Jacobs Lane, Southborough, Massachusetts and is an aggrieved party.
11. Plaintiff, Matthew Brownell ("Brownell"), is a direct abutter residing at 8 Jacobs Lane, Southborough, Massachusetts and is an aggrieved party.
12. Plaintiff, Bimal Patel ("Patel"), is a direct abutter residing at 8 Jacobs Lane, Southborough, Massachusetts and is an aggrieved party.

13. Plaintiff, L'Abri Fellowship Foundation ("L'Abri"), is a not-for-profit foundation and direct abutter owning property located at 0 Lovers Lane (direct abutter), 43 Lovers Lane (direct abutter), and 49 Lynbrook Road (abutter to an abutter), Southborough, Massachusetts and is an aggrieved party.

14. Plaintiff, Erica Higgins, ("Higgins") is a direct abutter residing at 31 Jacobs Lane, Southborough, Massachusetts and is an aggrieved party.

15. Plaintiff, William Rufo, ("Rufo") is a direct abutter residing at 33 Jacobs Lane, Southborough, Massachusetts and is an aggrieved party.

16. Plaintiff, Karen Hanlon Shimkus, ("Shimkus") is an individual residing at 8 Lynbrook Road, Southborough, Massachusetts and is an aggrieved party.

17. Plaintiff, David Winand, ("Winand") is a direct abutter residing at 18 Bantry Road, Southborough, Massachusetts and is an aggrieved party.

18. Plaintiff, Howard Rose, ("Rose") is an individual residing at 2 Bantry Road, Southborough, Massachusetts and is an aggrieved party.

19. Plaintiff, Linda Perkins, ("Perkins") is a direct abutter residing at 1 Tara Road, Southborough, Massachusetts and is an aggrieved party.

20. Plaintiff, Mark Ruthfield, ("Ruthfield") is a direct abutter residing at 5 Tara Road, Southborough, Massachusetts and is an aggrieved party.

21. Plaintiff, Peter Reiszner ("Reiszner") a direct abutter residing at 25 Blackthorn Drive, Southborough, Massachusetts and is an aggrieved party.

22. Defendant, Leo F. Bartolini, Jr., ("Bartolini") is sued in his capacity as a member of the Town of Southborough Zoning Board of Appeals (the "ZBA"), a duly organized Zoning Board of Appeal under Chapter 40A and the Town of Southborough Zoning By-law (the "Zoning By-law"). Mr. Bartolini has a mailing address c/o Karen Finelli, ZBA Administrative Assistant, Town of Southborough, 17 Common Street, Southborough, Massachusetts. Home address: Leo F. Bartolini, Jr., 62 Oak Hill Road, Fayville, MA 01745.

23. Defendant, David Eagle, ("Eagle") is sued in his capacity as a member of the Town of Southborough Zoning Board of Appeals (the "ZBA"), a duly organized Zoning Board of Appeal under Chapter 40A and the Town of Southborough Zoning By-law (the "Zoning By-law"). Mr. Eagle has a mailing address c/o Karen Finelli, ZBA Administrative Assistant, Town of Southborough, 17 Common Street, Southborough, Massachusetts and is sued in his capacity as a member of the ZBA. Last known home address (sold home same date as the Decision 8-25-16): 11 Sarenstone Way, Southborough, MA 01772

24. Defendant, Paul Depranos, ("Depranos") is sued in his capacity as a member of the Town of Southborough Zoning Board of Appeals (the "ZBA"), a duly organized Zoning Board of Appeal under Chapter 40A and the Town of Southborough Zoning By-law (the "Zoning By-law"). Mr. Depranos has a mailing address c/o Karen Finelli, ZBA Administrative Assistant, Town of Southborough, 17 Common Street, Southborough, Massachusetts and is sued in his capacity as a member of the ZBA. Home Address: 29 East Main Street, Southborough, MA 01772

25. Defendant, PARK CENTRAL, LLC ("Park Central") is a Massachusetts limited liability company with a principal office address in the Commonwealth at 259 Turnpike Road, Suite 100, Southborough, MA 01772. Park Central is being sued as the project applicant and holder of the Comprehensive Permit on appeal.

26. Defendant, William A. Depietri, ("Depietri") is an individual residing at 15 Presidential Drive, Southborough, MA 01772. Mr. Depietri is identified by the ZBA in the Comprehensive Permit on appeal as the project developer and is referred to as the "Applicant" in the decision together with Park Central.

### III. Facts.

27. On February 12, 2014, Park Central, LLC, William A. Depietri, Manager applied for a Comprehensive Permit pursuant to G.L. c. 40 B for the construction of a one hundred eighty (180) condominium units of which forty-five (45) units were to be deemed affordable. The project was to be located on approximately 13.28 acres of a contiguous 101.25 acre parcel owned by Park Central at the intersection of Turnpike Road (Route 9 West), I-495 (North), Tara Road, Bantry Road and Flagg Road, Map 33, Lot 4; Map R5, Lot 5.

28. William A. Depietri as Manager of Capitol Properties, LLC was also identified as project developer throughout the permitting process as is referred to as the "Applicant" by the ZBA in the Comprehensive Permit on appeal.

29. A public hearing on the Applicant filed by Park Central and Depietri was opened on March 26, 2014 and continued to the following dates:

04/23/14, 05/28/14, 06/25/14, 07/15/14, 08/06/14, 08/27/14, 10/01/14, 10/29/14, 12/03/14, 01/07/15, 04/29/15, 07/29/15, 08/26/15, 09/23/15, 10/07/15, 11/09/15, 11/18/15, 12/02/15, 12/09/15, 01/06/16, 02/24/16, 03/24/16, 06/29/16, 08/03/16, 08/08/16, 08/17/16 and 08/24/16.

30. On May 27, 2015, the ZBA granted a Use Variance to Park Central and Depietri for the construction of a 158 unit townhouse condominium on land abutting the site of the 180 unit Comprehensive Permit project, which recognized and approved the integration of the two projects, greatly increasing the overall impacts associated to the proposed development, including but not limited to project access and egress and other traffic related concerns, without any supposed corresponding public benefit.

31. The Use Variance was filed with the Town Clerk on June 11, 2015 and subsequently registered and recorded at the Worcester Registry of Deeds on July 27, 2015.

32. The ZBA in its Use Variance Decision, conditioned the granting of the Use Variance to the granting of the requested Comprehensive Permit and provided that the variance would take effect only following final ZBA approval of the Comprehensive Permit with all appeals having expired.

33. The ZBA's Use Variance Decision clearly represents an attempt to improperly circumvent the statutory one year time period provided for the exercise of rights granted by variance.

34. The Plaintiffs' maintain that the Use Variance granted by the ZBA to Depietri and Park Central on May 27, 2015, expired by operation of law on May 27, 2016, notwithstanding the effective date provision contained therein.



35. The expiration of the Use Variance granted to Depietri and Park Central was brought to the attention of the ZBA prior to its vote to approve the requested Comprehensive Permit.

36. Notwithstanding the expiration of the Use Variance required for the integrated project and legitimate objections raised by the public pertaining to demonstrable public health and safety issues, the ZBA voted on August 24, 2016, to approve the Comprehensive Permit, a copy of which being attached hereto as Exhibit A, which has been certified by the Town of Southborough Town Clerk as a true copy attest. ("the Comprehensive Permit")

#### IV. Judicial Review.

37. Plaintiffs' herein restate the allegations contained in paragraphs one (1) through thirty-six (36) inclusive as if specifically set forth herein.

38. Plaintiffs' are aggrieved by the Decision of the ZBA granting the Comprehensive Permit to Park Central and Depietri.

39. The August 24, 2016 Decision of the ZBA is arbitrary and capricious and fails to protect the health and safety of the prospective occupants of the proposed housing, abutters to the project and other residents of the Town of Southborough.

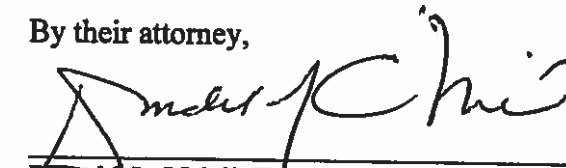
40. The ZBA failed to comply with applicable procedural requirements during the course of the public hearing process and acted in a grossly negligent and careless fashion in approving the Comprehensive Permit.

40. The ZBA, in granting approval for the Comprehensive Permit to Park Central and Depietri has exceeded its authority.

WHEREFORE, The Plaintiffs' respectfully pray that this Court:

1. Annul the Decision of the Zoning Board; and
2. Enter such other relief as this Court deems fair and just.

By their attorney,



Donald J. O'Neil, Esq. (BBO#542324)  
10 Mechanic Street, Suite 150  
Worcester, Massachusetts 01608  
Tel. (508)755-5655  
Fax. (508)755-9655  
[oneil@oneilbloom.com](mailto:oneil@oneilbloom.com)

Dated: September 13, 2016

## **EXHIBIT A**

ALDO A. CIPRIANO  
ATTORNEY AND COUNSELLOR AT LAW

RECEIVED  
TOWN CLERK'S OFFICE  
2016 AUG 25 P 3:00 JH  
SOUTHBOROUGH, MA

277 MAIN STREET  
VICTORIA BUILDING  
SECOND LEVEL • ATRIUM SUITE  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 485-7245  
FAX (508) 485-2904

August 25, 2016

James Hegarty, Town Clerk  
Town of Southborough  
Town House  
17 Common Street  
Southborough, MA 01772

**Re: Findings and decision of comprehensive permit The Residences at Park Central,  
August 24, 2016**

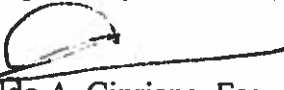
Dear Mr. Hegarty,

Attached hereto please find an originally executed decision of the Southborough Zoning Board of Appeals as to the above referenced petition.

Please note that upon review we find this decision to be in proper legal form, which was a contingency of approval by the Zoning Board of Appeals last evening.

Accordingly, we request that you file same with your official records.

Respectfully submitted,

  
Aldo A. Cipriano, Esq.  
Town Counsel

AAC/kc

Enclosures

TOWN OF SOUTHBOROUGH  
ZONING BOARD OF APPEALS  
August 24, 2016

RECEIVED  
TOWN CLERK'S OFFICE  
2016 AUG 25 1 P 3:00

The Residences at Park Central

SOUTHBOROUGH, MA JK

FINDINGS AND DECISION OF COMPREHENSIVE PERMIT

RE: Application of Park Central, LLC, William Depietri, Manager, d/b/a Capital Group Properties, LLC of 259 Turnpike Road, Suite 100, Southborough, MA 01772, for Comprehensive Permit pursuant to M.G.L. c. 40B.

DATE: August 2016

PROCEDURAL HISTORY

1. On February 12, 2014, Park Central, LLC, William A. Depietri, Manager<sup>1</sup> applied for a Comprehensive Permit pursuant to G.L. c. 40B for the construction of a one hundred eighty (180) for sale condominium units of which forty (45) units were to be deemed affordable. The project was to be located on approximately 13.28 acres of a contiguous 101.25 acre parcel owned by Park Central at the intersection of Turnpike Road (Route 9 West), I-495 (North), Tara Road, Bantry Road and Flagg Road, Map 33, Lot 4; Map R5, Lot 5 (the "Overall Site"). The one hundred eighty apartment style "for sale" condominium units were to be situated in five (5) three (3) story buildings adjacent to single family dwellings on Tara Road and Bantry Road. Access to and egress from the "for sale" condominium units would be from Tara Road, Bantry Road and a new, to be constructed, connector road extending Park Central Drive with a connection to Flagg Road. The Overall Site was to be developed as a single condominium pursuant to M. G. L. c. 183A, constituting the entire proposed development at that time.
2. The parcel owned by Applicant is situated primarily in the Industrial Park Zoning District with a lesser area in the Industrial and Residential A Zoning Districts.
3. The following materials were appended to the original Application:
  - (a) Comprehensive Permit Application Form
  - (b) Certified Abutters Lists
  - (c) MassHousing Site Approval Letter
  - (d) MassHousing Notification Letters
  - (e) Department of Housing & Community Development Notification Letter
  - (f) Southborough Board of Selectmen Notification Letter
  - (g) SHOPC Notification Letter

A True Copy  
Attest:

*James F. Depietri*

Town Clerk, Southborough

<sup>1</sup> William A. Depietri as Manager of Capital Group Properties, LLC was also identified as project developer throughout the permitting process. Park Central, LLC and Depietri will hereinafter be referred to as the "Applicant".

- (h) Letter from Capital Group Properties to the Selectmen
- (i) Capital Group Properties Response to Selectmen's Comments
- (j) Tax Analysis Letter from Paul Cibelli
- (k) MassHousing Housing Starts Project Eligibility Application
- (l) Smart Growth Evaluation Self-Assessment Form
- (m) Copy of Application Fee Payment
- (n) Attachment 1 – Evidence of Site Control
  - (1) Recorded Deed for the Subject Property
  - (2) P&S Agreement (Park Central LLC & Southborough Residential LLC)
- (o) Attachment 2 – Market Analysis & Community Information
  - (1) Real Estate Broker's Market Value Opinion Letter
  - (2) Driving Directions
  - (3) Driving Distances to Public Services
  - (4) Community Map with Site Location
  - (5) Tax Assessor's Map
- (p) Attachment 3 – Site Development Plans
  - (1) Aerial Photo of the Project Site Showing the Proposed Development
  - (2) Enlarged Plan of the Project Site
  - (3) Site Plan with Access Road
  - (4) Office Building "By-Right" Subdivision Plan (3 Lots)
  - (5) Traffic Study by Green International Affiliates, Inc. (separate attachment)
  - (6) Proposed Improvement Section of I-495/I-90 Interchange Study
  - (7) Mass DEP Treatment Plant Permit
  - (8) Phase I Environmental Site Assessment
- (q) Attachment 4 – Architectural Information & Home Features
  - (1) Schematic Architectural Design
    - (i) Conceptual Front Elevation
    - (ii) Conceptual Floor Plans (3 Floors)
  - (2) Home Features
    - (i) Market Rate Home Features
    - (ii) Affordable Home Features
  - (3) Condominium Documents
    - (i) Draft Master Deed of Park Central Residential Condominium
    - (ii) Draft Park Central Residential Condominium Trust

4. A duly advertised public hearing was opened on March 26, 2014 and continued to the following dates:

04/23/14, 05/28/14, 06/25/14, 07/15/14, 08/06/14, 08/27/14, 10/01/14, 10/29/14, 12/3/14, 01/7/15, 04/29/15, 07/29/15, 08/26/15, 09/23/15, 10/07/15, 11/09/15, 11/18/15, 12/02/15, 12/09/15, 01/06/16, 01/20/16, 02/24/16, 03/24/16, 06/16/15, 06/29/16, 8/3/16, 8/8/16, 8/17/16 and 8/ 24 /16.

5. On April 9, 2014, the Board notified the Department of Housing and Community Development (“DHCD”) that the Board considered a denial of the Application as being consistent with local needs. The Board’s denial was announced at the public hearing held on April 23, 2014.
6. On May 15, 2014, DHCD determined that the denial of the Comprehensive Permit filed by Applicant was not consistent with local needs. The Board resumed the public hearing on May 28, 2015.
7. During the public hearing process, in response to concerns and requests advanced to the Applicant by the Board, residents and Town officials, the Applicant agreed to review and discuss its proposal directly with the twenty-seven (27) families who owned homes in the immediate adjoining neighborhood. The residents were represented by Attorney Daniel C. Hill who appeared before the Board on behalf of the residents. A list of the residents represented by Attorney Hill was provided to the Board and is attached hereto as **Exhibit 1**. The resident review process, which was mediated by special c. 40B Town Consultant Edward Marchant, initially resulted in a revised plan reducing the number of buildings from five (5) to three (3), and ultimately resulted in a modification of the project proposal from three (3) three story buildings to two (2) five (5) story buildings which were relocated to a 9.03 acre portion of the Overall Site situated adjacent to I-495. The access to the adjoining neighborhood through Tara Road or Bantry Road was eliminated and the connection to Blackthorn Drive changed to an emergency access only. The Applicant also agreed, at the request of the Board, to change the tenure of the proposed housing development from a “for sale” condominium to rental apartments. The modified 180-unit Chapter 40B rental housing proposal (the “Project”) was conditioned upon the Applicant being granted a Use Variance for the construction of townhome condominiums (the “Townhome Condominium”) on approximately 56.75 acres of the 101.25 acre parcel which would share a connector road (the “Connector Road”) and stormwater and drainage infrastructure and WWTP, as defined below (the “Shared Stormwater and Wastewater Infrastructure”) with the affordable housing apartment complex. The Project, the Townhome Condominium, the Connector and the Shared Stormwater and Wastewater Infrastructure are collectively referred to in this Decision as the “Overall Project.”
8. On May 27, 2015, the Board granted a Use Variance to the Applicant for the 158 unit Townhome Condominium. The Notice of Decision on a Use Variance was duly recorded at the Worcester District Registry of Deeds in Book 54060, Page 303 and with the Land Court on Certificate 17001 Book 00086 Page 1. The Notice of Decision on a Use Variance approved the site integration of the modified 180 unit Project with the 158 unit Townhome Condominium and required that the Applicant provide fully engineered site plans for the Overall Project to the Board for approval under both its c. 40B and Use Variance jurisdictions. The Notice of Decision incorporated a site Concept Plan dated April 8, 2015, a copy of which is attached hereto as **Exhibit 2** (the “Concept Plan”). The Use Variance is effective upon and conditioned on the granting of this Comprehensive Permit to the Applicant in substantial compliance with the Concept Plan.

9. On or about June 10, 2015, the Applicant and six of the residents with single family homes on Tara Road, Bantry Road and Blackthorn Drive which directly abut the Overall Site (the "Neighborhood Property Owners"), executed an Agreement and Declaration of Restrictive Covenants, the essential terms of which had been provided to the Board during the public hearing process on the Use Variance and were included in the Use Variance Notice of Decision which also incorporated the Concept Plan. The Agreement and Declaration of Restrictive Covenants was duly recorded at the Worcester District Registry of Deeds in Book 16972, Page 172 and with the Land Court on Certificate 17001 Book 00086 Page 1. Through the Agreement and Declaration of Restrictive Covenants, the Neighborhood Property Owners agreed not to object to the Project and the Townhome Condominium proposal, as modified.
10. By correspondence dated June 19, 2015, attached hereto as **Exhibit 6**, the Massachusetts Housing Financing Agency ("MassHousing") confirmed that the site eligibility approval contained in MassHousing's Project Eligibility Letter of February 11, 2014, attached hereto as **Exhibit 5**, was applicable to the Project as modified.
11. Following the issuance of the Notice of Decision on Use Variance and the execution of the Agreement and Declaration of Restrictive Covenants, and in furtherance thereof, the Applicant prepared fully engineered revised Plans of Record (as defined in paragraph 22 below) which (a) relocated the placement of the Chapter 40B rental housing apartment complex to the northwest side of the site adjacent to I-495 (the "Project Site"); (b) reduced the number of the c. 40B apartment buildings from five (5) to two (2); (c) eliminated non-emergency access to the adjacent neighborhood; (d) dedicated 21.4 acres of land as perpetual conservation restricted open space subject only to possible utility easements; (e) reduced the number of townhome condominium units from 158 to 139, as shown on the Plans of Record; and (f) presented a drainage, storm water, waste water treatment, utility and roadway infrastructure fully integrated so as to allow for the development of the Project, the Townhome Condominium and future development areas within the Overall Site as one cohesive project. (For the avoidance of doubt, the development and operation of the Project shall not be contingent on the development or operation of any other portion of the Overall Site except to the extent expressly set forth in this Decision.) The components of the Overall Project are shown on the Site Plan attached hereto as **Exhibit 7** (the "Overall Project Component Plan").
12. During the public hearing process extensive materials were submitted to, reviewed, considered and maintained by the Board. A partial Schedule of Submittals is attached hereto as **Exhibit 3**. The original Application with attachments and all materials submitted to the Board have been and are available for public review at the office of the Board.
13. The Board received and reviewed the following technical reports and comments, among others, during the course of the public hearing process:

Conservation Related Issues



- 1) Lucas Environmental, LLC. July 12 2016. Memorandum #2 to Southborough Conservation Commission Re: Project review for the notice of intent, 4 Pages;
- 2) Fuss & O'Neil. July 12, 2016. Letter to Ms. Beth Rosenblum, Conservation Commission; Re: Park Central 40B Storm water Review, 4 Pages
- 3) Goddard Consulting, LLC. June 14 2016 Letter to Southborough Conservation Commission Re: Park Central Alternative Analysis

#### Traffic

- 4) TEC. June 28, 2016 Memorandum to Mr. Leo Bartolini, Jr.  
Re: Request Information- Redistribution of Existing Traffic. 2 Pages
- 5) Toole Design Group. May 9, 2016 Letter to: Mr. Leo Bartolini, Jr.  
Re: Flagg Road/Deerfoot Road Safety Study. 87 Pages
- 6) TEC. February 1, 2016 Memorandum to Mr. William Depietri  
Re: Traffic Impact Assessment Salisbury Hill-Residential Development. 14 Pages
- 7) TEC. January 19, 2016 Memorandum to: Mr. Leo Bartolini, Jr.  
Re: Response to Comments-Traffic Impact & Access Study. 10 Pages
- 8) TEC. December 4, 2015. Memorandum to Mr. William Depietri  
Re: Proposed Mixed-Use Residential Development, Updated Traffic impact and access study for proposed master plan. 309 Pages
- 9) Greenman-Pedersen, Inc. October 1, 2014. Letter to Mr. Leo Bartolini, Jr.  
Re: Proposed Residence at Park Central TIAS Peer Review- Review of TEC Response to Comments. 6 Pages.
- 10) TEC. August 21, 2014, To Mr. William Depietri  
Re: Residences at Park Central 40B Development- Southborough, MA. Traffic impact and Access Study-Response to Peer review comments. 170 Pages
- 11) TEC. August 19, 2014 Memorandum to Mr. Leo Bartolini, Jr. 169 Pages  
Re: Response to Comments-Traffic Impact & Access Study Residences at Park Central
- 12) TEC. Memorandum August 18, 2014 Memorandum to Mr. Leo Bartolini, Jr.  
Re: Alternative Build Program Sensitivity Analysis Residences at Park Central-Southborough, MA. 4 Pages
- 13) TEC. May 19, 2014 Memorandum to Mr. William Depietri  
Re: Residences at Park Central 40B Development, Second Traffic Impact and Access Study, 311 Pages

14) Green International Affiliates, Inc. June 2013 Traffic Impact & Access Study, Updated Analysis Blackthorn Access. 40 Pages

15) Green International Affiliates, Inc. March 2013 Traffic Impact & Access Study. 154 Pages

16) Commonwealth of Massachusetts, Department of Public Works Permit 4/19/99

17) TEC. Crash Data Summary Table for Flagg and Deerfoot Road. 1/1/2012-1/31/2014

Engineering

18) Fuss & O'Neil. December 3, 2015 Letter to Mr. Leo F. Bartolini Jr. Re: Park Central 40 B Comprehensive Permit review. 12 Pages.

14. The Board utilized the services of Edward Marchant, a c. 40B consultant, to assist in the review of the Chapter 40B application.

15. The Board utilized the services of the following engineering and technical consultants to assist in the review of the application, the site design and the site plans: **[Confirm this list of consultants is complete.]**

- (1) Fuss & O'Neil
- (2) Toole Design Group
- (3) Joseph Giniewicz

16. During the public hearing process the Board considered and granted waivers from compliance with certain local bylaws, rules and regulations as set forth in **Exhibit 4** attached hereto.

17. During the course of the public hearing process the Applicant submitted progress copies of Plans of Record as changes were made in response to Board or other official or public comments. The Plans of Record dated April 6, 2016 which were filed with the Board in April 2016 were substantially complete. Plans of Record dated August 15, 2016 were presented to the Board on August 17, 2016. These plans incorporated minor changes to the Plans of Record dated April 6, 2016.

18. The public hearing was closed on August 24, 2016.

**FINDINGS**

19. The Applicant is qualified pursuant to 760 CMR 31.01 in that

- (a) it is or will become a "limited dividend corporation" as that term is used in G.L. c. 40B, § 21 and 760 CMR 31.01 (1);

- (b) it has a funding commitment from a subsidizing agency as evidenced by the Project Eligibility Letter from MassHousing dated February 11, 2014, attached hereto as **Exhibit 5**, as amended and confirmed by letter from MassHousing dated June 19, 2015, attached hereto as **Exhibit 6**;
  - (c) it has “control of the site” as that term is used therein in that it has legal and/or equitable interests in the Project Site as demonstrated by the fact that the Project Site is owned by Park Central, LLC, William A. Depietri, Manager; Park Central, LLC is designated as the Owner and Capital Group Properties, LLC as the Developer during the Application and public hearing process.
20. The Applicant has provided evidence that there exists a regional need for low and moderate income housing and that the Town of Southborough has not met the statutory minima set forth in G.L. c. 40B § 20 or 760 CMR 31.04:
- (a) Qualified Chapter 40B units do not exceed ten (10%) percent of its total housing units, pursuant to M.G.L. c. 40B §20;
  - (b) Nor is affordable housing located on sites compromising one and one-half (1.5%) percent or more of the total land area zoning for residential, commercial or industrial use; and
  - (c) Nor will the development of affordable housing consistent with this application result in the commencement of construction of such housing on sites compromising more than three-tenths of one percent of such land area.
21. The Overall Site consists of approximately 101.25 acres of land situated between Turnpike Road (West), I-495 (North), Park Central Drive, Flagg Road, Tara Road, Bantry Road and Blackthorn Drive and is shown on Exhibit 7. The Project Site is situated on a 9.03 acre section of the Overall Site. The Project consists of the rental housing apartment component of the Overall Project as shown on the Plans of Record, together with the portions of the Connector Road and the Shared Stormwater and Wastewater Infrastructure shown on the Plans of Record, as referenced below, as serving such rental housing apartment component.
22. The Project is shown on a plan entitled: “Comprehensive Permit Plans Pursuant to Notice of Decision on a Use Variance, Town of Southborough Board of Appeals for Park Central in Southborough, Massachusetts (Worcester County) Date: November 4, 2015, Revised: January 6, 2016, January 26, 2016, April 6, 2016, August 15, 2016 (the “Plans of Record”).
23. Access to the Project Site is from Flagg Road (a public way) and Park Central Drive (a private road which connects to Turnpike Road (Route 9, West). The Project Site has frontage of approximately 202.87 feet on Flagg Road and frontage of approximately 70.20 feet on Park Central Drive. The Project’s two apartment buildings will be serviced by the private Connector Road connecting the Project to both Flagg Road and Park

Central Drive. The length of the Connector Road from Flagg Road to the Project's two apartment buildings is approximately 2,950 feet; the length of the Connector Road from the Project's two apartment buildings to the intersection of Park Central drive is approximately 2000 feet. The Project is serviced by an internal driveway and parking facility. The Plans of Record provide for an emergency access/egress driveway from the Project Site to Blackthorn Drive. The emergency access/egress driveway is approximately 479.35 feet from the entrance of the Project's two apartment buildings and is approximately 490.19 feet in length.

24. [Intentionally omitted]
25. Each unit within the Project will be serviced by a public water supply and private on site wastewater treatment plant (the "WWTP"). The water supply is adequate to service all units within the Project. As shown on the Plans of Record, the Applicant will install a dedicated water pump to assure sufficient water pressure for the Project. The WWTP is subject to approval by the Department of Environmental Protection ("DEP").
26. The Town consultants prepared detailed reports indicating that the development of the Project would not endanger public health or safety or the environment, subject to the conditions set forth below.
27. Forty-five (45) of the Project's units will be restricted for rental by households at or below eighty (80%) percent of the applicable Area Median Income ("AMI") adjusted for household size as set forth below and in accordance with the requirements of c. 40B.
28. The Project is consistent with local needs.
29. The Board finds that the concerns about the Project expressed by Board members, members of other Town Boards, town consultants and residents have been adequately addressed by the conditions set forth below that are part of this Decision.

### DECISION

Pursuant to M.G.L. c. 40B, the Zoning Board of Appeals of Southborough, after Public Hearings and findings of fact, hereby grants a Comprehensive Permit to the Applicant for the construction of 180 apartment units in two four-story buildings with associated infrastructure improvements, subject to the following conditions:

#### Conditions of Approval

##### A. Regulatory Conditions

1. The total number of dwelling units that may be constructed on the Project Site shall be limited to a maximum of 180 rental units, as shown on the Plans of Record.

2. 25% of the dwelling units shall be and shall remain affordable and shall be marketed to eligible households whose annual income may not exceed 80% of AMI, adjusted for household size as determined by the United States Department of Housing and Urban Development (the "Affordable Units"); and, subject to approval by the Project subsidizing agency (the "Subsidizing Agency"), the Affordable Units and the remaining units shall be eligible to be included in the Town's Subsidized Housing Inventory ("SHI"), as maintained by DHCD.
3. The Applicant shall notify the Board and the Town Administrator when building permits are issued and cooperate with the preparation of request forms to add the units to the SHI.
4. The Applicant shall notify the Board and the Town Administrator when occupancy permits are issued and cooperate with the preparation of request forms to add the units to the SHI permanently.
5. All units within the Project shall remain rental units in perpetuity. For purposes of this Decision, "perpetuity" shall mean for so long as the Property does not comply with applicable zoning or other local requirements without the benefit of this Comprehensive Permit.
6. The Affordable Units shall be dispersed throughout the Project, and not segregated from the market rate units, as designated by the Applicant by agreement with the Subsidizing Agency. To the extent possible and subject to the approval of the Subsidizing Agency, affordable and market rate units shall be allocated on a pro rata basis, including number of bedrooms and floor location. The Affordable Units shall not be distinguishable from the market rate units in accordance with all applicable regulations and guidelines of DHCD and the Subsidizing Agency.
7. The Applicant shall execute a Regulatory Agreement that shall be countersigned by the Subsidizing Agency as required under M.G.L. c. 40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement.
8. The Applicant shall annually recertify to the Subsidizing Agency, or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an Affordable Unit. Upon request, the Applicant shall provide the Town with copies of all filings made with the Subsidizing Agency with respect to the compliance of the Project with the Project's required affordability levels.
9. If and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another Regulatory Agreement with another Subsidizing Agency and the legal requirements in effect at that time require a replacement regulatory agreement in order to maintain the units in the Project on the SHI or as otherwise required to maintain compliance with c.40B regulations, the Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Board and its

counsel (the "Town Regulatory Agreement"), which shall be recorded with the Worcester District Registry of Deeds against the Property and signed by all necessary parties, including all mortgagees and lien holders of record. The Town Regulatory Agreement shall, so long as the Project does not conform to local zoning: (i) require that the Project shall remain a rental project and (ii) require that at least twenty five percent of the dwelling units in the Project shall be affordable to low and moderate income households as that term is defined in M.G.L. c. 40B, §§20-23.

10. Any such Local Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable Units shall remain affordable rental units in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town's Zoning Bylaws.
11. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto; however, the Town may request and shall be provided by the Applicant with all compliance and monitoring reports that are provided to the Subsidizing Agency.
12. When the Local Regulatory Agreement, if any, is executed and takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. c. 40B, §§20-23.
13. Paragraphs 9 to 12 above, shall not be used or construed or otherwise exercised in conflict with the holdings in *Board of Appeals of Amesbury v. Housing Appeals Committee*, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to M.G.L. c. 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At such time, if any, as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee. Said monitoring fee shall be reasonably consistent with the monitoring fees required by the Subsidizing Agency.
14. To the extent allowed under G.L. c. 40B and the regulations promulgated thereunder and other applicable laws, with respect to at least 70% of the affordable units, the Applicant shall provide local preference categories as requested by the Town during the initial lease-up to the greatest extent allowable by the Subsidizing Agency. The foregoing local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. If approved by the Subsidizing Agency, this preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Decision to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof.

If the Board or its designee does not provide proof of approval by the Subsidizing Agency within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or DHCD, then this condition shall be void. The Applicant shall provide reasonable assistance in a timely manner to the Town to prepare any documentation required for approval by the Subsidizing Agency of the local preference categories. If approval of such local preference by the Subsidizing Agency is not obtained prior to the time the Applicant is prepared to market the Affordable Units, the Applicant may offer the Affordable Units for rental to all eligible parties in accordance with the requirements of the Regulatory Agreement and the Subsidizing Agency.

15. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above (to the extent applicable).
16. The Applicant shall annually provide the Board or its designee with copies of any and all material compliance documentation provided by the Applicant to the Subsidizing Agency or its designated auditor of the Applicant's costs and revenues for informational purposes upon request by the Town.
17. The Town, by and through the Board or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision, but only to the extent of the Board's authority pursuant to and in accordance with Condition A.13 above.
18. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Commissioner and the Board.

#### **B. General Conditions**

1. The Board hereby grants all the waivers set forth in **Exhibit 4** attached hereto, which waivers are unconditional notwithstanding any language to the contrary contained in said Exhibit 4. In addition, to the extent any other waivers of the requirements of local laws or other local rules and/or regulations are required to construct the Project as shown on the Plans of Record, those waivers are also hereby granted. Except for the relief granted by the Board relative to specific waivers granted and as set forth in the preceding sentence, the Applicant shall comply with all provisions of the General Bylaws, Zoning Bylaws, the Rules and Regulations of the Zoning Board for 40B comprehensive permits, and all the rules and regulations applicable thereto, including but not limited to the Conservation Commission, Planning Board, and Board of Health generally applicable to a project. Any fees that are to be waived are as specifically set forth in Exhibit 4, with all other fees as may be generally applicable to such projects in the Town being applicable to the Project.

2. The project shall be constructed in substantial conformance with the following Plans: “Comprehensive Permit Plans Pursuant to Notice of Decision on a Use Variance, Town of Southborough Board of Appeals for Park Central in Southborough, Massachusetts (Worcester County) Date: November 4, 2015, January 6, 2016, January 26, 2016, April 6, 2016” Revised August 15, 2016, and the Architectural plans dated August 14, 2015(collectively, the Plans of Record), were submitted to the Board and are attached hereto as **Exhibit 8**.
3. Any deviation from the Plans of Record may require a modification of this Decision by the Board as set forth in 760 CMR 56.05(11).
4. The Applicant has proposed, and the Board hereby requires, that all infrastructure shown on the Plans of Record as serving the Project (with the exception of the improvements to the intersection of the Connector Road to Flagg Road and of Flagg Road to Turnpike Road), including but not limited to the following aspects of the development, shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal or financial responsibility for operation or maintenance of same:
  - a. All roadways, parking areas and emergency access (including sweeping and line marking)
  - b. Stormwater management system
  - c. Snow plowing and ice control
  - d. Landscaping
  - e. Trash and recycling removal
  - f. Street lighting
  - g. Septic, wastewater treatment and drain utilities (all as located on As-Built plans)
  - h. Electric car chargers (to the extent provided)
  - i. Water utility lines for both domestic and fire protection uses

In this regard, the Connector Road shall never be dedicated to or accepted by the Town of Southborough as a public way.

5. In accordance with 760 CMR 56.05 (12) (c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law. This three (3) year time period shall be tolled for any time required to pursue or await the determination of any appeal of any other state or federal permit or approval required for the Project. For purposes of this decision “substantial use” shall mean the commencement of actual site construction with no periods of interruption greater than 120 continuous days (except to the extent caused by matters outside of the Applicant’s reasonable control). This decision is deemed to have become final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later.



6. The Applicant shall prohibit trailers, boats, trucks (excluding personal SUVs and personal pick-up trucks) and unregistered vehicles from being stored or parked outside on an overnight basis within the Project's parking area or on the portion of the Connector Road within the Project Site.
7. The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers or assigns any of its interest in the affordable housing apartments, this Comprehensive Permit shall be binding upon and benefit the purchaser, transferee or assignee and any successor purchasers, transferees or assignees. Prior to substantial completion of construction, this Decision may be transferred pursuant to the provisions of 760 CMR 56.05(12)(b), upon approval of the Subsidizing Agency, and after submission of notice to the Board. After substantial completion, this Decision shall be deemed to run with the land pursuant to 760 CMR 56.05(12)(b).
8. The Project Site infrastructure shown on the Overall Project Component Plan and associated with a building within the Project shall be substantially completed prior to the issuance of a certificate of occupancy for that building.
9. The Applicant shall copy the Board on all material correspondence between the Applicant and any federal, state or Town official, board or commission that concerns the design and/or conditions set forth in this Decision.
10. If, at any time after the date of this Decision prior to the commencement of construction, the Subsidizing Agency rescinds or revokes its project eligibility determination for the Project, this Comprehensive Permit shall be deemed null and void and have no further effect unless, within a reasonable time period after such rescission or revocation, the Applicant procures a substitute project eligibility determination from a replacement subsidizing agency.
11. [Intentionally omitted]
12. The Project shall conform to all applicable state and federal laws, codes and regulations, including, but not limited to, DEP Stormwater management regulations (except where more stringent standards are imposed herein) for construction of the drainage infrastructure.
13. All utilities located on the Project Site shall be installed underground, subject to support by the Town in applications to MassDOT for any utilities that must be located within the State right of way. Further, the requirement for any such underground utilities, if located within the State right of way, shall be subject to review and approval by MassDOT. If MassDOT does not allow such underground utilities within the State right of way, then those utilities may remain above ground.

14. All buildings and structures shall be constructed substantially as represented in the Application, as revised, and on the Plans of Record.
15. The Project shall be served by municipal water, at the Applicant's sole expense, in accordance with the Southborough Department of Public Works (DPW) and Engineering Department requirements. All facilities shall be installed as shown on the Plans of Record.
16. [Intentionally omitted]
17. Water service booster pumps for the Project shall be designed, installed, and maintained at Applicant's exclusive expense, to the satisfaction of the Director of Public Works.
18. All exterior lighting for the Project, as detailed on the Plans of Record, shall be maintained in such a way that lights shall be shielded and directed so as to avoid light trespass exceeding 0.5 foot candles at the property line or unshielded point sources of light visible from Town public ways or adjacent properties outside of the Overall Site unless otherwise noted on the Plans of Record.
19. [Intentionally omitted]
20. All utility work and any other roadwork performed by the Applicant in connection with the Project within any public right of way shall be performed and conducted in conformance with the regulations of the Town and MassDOT, if applicable, including requirements for street opening permits and trench permits.
21. Contractors shall be duly licensed as required by the Town of Southborough. All such work shall be performed in accordance with current engineering and construction standards.
22. All internal sidewalks and street trees within the Project and along the portion of the Connector Road with the Project Site shall be installed before issuance of the first occupancy permit for a residential unit within the Project unless a suitable performance guarantee is in place.
23. The Applicant shall provide 24/7 monitoring of the Project, during and after construction, either by on-site management or an off-site management entity, that is available by phone 24/7. In the event the Applicant engages a management company, the Applicant shall post the name and telephone number of the management company on the front door of the Project's leasing office in a prominent place. The phone number of the construction supervisor shall be provided to the Town Manager and Town Police.
24. Fire hydrants shall be located consistent with the locations shown on the Plans of Record and as required by the Fire Chief.

25. The Applicant shall submit in its building permit application final fire alarm/sprinkler plans to the Fire Chief solely to ensure that the same comply with NFPA 13 standards and any other applicable state requirements.
26. The Applicant shall equip each unit with water saving plumbing fixtures in every bathroom, kitchen, and laundry area within the rental housing apartment buildings and all underground water pipes shall have water tight joints.
27. Prior to the commencement of construction, the Applicant shall obtain a National Pollutant Discharge Elimination System General Permit (NPDES) from the United States Environmental Protection Agency, as and to the extent required for construction of the Project. For the purposes of this Comprehensive Permit, "commencement of construction" shall mean grubbing and clearing.
28. Prior to issuance of any building permit for the Project, the Applicant shall conduct, or submit a report if completed, a hydrant flow test to determine available flow and pressure to fight a fire at the Project Site, and provide the results of such test to the Water Superintendent and Fire Chief. In the event that there is insufficient water pressure or volume for fire protection at the Project Site, plans shall include on-site improvements such as a fire pump or if on-site improvements do not correct the water pressure issue, off-site improvements to the municipal water distribution system as required to maintain a residual pressure of 20 psi in the municipal water distribution system. The procedure for flushing, disinfecting and pressure testing of the water mains serving The Project shall be approved by the Town's Water Superintendent.

**C. Construction Conditions**

1. To the extent required under any Order of Conditions issued for the Project, erosion controls and tree protection measures shall be continuously maintained throughout the course of construction, adjacent public streets shall be swept as needed to remove sediment and debris and disturbed areas shall be brought to final finished grade and stabilized permanently against erosion as soon as practicable.
2. The Project Site infrastructure shown of the Plans of Record and associated with a building within the Project (including all appurtenant site drainage and utility work, and installation of a binder course of pavement on driveways and parking areas serving such building) shall be substantially completed prior to the issuance of a certificate of occupancy for that building. Prior to the issuance of the first certificate of occupancy for any residential building within the Project, a reasonably satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, shall be provided to the Town, in an amount to be determined by Board's consulting civil engineer performing the construction inspections sufficient to ensure the completion of the top coat of paving and completion of all trench repair work. The surety shall be held in accordance with the Town's normal procedures and any surety release that occurs shall be made only upon the satisfactory completion of the work in question as voted by majority vote of the Board after receiving the recommendation of the Board's

- consulting civil engineer. Such surety shall be held by the Town Treasurer until the Applicant provides commercially reasonable evidence of the Applicant's substantial completion of the work secured thereby.
3. To the extent that all landscaping for the Project shown on the Plans of Record is not completed prior to the issuance of the first certificate of occupancy, the Applicant shall provide to the Board a reasonably satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, and shall be in an amount to be determined by the Board in consultation with all relevant Town officials and other consultants based upon the Applicant's reasonable estimate of the costs to complete such landscaping work. Such surety shall be held by the Town Treasurer until the Applicant provides commercially reasonable evidence of the Applicant's substantial completion of the work secured thereby.
  4. Requests to reduce the surety required under Conditions C.2 and 3 above may be submitted as the applicable work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The amount of the surety retained shall be based on the cost estimate of the remaining work, and the surety shall be fully released upon the completion of the applicable work.
  5. Prior to the commencement of construction of the Project, the Project site and engineering plans, finalized as necessary as provided in this Decision, shall be signed and sealed by a Massachusetts Professional Engineer and a Massachusetts Registered Landscape Architect and filed with the Board and the Building Inspector, and shall include the following:
    - a. Utilities, including on-site utilities and connections to utilities in adjacent public ways, which shall conform to all requirements of municipal departments or private utility companies having jurisdiction and to all applicable codes;
    - b. Stormwater Pollution and Prevention Plan (SWPPP) notes that address mitigation of sedimentation and erosion, including details relating to any temporary drainage basins;
    - c. Letter from the Project architect confirming that the Project complies with applicable Architectural Access Board (AAB) Regulations; and
    - d. Details of any temporary construction signs.
  6. Prior to starting any construction activity in connection with the Project, the Applicant and the general contractor shall hold a Project preconstruction meeting with the Building Inspector and DPW Director to review this Decision.
  7. Prior to starting any construction activity in connection with the Project, the Applicant shall provide to the Building Commissioner:

- a. The company affiliation, name, address and business telephone number of the construction superintendent available 24/7 who shall have overall responsibility for construction activities on site;
  - b. A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Project Site have been paid;
  - c. Certification from the Applicant that all federal, state and local licenses and permits required for the Project's construction have been obtained;
  - d. Proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work on the Project Site;
  - e. Proof that street signage is in place to ensure that emergency personnel can locate the Project Site to provide emergency services to protect and secure the Project Site and construction personnel; and
  - f. At least 48 hour written notice. If activity on the Project Site ceases for longer than one month, 48 hour written notice prior to restarting work.
8. During construction of the Project, at the end of each work day, the Applicant shall cause all Project Site erosion control measures required under any Order of Conditions issued for the Project to be in place and shall cause all materials and equipment to be reasonably secured. Prior to issuance of a final certificate of occupancy for the Project, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations.
  9. Blasting, if any, shall be performed in accordance with applicable law. Blasting shall be prohibited on Saturdays.
  10. Within ninety (90) days after issuance of a final certificate of occupancy for the Project, the Applicant shall submit to the Board two sets of draft as-built plans for all infrastructure improvements serving the Project and located on the Project Site. The as-built plans shall, at a minimum contain the following (1) the location, size, and type of all stormwater infrastructure located on the Project Site, including (where applicable) the number and bottom elevation of infiltration units or stormwater storage chambers, the bottom elevation, depth, length, and width of crushed stone surrounding underground infiltration systems; the actual dimensions of any inlet/outlet control structures, and the invert elevation, size, slope, and type of all orifices, weirs, inlet and outlet control pipes, structures and headwalls; (2) location of Project building foundations; (3) location, size, and type of all water services serving the Project and located on the Project Site, including gate valves, tees, and hydrants; (4) rim elevations, location, size, type, and inverts for all drainage and sewer structures and pipes serving the Project and located on the Project Site; and (5) layout of all surface driveways, parking areas, and pedestrian paths serving the Project and located on the Project Site. The site engineer of record, retained by the Applicant, shall provide a certification that the project was constructed in



substantial conformance with the Plans of Record, and where appropriate, a written description of any material deviations from the building permit plans shall be provided, along with documentation as to how these changes meet the original intent of the plans. After review by the Board, the Applicant shall provide an electronic copy of the as-built plans, stamped by a Registered Professional Engineer, to the Town Engineer.

11. All catch basins, detention basins, infiltration systems, and other stormwater management system shall be cleaned at the end of construction. Thereafter, the Applicant and/or Applicant's successor shall be responsible for maintaining the site's storm-water management system in accordance with generally accepted practice, as the same may, from time to time, change.
12. Any further soil testing shall be done by a Massachusetts DEP Certified Soil Evaluator who shall observe soil conditions in the subsurface stormwater and sewer disposal areas and shall relocate or modify the design of the facility if impervious soils or bedrock are present within the limits of the excavation and the observations shall be witnessed by the Town Engineer or his designee and if he deems it necessary for a licensed soil evaluator to be present, the Applicant shall pay for the cost of this expense.
13. During construction, the location of any and every stormwater disposal area shall be protected to prevent compaction by heavy equipment and to prevent contamination of the area with soils and material that may reduce infiltration rates for the existing soils. Where these areas will be used as sediment basin during construction, all sediment shall be removed and basin bottom area excavated to loosen compacted areas prior to the construction of the infiltration basin as noted on the Plans.
14. Prior to commencing construction the Applicant's final construction plans shall provide that the construction of the Project shall be performed in accordance with all applicable laws and regulations regarding noise, vibration, dust, sedimentation control and blocking of Town roads and the Applicant shall install aprons at entry points and provide for dust control in the form of sweeping and spraying of water whenever necessary.
15. There shall be no exterior construction activity, including fueling of vehicles and delivery of construction materials and equipment, on the Project Site before 7:00 a.m., or after 6:00 p.m., Monday through Friday and before 8:30 a.m. or after 4:30 p.m. on Saturday. There shall be no construction on the Premises on the following days unless a special approval for such work has been issued by the Southborough Police Department: Sundays or the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The Applicant agrees that the hours of operation shall be enforceable by the Southborough Police Department.
16. During construction of the Project, all Project construction access and egress, including the removal or delivery of materials, to or from the Project Site shall be limited to Park Central Drive and the Applicant will arrange for reasonably necessary police traffic control and construction signage in connection with the foregoing. Notwithstanding the foregoing, during initial construction of John Boland Road from Flagg Road to the culvert crossing, construction vehicles and equipment shall be allowed to access the

- project site on that portion of Flagg Road between Route 9 and the new John Boland Road and Flagg Road intersection. No construction vehicles or equipment shall be allowed to use Flagg Road north of the John Boland Road intersection. \*
17. Any portion of Flagg Road or Blackthorn Road that is damaged by the Project's construction activities shall be repaired to substantially the same conditions as existed prior to such damage.
  18. During the period of construction of the Project, the Applicant shall sweep that portion of Flagg Road or Blackthorn Drive adjacent to the Project Site whenever reasonably necessary due to dust and debris caused by the Project's construction activities.
  19. During the period of construction of the Project, no Project vehicles of construction workers and no Project construction vehicles or equipment shall be parked on Flagg Road or Blackthorn Drive or any other public way of the Town.
  20. During the period of construction and marketing of the Project, notwithstanding any pre-conditions for the issuance of a Building Permit or Certificate of Occupancy otherwise set forth herein, the Applicant shall be entitled to designate, construct and operate one of the apartment units as a decorated, model unit. The model unit and sales office shall be subject to the usual requirements of the Building Inspector with respect to building and fire code compliance.
  21. During the period of construction of the Project, the Applicant shall be allowed to locate two construction trailers on the Project Site, provided, however, that the trailer shall not be located within any zoning-related setback area.
  22. During the period of construction of the Project, the Property shall be secured in a manner approved by the Building Inspector so as to prevent personal injury or property damage.
  23. During the period of construction of the Project, no construction materials (including, but not limited to, building materials, fill material or landscaping materials) shall be stored on the Project Site during construction of the Project in excess of those materials to be used for the construction of the Project during the next 365 days, unless otherwise approved by the Building Inspector.
  24. During the period of construction of the Project, the Applicant shall employ industry-best-practices dust control procedures on a daily (or more frequently, as necessary) basis to minimize construction-related dust moving off of the Project Site.
  25. During the period of construction of the Project, the Applicant will ensure that no construction activity occurs on any abutting property outside of the Overall Site.
  26. As part of the construction process the Applicant shall conduct appropriate tests of the water system to confirm that the necessary water flow is available to meet applicable ISO



and NFPA-13 standards. Such tests shall be conducted during peak demand times, and the results of such tests shall demonstrate that the applicable requirements are met.

27. The Town Fire Chief will conduct the standard plan review prior to issuance of a building permit for the Project, and any deficiencies with NFPA-13 standards identified during this review shall be corrected by the Applicant as and to the extent required pursuant to such standard. In addition, the Town Fire Chief shall perform the standard inspection for smoke detectors, carbon monoxide detectors and oil burner and/or propane inspections before the issuance of any certificate of occupancy for any building in the Project, and any deficiencies with applicable requirements identified during this review shall be corrected by the Applicant.
28. Design and construction of the Project shall fully comply with all applicable federal and state laws and regulations, including, but not limited to, the Massachusetts State Building Code. The Project shall be designed and constructed on the Project Site in accordance with the Plans of Record, except as otherwise provided in this Decision.
29. Construction documents for the Project shall undergo the usual and customary review and approvals of the Building Inspector, the Board of Health, the Fire Department, or any other applicable Town Board or commission solely to ensure compliance with this Decision. Construction of the Project shall be subject to on-site compliance inspections by the Building Department in the customary manner
30. Landscaping of the Project shall be substantially in conformance with the Plans of Record, except as otherwise provided in the Conditions. Landscaping on the Project Site as shown on the Plans of Record shall be maintained, repaired, or replaced by the Applicant or his successor, as needed to maintain substantial compliance with the Plans of Record.
31. Design of the project should be substantially in conformance with the architectural plans attached on Exhibit 8.
32. All drainage, culverts, underground utilities and chambers located under any roadway on the Project Site shall be designed to AASHTO H-20 and HS-20 weight loading standards in order to safely accommodate emergency vehicles.
33. All roads within the Project shall have a minimum clearance height of fifteen feet (15') to allow for proper ingress/egress of emergency vehicles.
34. Building address and numbering shall be as reasonably specified by the Applicant in consultation with and with the approval of the Town Fire Chief.
35. Fire lanes denoted on the Plans of Record shall be marked "No Parking, Fire Lane" by signs and/or by marking on the pavement. Such markings shall be maintained so as to be clearly readable by residents and visitors. Restrictions on resident and guest parking at any time in any area designated as a fire lane, and specific penalties for violation of such

restrictions, shall be included in the Leasing and Condominium Documents. In addition to Town of Southborough officials, Applicants shall also enforce these provisions.

36. Project resident pedestrian access to Conservation land shall be provided.

#### **D. Wetlands and Stormwater**

1. The Project requires the issuance of an Order of Conditions by the Southborough Conservation Commission (and/or Superseding Order of Conditions issued by MassDEP) pursuant to the Massachusetts Wetlands Protection Act, and implementing regulations (310 CMR 10.00 et seq.), and shall comply with the DEP Stormwater Policy. Any changes required in the Project as a result of the issuance of an Order of Conditions or Superseding Order of Conditions shall be reviewed by the Board pursuant to applicable DHCD regulations.
2. The Project's stormwater drainage system shall be operated and maintained in accordance with the Plans of Record and the stormwater drainage report and analysis submitted by the Applicant to the Conservation Commission and as approved in the final Order of Conditions or Superseding Order of Conditions.
3. The Applicant shall provide a Stormwater and Erosion Control Management Plan for the Project satisfactory to the Conservation Commission or its Designee before issuance of a building permit for any work on the Project Site, as and to the extent required under the Project's final Order of Conditions or Superseding Order of Conditions.
4. The use of sand, environmentally friendly salt substitute, or other similar treatments shall be minimized to the extent practicable, considering public safety, consistent with the Project's final Order of Conditions or Superseding Order of Conditions.
5. Prior to issuance of the first building permit for any building within the Project, the Applicant's registered professional engineer shall prepare a "Stormwater Operations and Maintenance Plan for Final Commissioning and Long-Term Maintenance Program," as and to the extent required under the Project's final Order of Conditions or Superseding Order of Conditions.

#### **E. Wastewater Treatment Facilities**

1. Prior to construction of the Project, the Applicant shall provide the Board with a copy of a valid Groundwater Discharge Permit issued by DEP for the WWTP.
2. The location of the WWTP and related appurtenances shall be where so indicated on the WWTP plans approved by DEP, with all process-related equipment contained within buildings.
3. Access to the WWTP for maintenance and emergency access shall be provided and maintained as shown on the Plans of Record.

4. Any hazardous materials used in conjunction with WWTP operations shall be subject to a spill containment plan approved by the Fire Department and/or DEP.
5. The design of the WWTP shall provide for the elimination of detectable odors in or from occupied residential buildings, as determined by DEP.
6. The Fire Department shall be notified immediately by phone and the Board of Health shall be notified forthwith in writing of any inadvertent release of contaminants or untreated effluent from the WWTP.
7. No WWTP construction shall commence until detailed construction plans and specifications have been reviewed and have received final approval from Mass DEP.

**F. Special Conditions:**

1. Applicant shall install "No Right Turn" as well as "No-Through Street" directional signs at the exit from the both the Red Roof Inn and Cumberland Farms onto Park Central Drive so as to discourage customers/employees of both businesses from using John Boland Road as a cut through to Flagg Road North.
2. The Project's Park Central Drive entry shall include signage indicating that such entry is subject to use only by the Overall Site's residents, guests, prospective residents and other invitees, signs to be appropriately located immediately North of the Office Building.
3. The Applicant shall contribute \$25,000 to the Town for use by the Town to design and construct traffic calming measures (such as sipped humps, sidewalks, street lighting and signage) on Flagg Road. The \$25,000 shall be paid to the Town prior to the issuance of the initial Building Permit for the Project.
4. Forty-eight (48) hours' notice shall be given to all affected parties before any water/utility disruptions are to occur.
5. The Project is subject to a Certificate or Waiver or, alternatively an Acceptance of Project Change issued under the Massachusetts Environmental Policy Act ("MEPA").
6. The Project is subject to the changes of the Plans of Record as recommended by Fuss & O'Neill as identified in letters dated May 12, 2016, July 8, 2016, and August 24, 2016.
7. The Applicant shall install No-Left Turn signs in order to prohibit left-hand turns from John Boland Road onto Flagg Rd between the hours of 7am and 9am Monday through Friday, with the exception of school buses. Sign location and installation shall be subject to DPW direction with all costs paid by the Applicant.
8. Waste and refuse collection vehicles shall be prohibited from entering the property on John Boland Road. When exiting, waste and refuse collection vehicles shall exit via a right-hand turn only onto Flagg Road.

9. The Applicant shall name the proposed pond for the project "John H. Leed Jr. Fish Pond".
10. The Applicant shall pay all of the Board's and Town's prior and outstanding peer review and consulting fees, if any, within 30 days of the issuance of the Comprehensive Permit. The Applicant shall pay for all post Comprehensive Permit peer review, post Comprehensive Permit inspections, and post Comprehensive Permit legal fees by establishing or continuing the escrow account now established pursuant to G.L. c.44, s.53g. No occupancy permit shall issue if an outstanding bill for any fee is 30 days overdue.
11. During the construction period, all construction Personnel to the Project shall be required to enter the property via Park Central Drive via Rt. 9. Said Personnel shall be prohibited from entering and exiting the property from Flagg Rd.

RECORD OF VOTE

The following members of the Board of Appeals vote to grant a comprehensive permit subject to the above-stated terms on this 24 day of August 2016.

P. Drepanos  
Paul Drepanos

[Signature]  
David Eagle, Chairman Pro Tem

[Signature]  
Leo F. Bartolini,

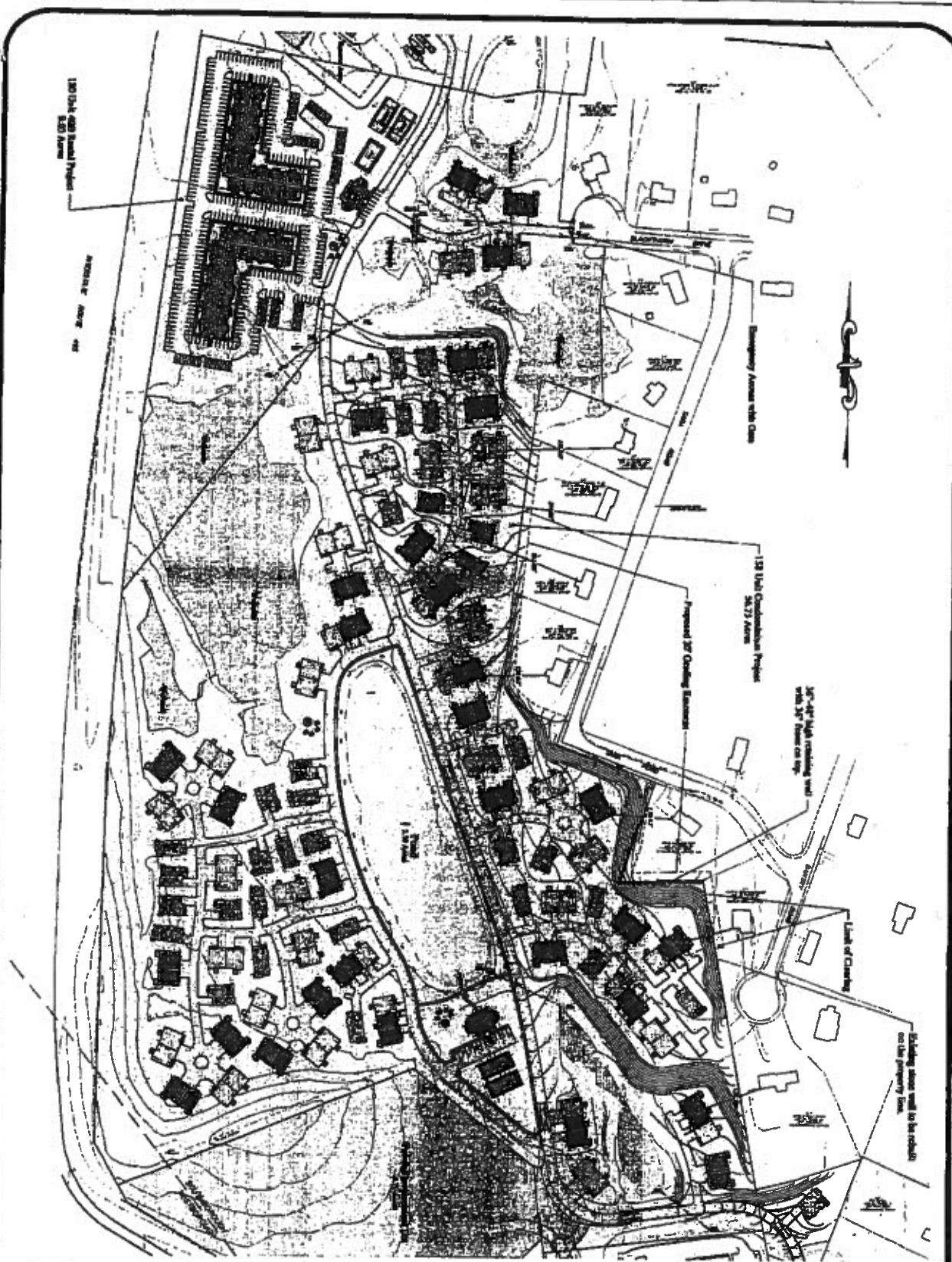
The following members of the Board of Appeals are in opposition to the grant of the comprehensive permit:

\_\_\_\_\_

Dated : August 24, 2016

Filed with the Town Clerk on 8/25, 2016.

[Signature]  
Town Clerk



Park Central  
 April 8, 2013  
 1-1107

Capital Group Properties  
 237 Temple Ave, Ste 100  
 Southborough, MA 01774

Capital Group Properties  
 237 Temple Ave, Ste 100  
 Southborough, MA 01774


# Capital Group Properties

## Park Central - Condominium Plan

Park Central, Southborough

**EXHIBIT**

2

**Exhibit \_\_\_\_\_**

**The Residences at Park Central:      Schedule of Submittals**

**Binder A:**

**PP1: Mass Housing Ed Marchant**

**1. June 19, 2015**

**Letter to: Mr. Leo Bartolini Chair, ZBA**

**Letter From: Gregory Watson, Manager, Comprehensive Permit Programs**

**Re: The Residences at Park Central, PE-523, Intended to reaffirm the filings made by mass housing**

**2. February 11, 2014**

**Letter to: Mr. Depietri, Park Central LLC**

**Letter from: Thomas R. Gleason, Executive Director of Mass Housing**

**Re: The Residences at Park Central Southborough, P- 523, and Project Eligibility (site approval application)**

**Attachment: 760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency (4) findings and determinations**

**3. January 5, 2016**

**Email to: Karen Finelli**

**Email from: Edward Marchant**

**Re: Continuance of tomorrow evenings meeting**

**4. April 17, 2014**

**Letter to: Massachusetts Department of Housing and Community Development**

**Letter From: Kevin P. O'Flaherty, Goulston & Storrs**

**Re: Park Central LLC. Vs. Town of Southborough Board of Appeals**

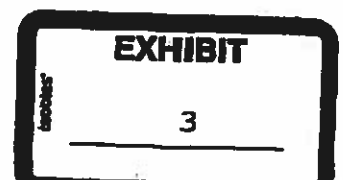
**\*"Safe Harbors"**

**5. June 10, 2015**

**Letter to Gregory Watson and Michael Busby, Mass Housing**

**Letter From: Leo Bartolini, Chair ZBA**

**Re: The Residences at Park Central, Southborough, MA PE-523 \*modification**



**11. June 13, 2016:**

**Email to: David Eagle; Paul Drepanos**

**Email from Karen Finelli**

**Re: Possible Decision soon for Park Central 40 B**

**Attachments: email Angelo Catanzaro regarding park central 40B Decision**

**13. May 18, 2016**

**Email to: Mark Purple, Kenneth Paulhus, Joe Mauro, Karen Finelli**

**Email from: Karen Galligan**

**Re: Final Flagg & Deerfoot safety study**

**Attached: Flagg & Deerfoot Road safety study**

**Attached to email: Memorandum dated: May 9, 2016**

**To: Mr. Leo Bartolini**

**From Jason DeGray-Toole Design Group**

**14. December 3, 2015**

**Email to: Edward Marchant**

**Email from: Angelo Catanzaro**

**Re: Park Central, Southborough**

**\*Communications to/from ZBA/Mass Housing, Feb eligibility letter**

**15. February 22, 2016**

**Email to: William Depietri; Daniel Ruiz**

**Email from: Karen Finelli**

**Re: Another memo for your records**

**Attached: MAPC Park Central Feb 2016**



**Re: Southborough ZBA \*Contracts**

**22. February 9, 2016**

**Email to: Karen Finelli**

**Email from: Jaosn DeGray**

**Re: Southborough ZBA**

**22. February 25, 2016**

**Email to: Karen Galligan**

**Email from: Jason DeGray**

**Re: Flagg/Deerfoot road safety & traffic calming study**

**Attachment: Safety study, scope of services, etc.**

**23. February 25, 2016**

**Email to: Bill Depietri, Karen Finelli**

**Email from: Karen Galligan**

**Re: Flagg/Deerfoot road safety & traffic calming study**

**Attachment: Safety study, scope of services, etc.**

**24. February 26, 2016**

**Email to: Karen Finelli**

**Email from: Jaosn DeGray**

**Re: Scope of work and Invoice attached \*: Amendment to our contract for additional services**

**Binder A PP3**

**25. November 9, 2015**

**Fuss & O'Neil**

**Town of Southborough on-call engineering consulting services task authorization**

**Task title: Park Central 40 B Comprehensive Permit review**

**Scope of services and estimated costs**

**30. February 24, 2016**

**Toole Design Group Amendment follow-on review services**

**Proposed mixed-use residential development, Park Central**

**31. April 21, 2016**

**To: Mr. Leo Bartolini**

**Tool Design Group Invoices for Task 1: meetings and follow-on services and Task 2: Roadway safety & Traffic calming study**

**32. May 3, 2016**

**Email to: Karen Finelli**

**Email from: Karen Galligan**

**Re: Toole Design Group Invoice**

**Attached: Invoice**

**33: May 3, 2016**

**Email to: William Depietri**

**Email from: Karen Galligan**

**Re: Toole Design Group Invoice**

**Attached: Toole Design Group Invoice**

**34. May 4, 2016**

**Email to: Paul Drepanos; David Eagle**

**Email from: Karen Finelli**

**Re: Attached Toole Design Information**

**Attachments: Toole Design task information and invoice K. Galligan confirmed**

**35. February 9, 2016**

**Toole Design Group, LLC Agreement**

**Binder A PP 5-Park Central Traffic**

**42. February 24, 2014**

**Toole Design Group Amendment-Scope of Work**

**To: Mr. Leo Bartolini**

**Project: Amendment follow-on review services-proposed mixed use residential development at Park Central**

**43. December 23, 2016**

**Technical Memorandum GPI**

**Ref: MAX-2014067.01**

**To: Mr. Leo Bartolini**

**From: Mr. Jason DeGray**

**Re: Proposed mixed use residential development at Park Central**

**Traffic impact and access study peer review**

**44. December 14, 2015**

**Greenman-Pederson, Inc, Scope of Services**

**To: Mr. Leo Bartolini, Chair, ZBA**

**Project: mixed-use at Park Central-updated peer review**

**Prepared by: Jason DeGray**

**45. Vanasse& Associates-Transportation Engineers and Planners**

**To: Mr. Leo F. Bartolini, Chair, ZBA**

**From Jeffery S. Dirk**

**Re: Traffic Engineering peer review, Residences at Park Central**

**Address: 0 Turnpike Road- Route 495**

**52. April 17, 2014**

**Letter to: Massachusetts Department of Housing and Community Development**

**Letter from: Kevin P. O'Flaherty, Goulston & Storrs**

**Re: Park Central, LLC V. Town of Southborough board of appeals**

**\*Application for Comprehensive permit, "Safe Harbors"**

**53. May 9, 2014**

**Letter to: Massachusetts Department of Housing and Community Development**

**Letter from: Kevin P. O'Flaherty, Goulston & Storrs**

**Re: Park Central, LLC V. Town of Southborough board of appeals**

**\*Application for Comprehensive permit, "Safe Harbors"**

**54. April 9, 2014**

**Letter to: William Depietri**

**Letter from: Leo F. Bartolini, Chair, ZBA**

**Re: Notice of Southborough Zoning Board of Appeals' Decision Pursuant to 760 Code of MA regulations, section 56.03 (8) (A), Park Central Project Application**

**Attached: ZBA decision**

**55. April 2, 2014**

**Letter to: Mr. Daniel L. Kolenda, Chairman, Southborough Board of Selectman**

**Letter from: Leverett Wing, Associate Director, Department of Housing & Community Development MA**

**Re: Housing Production plan- Certification approved**

**Attachment: Department of Housing and community development CH 30b, Subsidized housing inventory**

**56. Undated**

**Letter to: Jennifer Burney, Town Planner, Town of Southborough**

**Letter from: Aldo Cipriano**

**61. January 7, 2016**

**Email to: Bill Depletri**

**Email from: Karen Finelli**

**Re: Park Central Approved and stamped request for continuance attached**

**Attachments: Park Central Continuance until 1.6.16**

**62. November 10, 2015**

**Town of Southborough-Request for continuation/ extension of a hearing process**

**To: Chairman, Southborough ZBA**

**From: Capital Group Properties**

**Re: Park Central 40B**

**63. October 7, 2015**

**Town of Southborough-Request for continuation/ extension of a hearing process**

**To: Chairman, Southborough ZBA**

**From: Capital Group Properties**

**Re: Park Central 40B**

**64. September 24, 2015**

**Town of Southborough-Request for continuation/ extension of a hearing process**

**To: Chairman, Southborough ZBA**

**From: Capital Group Properties**

**Re: Park Central 40B Town of Southborough-Request for continuation/ extension of a hearing process**

**65. August 18, 2015**

**Town of Southborough-Request for continuation/ extension of a hearing process**

**To: Chairman, Southborough ZBA**

**From: Capital Group Properties**

**Re: Park Central C. 40B Application request for continuance of public hearing**

**72. August 28, 2014**

**Letter to: The Southborough ZBA (Handwritten)**

**Letter from: Capital Group Properties**

**Re: Extension**

**73. July 17, 2014**

**Letter to: Leo F. Bartolini, Zoning Board of Appeals**

**Letter from: Angelo Catanzaro**

**Re: Park Central C. 40B Application**

**Re: Continuance request**

**74. November 18, 2014**

**Letter to: Southborough Zoning Board of Appeals**

**Letter from: Martin E. Loiselle, Capital Group Properties**

**Re: Park Central C. 40B Application, Request for continuance of public hearing**

**75. April 7, 2015**

**Letter to: Leo F. Bartolini, Zoning Board of Appeals**

**Letter from: Angelo P. Catanzaro**

**Re: Park Central C. 40B Application, Request for continuance of public hearing**

**76. April 29, 2015**

**Town of Southborough-Request for continuation/ extension of a hearing process**

**To: Chairman, Southborough ZBA**

**From: Capital Group Properties**

**Re: Park Central 40B**

**Attachment: Park Central Mixed –Use Traffic Impact Review**

**83. October 28, 2015**

**Letter to: Mr. Leo Bartolini, Chair Zoning Board of Appeals**

**Letter from: Joseph C. Mauro, Fire Chief**

**Re: Approval of Access/egress to the site, Park Central**

**84. November 10, 2015**

**Email to: Kenneth Paulhus**

**Email from: Karen Finelli**

**Re: New Plans for Park Central 40B**

**85. November 13, 2015**

**Email to: Karen Finelli**

**Email from: Kenneth Paulhus**

**Re: New Plans for Park Central 40 B, Concern w/ security gate**

**86. November 12, 2015**

**Southborough Fire Department site plan review Location: Residences at Park Central**

**Reviewers: Joseph C. Mauro, Fire Chief**

**87. March 26, 2014**

**Letter to: Leo Bartolini, Chairman of the Zoning Board of Appeals**

**Letter from: Jennifer Burney, Town Planner**

**Re: Park Central and Affordable housing**

**Attachment: Department of housing and community development CH 40B Subsidized housing inventory**

**88. December 2, 2014**

**Letter to: Chairman Bartolini**

**Letter from: Donald C. Morris, Planning Board Chairman**

94. September 9, 2015

Letter to: Zoning Board of Appeals

Letter from: Craig Nicholson, Chair Southborough Housing Opportunity Partnership Committee (SHOPC)

Re: Park Central, Comments and recommendations

95. December 1, 2015

Memorandum to: Southborough Zoning Board of Appeals and Chair Leo Bartolini

Memorandum from: Beth Rosenblum, Conservation Commission

Re: The Residences at Park Central, Comments

96. January 4, 2015

Letter to: Zoning Board of Appeals Members

Letter from: Don Morris, Chairman, Planning Board

Re: Comprehensive Permit Park Central, LLC, Comments +Recommendations

**Binder B PP 3- Letters from boards + departments**

97. May 20, 2016

Public Hearing Notice for site plan approval

Letter to: James Hegarty, Town Clerk

Letter from: Donald C Morris, Chairman

98. January 12, 2016

Letter to: Zoning Board of Appeals Chair

Letter from: Jennifer Burney, Town Planner

Re: Comprehensive permit, Park Central LLC

99. January 4, 2016

Letter to: Zoning Board of Appeals



**106. January 4, 2016**

**Letter to ZBA Members**

**Letter from: Don Morris, Planning Board**

**Re: Comprehensive Permit Park Central, LLC. Review of Park Central**

**107. February 19, 2016**

**Letter to: William Depletri**

**Letter from: Paul T. Cibelli, Board of Assessors**

**Re: Estimated real estate tax revenue, Residences at Park Central-Proposed 40 B (180 rental units) and 141 market rate condominiums**

**108. February 19, 2016**

**Email to: Anne Canaday (MEPA)**

**Email from: Hillary Young Carney**

**Re: Comments on the ENF- Park Central**

**Attachments: Planning Board Comments**

**109. February 19, 2016**

**Email to: Karen Finelli; Mark Purple; Beth Rosenblum; Karen Galligan**

**Email from: Hillary Young Carney**

**Re: Comments on the ENF, Park Central**

**Attachments: Planning Board Comments**

**110. February 4, 2016**

**Notice of MEPA Site Visit**

**EEA No: 15472 Park Central, Southborough**

**Scheduled for February 4, 2016**

116. June 13, 2014

Letter to: Southborough Conservation Commission

Letter from: Scott Goddard, Principal

Re: Response to comments made about gravel/ sands stock pile w/ buffer zone

117. June 13, 2014

Letter to: Leo Bartolini & ZBA members

Letter from: Angelo P. Catanzaro

Re: Residences at Park Central 40. B project, Earth Removal, Permit Park Central

118. March 18, 2014

Letter to: Jonathan Gulliver, District Highway Director

Letter from: William A. Depietri, President, Capital Group Properties

Re: Park Central-Proposed Access

Attachments: Park Central, Potential Site Buildout

**Binder B PP 5**

119. March 7, 2016

Letter to: Leo Bartolini, ZBA

Letter from: Howard Rose, 2 Bantry Rd

Re: Concerns at Park Central

120. February 23, 2016

Letter to: Leo Bartolini, Chairman ZBA

Letter from: Janel McDonald, 4 Bantry Rd

Re: Park Central Project

**Letter from: Susan Linehman Beaumont, 49 Flagg Rd**

**Re: Proposed Mixed use Residential Development at Park Central-Traffic Impact**

**127. January 15, 2016**

**Email to: Bill Depietri; Danny Ruiz**

**Email from: Karen Finelli**

**Re: Park Central Letter from Neighbor**

**Attached: Letter from Susan Beaumont**

**128. January 5, 2016**

**Letter to: ZBA**

**Letter from: Jason and Monica Akus, 14 Bantry Rd**

**Re: Peer review for Park Central Project, Concerns**

**129. January 4, 2016**

**Letter to: Leo Bartolini, ZBA**

**Letter from: Todd Miller, 8 Hickory Rd**

**Re: Park Central Development Concerns**

**130. January 2, 2016**

**Letter to: Leo Bartolini, ZBA**

**Letter from: Marnie L. Hoolahan, 26 Clifford Rd**

**Re: Park Central Development Concerns**

**131. December 29, 2015**

**Letter to: Leo Bartolini, ZBA**

**Letter from: Stephen T. Boldin, Bantry Rd**

**Re: Proposed Park Central Development-Traffic Study**

**132. January 3, 2016**

**Letter to: Leo Bartolini, ZBA**

**Letter from: The Bantry/Blackthorn and Tara Neighborhood**

**Re: Comprehensive Permit, The Residences at Park Central**

**139. April 1, 2014**

**Email to: Mark Purple; Jessica Baptista**

**Email from: Jonathan Green**

**Re: Recent ZBA meeting Park Central**

**140. October 30, 2014**

**40 B Park Central Development Legal Fund, Neighborhood Contributors 2014**

**141. January 5, 2016**

**Emails to: Bill Depietri**

**Emails from: Karen Finelli**

**Re: Letters Pertaining to Park Central**

**142. January 7, 2016**

**Email to: Bill Depietri**

**Email from: Karen Finelli**

**Re: Park Central approved and stamped request for continuance attached**

**Attached: Continuance approval**

**143. January 5, 2016**

**Email to: Bill Depietri; Daniel Ruiz**

**Email From: Karen Finelli**

**Re: Copy of Letter from planning board**

**Attachment: Planning board letter to ZBA**

**144. January 11, 2016**

**Email to: Bill Depietri; Danny Ruiz**

**Email from: Karen Finelli**

**150. January 19, 2016**

**Email to: Jason DeGray**

**Email from: Karen Finelli**

**Re: Letter from Park Central Abutter**

**Attached: Letter to ZBA Jason & Monica Akus- Park Central**

**Binder B PP 6**

**151. February 16, 2016**

**Email to: Karen Finelli**

**Email from: Angelo Catanzaro**

**Re: Park Central C. 40 B Waiver Request**

**Attachments: Waiver Request for Affordable Housing Integrated Development Project**

**152. December 9, 2014**

**Town of Southborough Board of Appeals**

**To: Bill Boland, Chairman, Board of Selectman**

**From: Leo Bartolini, Chairman ZBA**

**Re: Letter from Attorney Hill**

**153. June 18, 2014**

**Letter to: ZBA**

**Letter from: John T. Smolak, Esq**

**Re: Application for Comprehensive permit-The Residences at Park Central**

**154. June 25, 2014**

**Letter to: ZBA**

**Letter from: Patrick L. Garner, Wetlands Hydrologist**

**160. December 3, 2015**

**Email to: Edward Marchant**

**Email from: Angelo P. Catanzaro**

**Re: Park Central, Southborough, follow up communications**

**161. December 18, 2014**

**Letter to: Donald Morris, Planning Board Chair**

**Letter from: Robert B Gibbons**

**Re: Capital Group Properties, LLC/ Chapter 40 B proposed project**

**\*Addresses Morris claims**

**162. June 24, 2014**

**Letter to: ZBA**

**Letter from: Daniel C. Hill**

**Re: Application for comprehensive permit- The Residences at Park Central, Concerns**

**163. October 27, 2014**

**Email to: Jennifer Burney**

**Email from: Daniel C. Hill**

**Re: Southborough/Park Central 40B**

**164. December 9, 2014**

**Email to: Bill Boland; Karen Finelli; Mark Robidoux; Aldo Cipriano**

**Email from: Mark Purple**

**Re: Special Council**

**Attached: Previous email from Dan Hill**

**Re: Park Central Safety Study**

**171. January 21, 2016**

**Email to: Beth Rosenblum**

**Email from: Christopher M. Lucas**

**Re: Park Central ANRAD review**

**Attached: Project Review for the Abbreviated Notice of Resource Area Delineation, Park Central**

**172. February 24, 2016**

**Waiver Request for Affordable Housing Integrated Development Project**

**From: William Depietri**

**Binder B PP 8**

**173. November 30, 2015**

**Letter to: Donald C. Morris**

**Letter from: Angelo P. Catanzaro**

**Re: Application for comprehensive permit, Park Central LLC**

**Attached: Notice of decision on a use variance**

**Binder B PP 9**

**174. Undated**

**Letter to: Donald C. Morris, Chairman**

**Letter from: Edward Marchant**

**Re: Application for Comprehensive permit, Park Central, LLC**

**175. November 9, 2015**

**Letter to: Leo F. Bartolini, Chair, ZBA**

**From Edward Marchant**

**Re: Southborough Housing Opportunity Partnership Committee (SHOPC)**

**Binder B Folder 2**

182. Undated

Comprehensive permit rules- Easthampton ZBA

**Green Folder 1**

183. June 18, 2014

Letter to: Zoning Board of Appeals

Letter from: John T. Smolak

Re: Application for comprehensive permit- Residences at Park Central

184. Undated

Ch.: 40 B Technical Review Assistance Application

**Green folder 4**

185. May 15, 2014

Letter to: Aldo A. Cipriano

Letter from: Leverett Wing, Division of Community Services

Re: Decision on Grounds for Denial of Comprehensive permit Application-Park Central, LLC

186. May 22, 2014

Letter to: William Boland; Leo Bartolini; Mark Possemato; Donald Morris; Mark Purple; Jennifer Burney; Vanessa Hale

Letter from: Angelo P. Catanzaro

Re: Residences at Park Central 40-B Project Earth Removal, Permit Park Central

187. March 26, 2014

Letter to: Leo F. Bartolini

Letter from: Jennifer Burney, Town Planner Re: Park central and affordable housing

Miscellaneous e-mails and unindexed documents



**Add to Exhibit 3**

**Letter from Southborough Planning Board, dated August 24, 2016**  
**Letter from Conservation Commission, dated August 22, 2016**  
**Letter from Yan Huang, 75 Flagg Rd dated August 22, 2016**  
**Letter from Benjamin Keyes, Lynbrook Rd dated August 22, 2016**  
**Letter from Marnie Hoolahan, 26 Clifford St, dated August 22, 2016**  
**Letter from Kristie & Michael Dameri, 18 Flagg Rd. dated August 22, 2016**  
**Letter from Edward & Catherine Webb, 1 Deerfoot Rd. dated August 22, 2016**  
**Letter from Howard Rose, 2 Bantry Rd., dated August 22, 2016**  
**Letter from Carrie J. DeBlois-Mello, 21 Flagg Rd. dated August 22, 2016**  
**Letter from Yan Huang, 75 Flagg Rd., dated August 17, 2016**  
**Letter from Southborough Police Chief Kenneth Paulhus, dated August 23, 2016**  
**Letter from Southborough Fire Chief Joseph Mauro, dated August 23, 2016**  
**Letter from Southborough Fire Chief Joseph Mauro, dated August 24, 2016**  
**Letter from Jonathan Green, 10 Tara Rd., dated August 23, 2016**  
**Letter from Meme Luttrell, Planning Board, dated August 23, 2016**  
**Letter from Southborough Planning Board, dated August 23, 2016**  
**Letter from Debbie DeMuria, 58 Flagg Rd., dated August 21, 2016**  
**Letter from Debbie DeMuria, 58 Flagg Rd., dated August 22, 2016**  
**Letter from Debbie DeMuria, 58 Flagg Rd., dated August 23, 2016**  
**Letter from Wendy DeMichaelis, 15 Bantry Rd., dated August 22, 2016**  
**Letter from Brian Shea, 17 Pinecone Lane, dated August 23, 2016**  
**Letter from Jonathan Green, 10 Tara Rd., dated August 23, 2016**  
**Letter from Kathy & Tom Gittens, 73 Flagg Rd., dated August 23, 2016**  
**Letter from Allan Bezanson, 20 Deerfoot Rd, dated August 23, 2016**  
**Letter from David Coombs, 61 Deerfoot Rd., dated August 23, 2016**  
**Three Letters from Karen Hanlon Shimkus, 8 Lynbrook Rd, dated August 23, 2016**  
**Letter from Waterman Design Associates Inc. dated August 18, 2016**  
**Two letters from Karen Hanlon Shimkus, 8 Lynbrook Rd., dated August 17, 2016**  
**Letter from Karen Galligan, Southborough DPW, dated August 24, 2016**  
**Letter from Dale and Elizabeth Veeneman, 10 Flagg Rd., dated August 21, 2016**  
**Letter from John Rooney, 35 Edgewood Rd., dated August 22, 2016**  
**Letter from David Schwartz, 55 Flagg Rd., dated August 24, 2016**

**SOUTHBOROUGH ZONING BOARD OF APPEALS  
MEETING ADMINISTRATIVE MINUTES**

**MEETING DATE/LOCATION:** Wednesday, March 24, 2015; McAuliffe Hearing Room, Town Offices

**MEMBERS SITTING/PRESENT: TOWN OFFICIALS (& OTHERS) PRESENT:**

R/A/C		255 Turnpike Rd, RMD	Bartolini Builders Southville Parkerville	352 Turnpike Rd Ferris Dev	Park Central
R	Mr. Bartolini, Chair	S		S	S
R	Mr. Dennington	S	S	S	A
R	Mr. Bhisitkul	S	S	S	A
R	Mr. Eagle	P	S	S	S
R	Mr. Drepanos	S	S	S	S
A	Mr. Walker	A	A	A	A
A	Mr. Williams	S	A	A	A
C	Karen Finelli	P	P	P	P
C	Joe Giniewicz	P	P	P	A

Regular/Alternate/Clerk                      Sitting/Present/Absent

Mr. Valerio Romano, Esq.  
Mr. Marc Rosenfeld, CEO CommCan Inc.  
Mr. John Bartolini Jr., Bartolini Builders  
Mr. Peter Bemis, Engineer  
Mr. José Martins, Ferris Development  
Mr. William Depietri, Capital Group  
Mr. Aldo Cipriano, Town Counsel  
Mr. Mark Possemato, Chair ConComm  
Mr. Angelo Catanzaro, Esq.  
Mr. Don Morris, Chair Planning Board

**ZBA Administrative Minutes:**

**Continued Public Hearing: 255 Turnpike Rd. Special Permit, Marijuana Dispensary**

**Sitting as a board: Bartolini, Bhisitkul, Dennington, Drepanos, Williams**

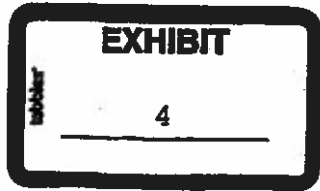
The Public Hearing for 255 Turnpike Rd opened at 6:35PM

Chairman Bartolini made an exit announcement

At the board's request both Mr. Romano and Mr. Rosenfeld provided rebuttals to Dr. Medina's presentation made on March 23, 2016. Discussed diversion, buffer zone, public safety, cash only business and state regulations.

Mr. Bhisitkul expressed concern of diversion, Mr. Romano stated that patients will be required to sign documentation explaining safe guards and required storage of medical marijuana.

Mr. Bartolini asked if amount of marijuana dispensed to patients will be limited, Mr. Romano stated CommCan Inc. will be live with the website at Public Department of Health which will track sales.



Mr. Williams asked the applicant if they could provide current trends of diversion in the state. Mr. Romano responded that the first dispensary opened last June in Salem, Ma. and there is no data.

Mr. Matthew Rhine, 53 Deerfoot Rd. expressed concern that the board is rushing into a decision.

Mr. Howard Rose, 2 Bantry Rd. commented that he agrees with Mr. Rhine and asked that this matter be presented to the town for another vote by the people of the town.

Mr. John Megan, 8 Fitzgerald Ln., expressed concern as well that the decision is being rushed, why a dispensary in our town, what is the value of having one and its proximity to a neighborhood with children.

Mr. Gwam, 36 Meadow Lane concerned with diversion of marijuana, substance abuse and for the safety of our children we should oppose this dispensary.

Ms. Mudderidge, 15 Parmenter Rd. stated that she feels a 500 ft. buffer zone is sufficient and that zoning approval for marijuana dispensaries was not rushed at prior town meetings. Having a legal dispensary will alleviate patients from cultivating at home using dangerous lamps.

Mr. Qi, 3 Presidential Dr. expressed concern that the marijuana will be easy for children to obtain and feels that another location is better suited for this type of business.

Mr. Robert Jancowski, 4 Strawberry Hill Rd. asked the applicant if the penalties are statutory and expressed concern that there is a rush to approve.

Dr. Yazdani, 16A Bantry Rd. asked how opening a dispensary would benefit the town and why does it need to be approved at this time. He also commented that there is a limited pool of patients who will benefit from medical marijuana.

Mr. Cimino, requested that town counsel clarify for the audience the timing of the decision of the application before them with relation to this same matter being presented for changes at town meeting. Town Counsel stated that the Board has a responsibility to act upon the application before them within the time permissible to either deny or approve.

Ms. Milisits, 1 Boswell Ln. expressed concern that this type of facility will have a negative effect on our neighborhoods and asked why we can't say no to this type of business as other surrounding towns have done.

Ms. Connelly, 26 Oak Hill Rd. expressed concern that the zoning is not by right for this type of business. She asked the board to consider health, harmony, real estate values and she feels there is no reason to approve the application and urged the Board to deny the application.

Mr. Williams stated he believes that converting this site to sell recreational marijuana would require coming before the boards again for approval. He also agrees with Mr. Bhisitkul and Mr. Dennington that this use is zoned appropriately for this location.

Mr. Drepanos stated that the applicant is credible and feels that the use fits the criteria.

Chairman Bartolini agreed with the member's comments regarding granting the special permit.

The Board discussed setting the following conditions: setting a host community agreement, lighting and landscaping to be set by planning board, no vehicles parking on route 9, special permit will not be transferable, patients will be required to read and sign documentation pertaining to directions in and out of the facility, no loitering at location, the applicant required to meet with police to review safety matters, exclude all edibles which appear like a candy product to the extend allowed by applicable law.

On a motion made by Mr. Dennington, seconded by Mr. Williams to approve the Special Permit to CommCan Inc. for a RMD at 255 Turnpike Rd. due to conditions set by the board.

Vote of (4-1), (4) In Favor: Bartolini, Dennington, Williams, Drepanos, (1) Opposed: Bhisitkul

The board took a 5 minute recess at 8:55PM

The board reconvened at 9:07PM

**Continued Public Hearing: 141-143 Southville Rd & 251-253 Parkerville Rd.- Special Permit**

**Sitting as a board: Bhisitkul, Dennington, Eagle, and Drepanos. Walker absent (3/24/16)**  
Vice Chairman Bhisitkul explained that the full board is not available to sit on this matter this evening.

The applicant presented a request for both an extension of the application until April 21, 2016 as well as a request to continue the public hearing until April 20, 2016 at 7:30PM.

On a motion made by Mr. Bhisitkul, seconded by Mr. Eagle the board voted to continue the public hearing until April 20, 2016 at 7:30PM. All in favor: Bhisitkul, Dennington, Eagle and Drepanos.

On a motion made by Mr. Bhisitkul, seconded by Mr. Eagle the board voted to approve the extension of the application for special permit at 141-143 Southville Rd & 251-253 Parkerville Rd. until April 21, 2016. All in favor: Bhisitkul, Dennington, Eagle and Drepanos

**Public Hearing: 352 Turnpike Rd. – Ferris Development – Special Permit**

**Sitting as a board: Bartolini, Bhisitkul, Dennington, Eagle, Drepanos**

Hearing opened at 9:10PM

updated list of waivers. Scheduled another meeting was for December 21, 2015 to provide updated list of waivers.

On December 10, 2015 applicant attended an advertised public hearing with Conservation meeting regarding ANRAD application.

On December 21, 2015 applicant attended a second meeting with Planning Board further discussed project as well as the partial list of waivers they would be requesting.

On January 6, 2016 applicant attended Planning Board meeting to discuss comment letter submitted to ZBA. The letter requested the list of waivers which were discussed previously with the Planning Board at the December 21, 2015 meeting.

On January 28, 2016 applicant met with Conservation and they approved ANRAD plan.

On February 4, 2016 applicant had a MEPA meeting at 257 Turnpike Rd, conservation agent and commissions consultant were present and the topic of waiver request was discussed.

The Board stated that they have given appropriate consideration to the applicant's waiver requests.

Town Counsel recommended that the Board provide a formal request for the Conservation Commission to be able to provide a response to the applicants request for waivers as well as rescind their prior vote regarding the waivers.

Mr. Possemato stated they expected the applicant to seek waiver requests however, the Conservation Commission would have liked to provide feedback.

Mr. Catanzaro stated the applicant plans to file a Notice of Intent under the Wetlands Protection Act but will not file a Notice of Intent under the local bylaws. Nor do they intend to comply with the 20 foot buffer rule.

Mr. Eagle stated that the Board will take the comments of Conservation Commission very seriously.

Mr. Catanzaro stated that he will put into writing details pertaining to the waivers requested and provide them to the Board.

Mr. Howard Rose, 2 Bantry Rd. asked when the Board will discuss the Chapter 40A part of the project.

Town Counsel explained that granting a Use Variance is the highest form of zoning relief which may be obtained and its jurisdiction is under the Zoning Board of Appeals. However, the Planning Board does have some authority and jurisdiction under a portion of the project as well.

containing more than 2 bedrooms is requested. Subject to special condition that the waiver applies only to the affordable housing component of the project. All in favor, vote (3-0).

On a motion made by Mr. Drepanos, seconded by Mr. Eagle to grant waiver request of section 174-12.1 outdoor illumination. Waiver of strict compliance with Night Sky Compliant fixtures so as to allow for 14' poles in the Townhouse component with 18' in affordable housing component subject to special condition that applicant provided detailed lighting plan. All in favor, vote (3-0).

On a motion made by Mr. Eagle, seconded by Mr. Drepanos to grant waiver request of section 174-13. Waiver of compliance with landscaping requirements so as to allow for (i) reduced number of trees and shrubs in lieu of the 40' tree spacing and 3' shrub spacing; (ii) landscape buffer of less than 10' along route 495 right of way where garages are located and retaining walls are required; and (iii) eliminate the requirement of tree planting within 60' of every parking space. Subject to special condition that applicant provided detailed planting plan with a minimum of 62 trees. All in favor, vote (3-0).

Mr. Morris requested that the Board not grant a waiver for lower impact development (LID) since it's an important bylaw to adhere to.

On a motion made by Mr. Drepanos, seconded by Mr. Eagle to grant waiver request of section 174-13.3, waive compliance with the LID requirements subject to reconsideration or special conditions based on Planning Board comments. All in favor, vote (3-0).

On a motion made by Mr. Eagle, seconded by Mr. Drepanos to grant waiver request of section 244-13A (3) to allow for design and construction of site access driveways as private drives without connection to Tara Road and Bantry Road subject to special condition that entrance design to project properly addresses safety concerns to the satisfaction of the Board. All in favor, vote (3-0).

On a motion made by Mr. Drepanos, seconded by Mr. Eagle to grant waiver request of section 244-13(5) to allow for street jogs with center line offsets of less than 150 feet between two streets joining the third street from the opposite side. All in favor, vote (3-0).

On a motion made by Mr. Eagle, seconded by Mr. Drepanos to grant waiver request of section 244-13(7) allow for leveling area of more than 2% and less than 75 feet from the side line of the intersecting street right of way where the street grade exceeds 4% so as to accommodate road design at the following intersections: Webber Circle (south) with Park Central Drive – 3.6% for 55 feet, then 4.5%, Phaneuf Drive with Park Central Drive – 3.6% for 55 feet, then 8%, Holmes Drive with Phaneuf Drive – 3% for 20 feet, then 6.7%, Berry Circle (south) with Park Central Drive – 3.3% for 60 feet, then 5.3% subject to special condition that road/intersection design properly address safety concerns to the satisfaction of the Board. All in favor, vote (3-0).

On a motion made by Mr. Eagle, seconded by Mr. Drepanos to grant waiver request of section 244-13(9) to allow for construction of Park Central Drive with an 840 foot straight (tangent) section and pavement width of 22 feet. All in favor, vote (3-0).



Massachusetts Housing Finance Agency  
One Beacon Street, Boston, MA 02108

Tel: 617.854.1000 | Fax: 617.854.1081  
W: 866.758.1435 | www.masshousing.com

February 11, 2014

Park Central, LLC  
259 Turnpike Road, Suite 100  
Southborough, MA 01772  
Attention: Mr. William Depietri

**Re: The Residences at Park Central  
Southborough  
PE- 523  
Project Eligibility (Site Approval) Application**

Dear Mr. Depietri:

This letter is in response to your application as "Applicant" or "Developer" for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B, 760 CMR 56.00 and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development ("DHCD") (the "Guidelines") (collectively, the "Comprehensive Permit Rules"), under the following programs (the "Programs"):

- Housing Starts Program of the Massachusetts Housing Finance Agency ("MassHousing")
- New England Fund ("NEF") Program of the Federal Home Loan Bank of Boston.

The proposal is to build 180 condominium units (the "Project") on 13.28 acres of land located off Park Central Road (the "Site") in Southborough (the "Municipality").

This letter is intended to be a written determination of Project Eligibility ("Site Approval") in accordance with the Comprehensive Permit Rules, establishing fundability by a subsidizing agency under a low or moderate-income housing subsidy program pursuant to the Guidelines which may be found at [www.mass.gov/hed/economic/eohed/dhcd/legal](http://www.mass.gov/hed/economic/eohed/dhcd/legal). To the extent that Project funding is provided by a non-governmental entity such as a Federal Home Loan Bank, this letter is also intended to be a determination of Project Eligibility ("Site Approval") by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, "Housing Programs In Which Funding Is Provided By Other Than A State Agency."

MassHousing staff has performed an on-site inspection of the Site, which local boards and officials were invited to attend, and has reviewed the pertinent information for the Project

Deval L. Patrick, Governor

Ronald A. Homer, Chairman  
Thomas N. O'Brien, Vice Chair

Thomas R. Gleason

**EXHIBIT**

5

approved at Final Approval and at the time of Cost Examination/Cost Certification, for limited dividend purposes, is the "As Is" value (determined by the MassHousing commissioned independent appraisal) of \$1,030,000 plus reasonable and verifiable carrying costs (where permitted by the Guidelines) from the December 12, 2012 date of your Site Approval application.

5. The Applicant must enter into a Regulatory Agreement with MassHousing, in the form for the applicable Program, ensuring compliance with the requirements of the Comprehensive Permit Rules and the Program. The legal description of the Site attached to the Regulatory Agreement must be recordable.
6. In order to satisfy the Program requirements, financing for the Project must originate from a subsidizing lender such as MassHousing or a bank that is a member of the Federal Home Loan Bank of Boston ("FHLBB"). Should you choose to finance the Project through a member bank of the FHLBB, financing for a minimum of 25% of the construction costs must be obtained from the NEF Program. Evidence of a firm commitment for financing for the Project must be provided during your request to MassHousing for Final Approval. The Regulatory Agreement shall provide that any transfer of all or a portion of the NEF lender's interest (including participations or sale of servicing rights) during the entire term of the construction financing shall be subject to the approval of the Subsidizing Agency.
7. The Project must comply with the Commonwealth's Sustainable Development Principles embraced by DHCD (formerly implemented by MassHousing by its use of the Smart Growth Criteria).

The Municipality was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. Based on MassHousing's site and design review, and its review and consideration of comments received from the Municipality, the following issues should be addressed in your application to the Zoning Board of Appeals ("ZBA") for a Comprehensive Permit and fully explored in the public hearing process prior to submission of your application for Final Approval:

1. Compliance with all statutory and regulatory restrictions and conditions relating to protection of drainage, wetlands, vernal pools and wildlife habitats and nearby conservation areas, if applicable to this Site. You should provide evidence of such compliance prior to the issuance of the building permit for the Project.
2. Compliance with Title V regulations regarding the design and construction of individual wells, septic systems and wastewater treatment plants, if applicable to this Site, except to the extent waived pursuant to Title V. You should provide evidence of such compliance prior to the issuance of the building permit for the Project.



The Residences at Park Central  
Southborough, MA  
PE-523

extend the effective period of this letter in writing, this letter shall be considered to have expired and no longer be in effect. In addition, the Applicant is required to notify MassHousing at the following times throughout this two year period: (1) when the Applicant applies to the local ZBA for a Comprehensive Permit, (2) when the ZBA issues a decision and (3) if applicable, when any appeals are filed.

Should a Comprehensive Permit be issued, please note that prior to ( i ) commencement of construction of the Project or ( ii ) issuance of the building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project, as it may have been amended, in accordance with the Comprehensive Permit Rules (see 760 CMR 56.04(7) and the Guidelines). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of Final Approval as required at Site Approval.

**Further Opportunities for Assistance from MassHousing:** Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the applicable housing subsidy program (MassHousing's Housing Starts Program or the New England Fund Program of the FHLBB, for which MassHousing serves as Subsidizing Agency), as reflected in the applicable regulatory documents. Without limitation, we note that if the Comprehensive Permit will contain any local preference conditions, the Guidelines require that the community demonstrate that a local preference is needed and can be implemented in a way that will not have a disparate impact on protected classes. In the interest of providing for an efficient review process and in order to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

**Notice Regarding Monitoring Agent:** Under current procedures, MassHousing intends to delegate responsibility for monitoring compliance with the minimum affordability requirement to an entity which MassHousing deems qualified to perform the services required. Please contact MassHousing to discuss the selection of a Monitoring Agent.

If you have any questions concerning this letter, please contact Michael Busby at 617-854-1219 or Greg Watson at 617-854-1880.

Sincerely,



Thomas R. Gleason  
Executive Director

The Residences at Park Central  
Southborough, MA  
PE-523

### Attachment 1.

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency  
Section (4) Findings and Determinations

#### **The Residences at Park Central, Southborough, MA PE-523**

After the close of a 30-day review period and extension, if any, MassHousing hereby makes the following findings, based upon its review of the application, and taking into account information received during the site visit and from written comments:

*(a) MassHousing finds that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);*

The Project is eligible under the NEF housing subsidy program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income. A letter of financial interest was provided by Mutual One Bank of Framingham.

*(b) MassHousing finds that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);*

Southborough does not have a DHCD Certified Housing Production Plan. Southborough does have a Housing Production plan on file at DHCD. Southborough has 102 Subsidized Housing Inventory (SHI) units (7.5 % of its housing inventory), which is 86 SHI units shy of the 10% SHI threshold.

*(c) MassHousing finds that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);*

#### **Relationship to adjacent building typology**

The Developer has proposed building a 180 unit residential complex with 5 buildings, a community building and a pool. The units will feature between 967 to 1,267 square feet of living

The Residences at Park Central  
Southborough, MA  
PE-523

**Proposed Use**

Based on MassHousing staff's site inspection, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses.

*(d) MassHousing finds that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);*

The Project appears financially feasible based on a comparable sales letter submitted by realtor Joyce Torelli of Key Realty Services of Marlborough.

*(e) MassHousing finds that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's guidelines, and the Project appears financially feasible and consistent with the Department's guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;*

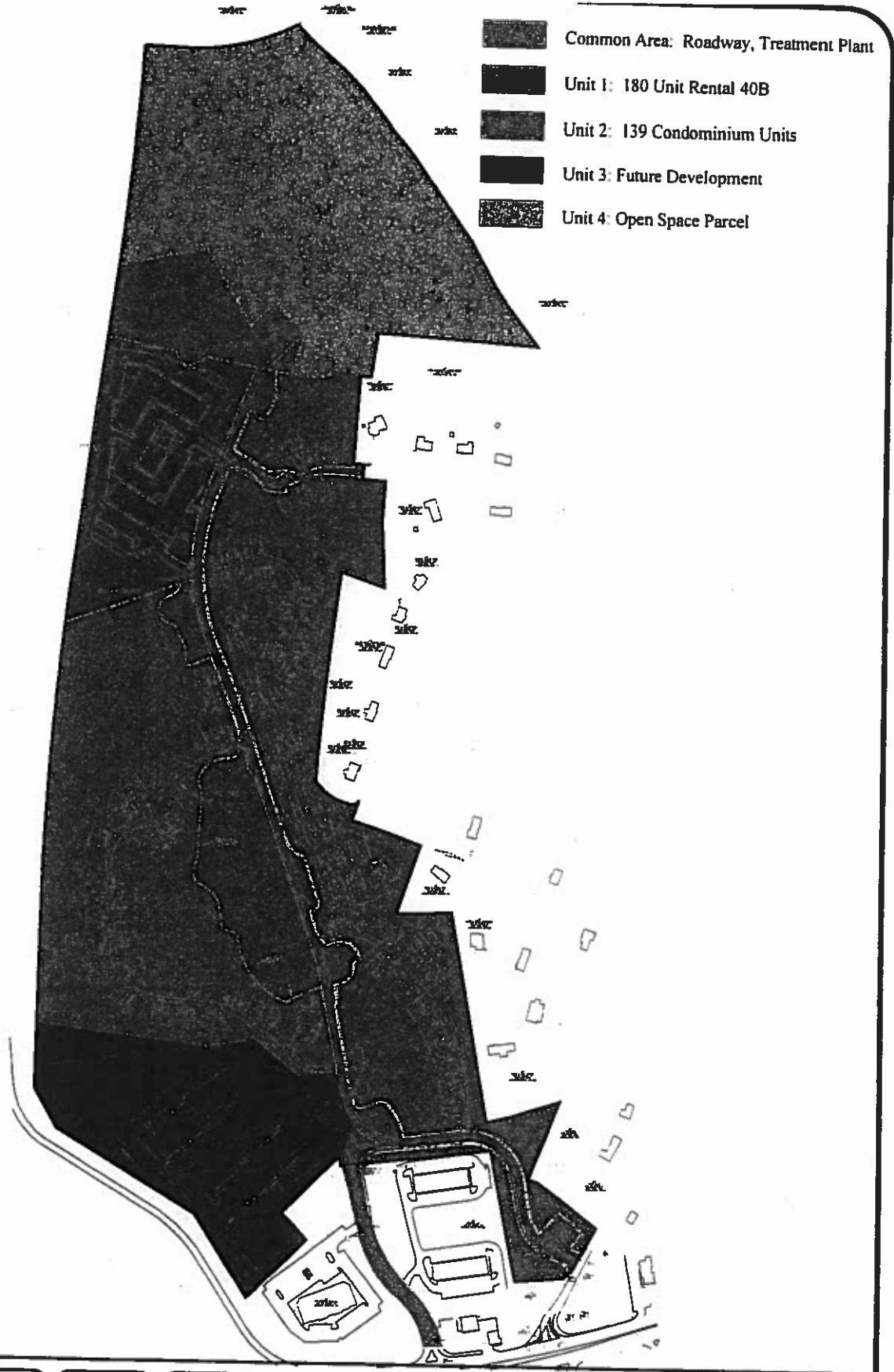
The initial pro forma has been reviewed for the proposed residential use and the Project appears financially feasible with a projected profit margin of 19.8 %. In addition, a third party appraisal commissioned by MassHousing has determined that the "As Is" land value for the Site of the proposed Project is \$1,030,000.






*(f) MassHousing finds that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and*

The Applicant must be organized as a Limited Dividend Organization prior to applying for Final Approval. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program.

*(g) MassHousing finds that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.*

The Applicant controls the entire 13.28 acre Site under a deed of ownership.



-  Common Area: Roadway, Treatment Plant
-  Unit 1: 180 Unit Rental 40B
-  Unit 2: 139 Condominium Units
-  Unit 3: Future Development
-  Unit 4: Open Space Parcel

Park Central  
 May 21, 2016  
 Scale: 1"=150'

Project Name and Address

Capital Group Properties  
 259 Temple Road, Suite 100  
 Southborough, MA 01772


# Capital Group Properties

## Park Central - Full Site

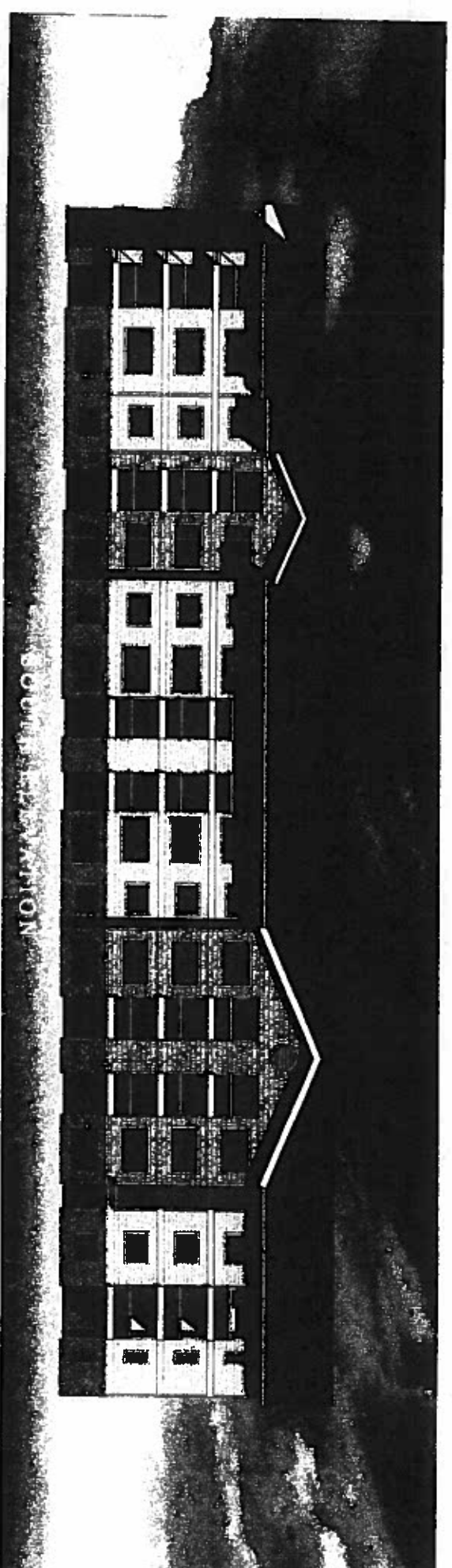
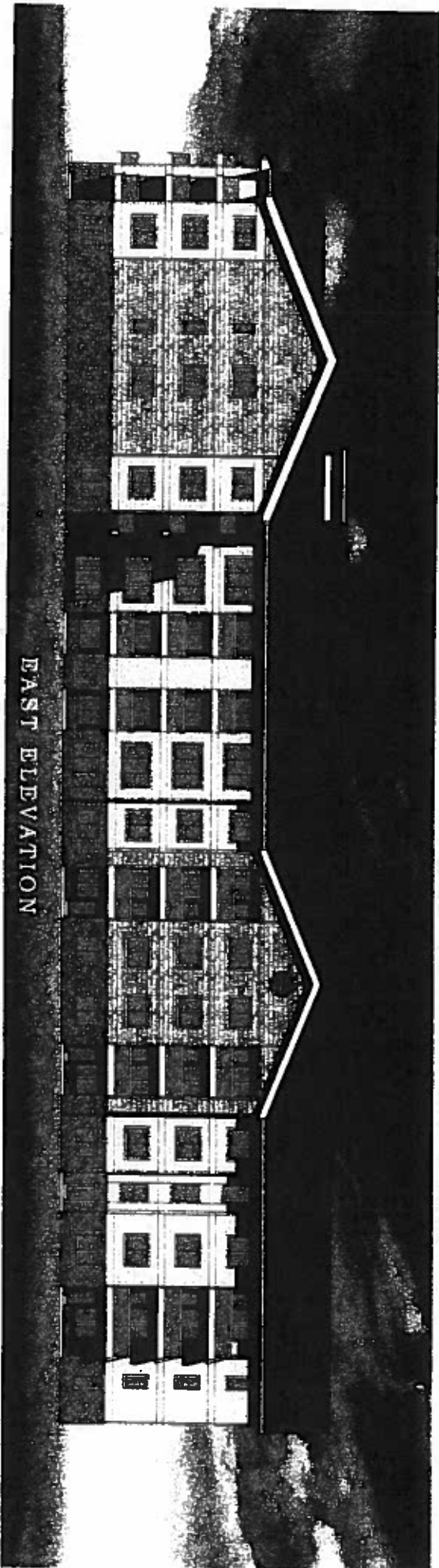
### Park Central, Southborough, MA

Capital Group

Exhibit 7

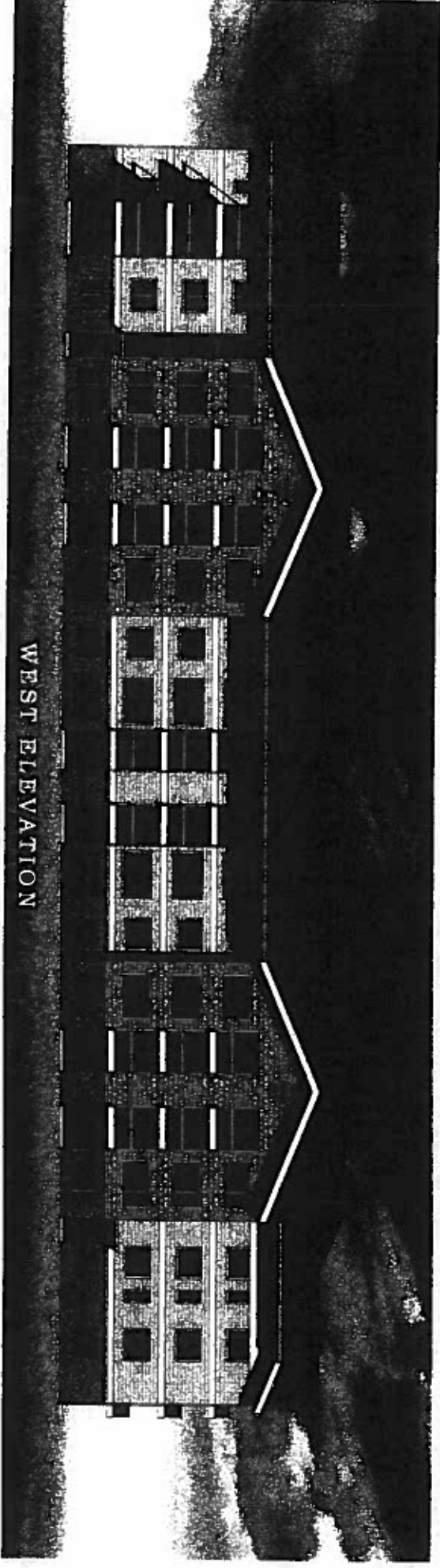
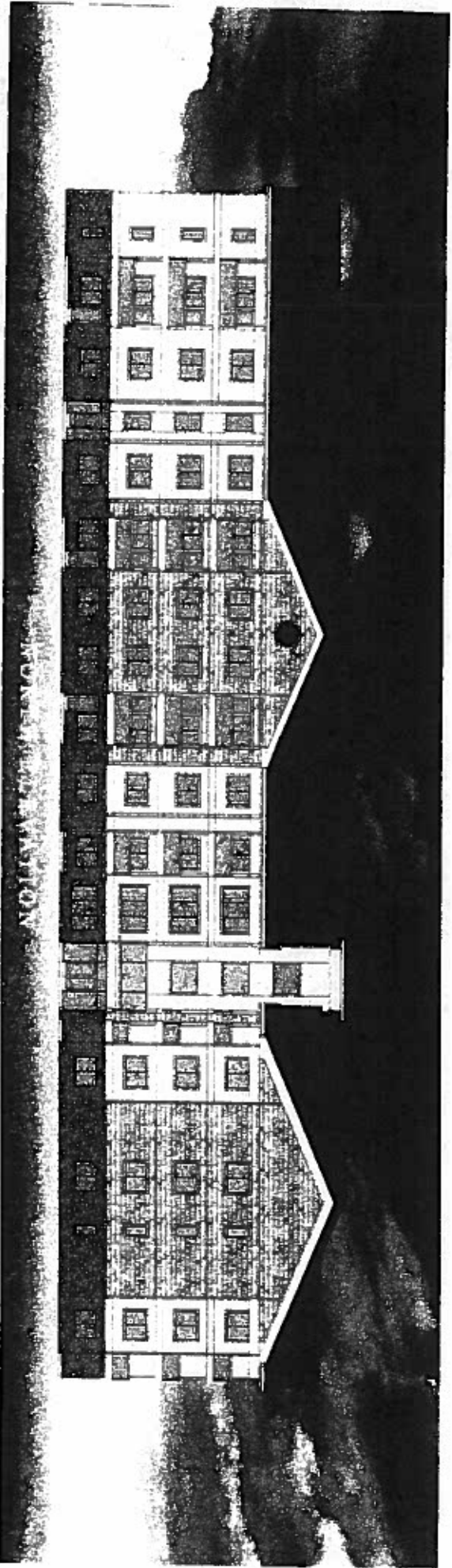


PARK CENTRAL  
 RESIDENTIAL  
 DEVELOPMENT



 CAPITAL GROUP

Exhibit B



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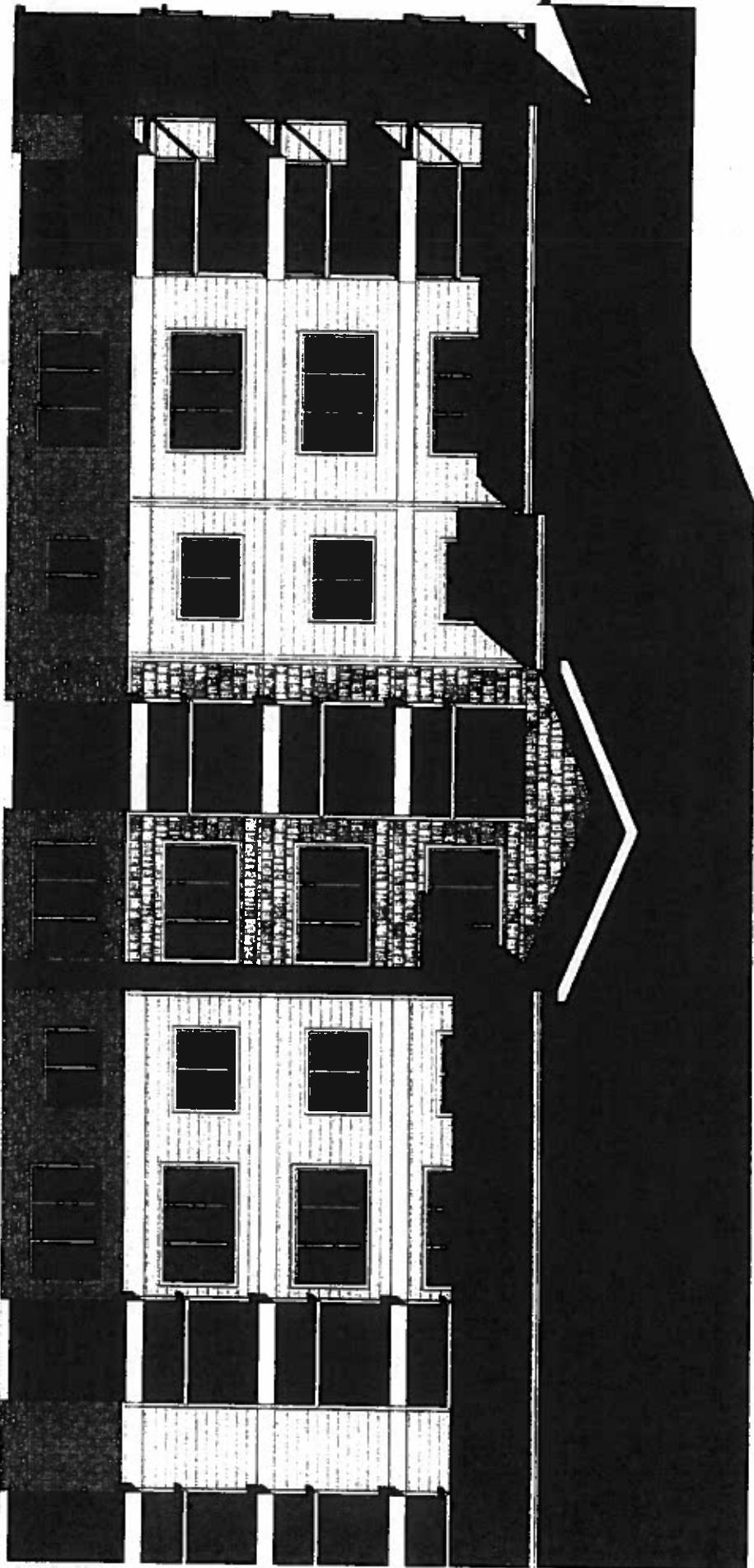
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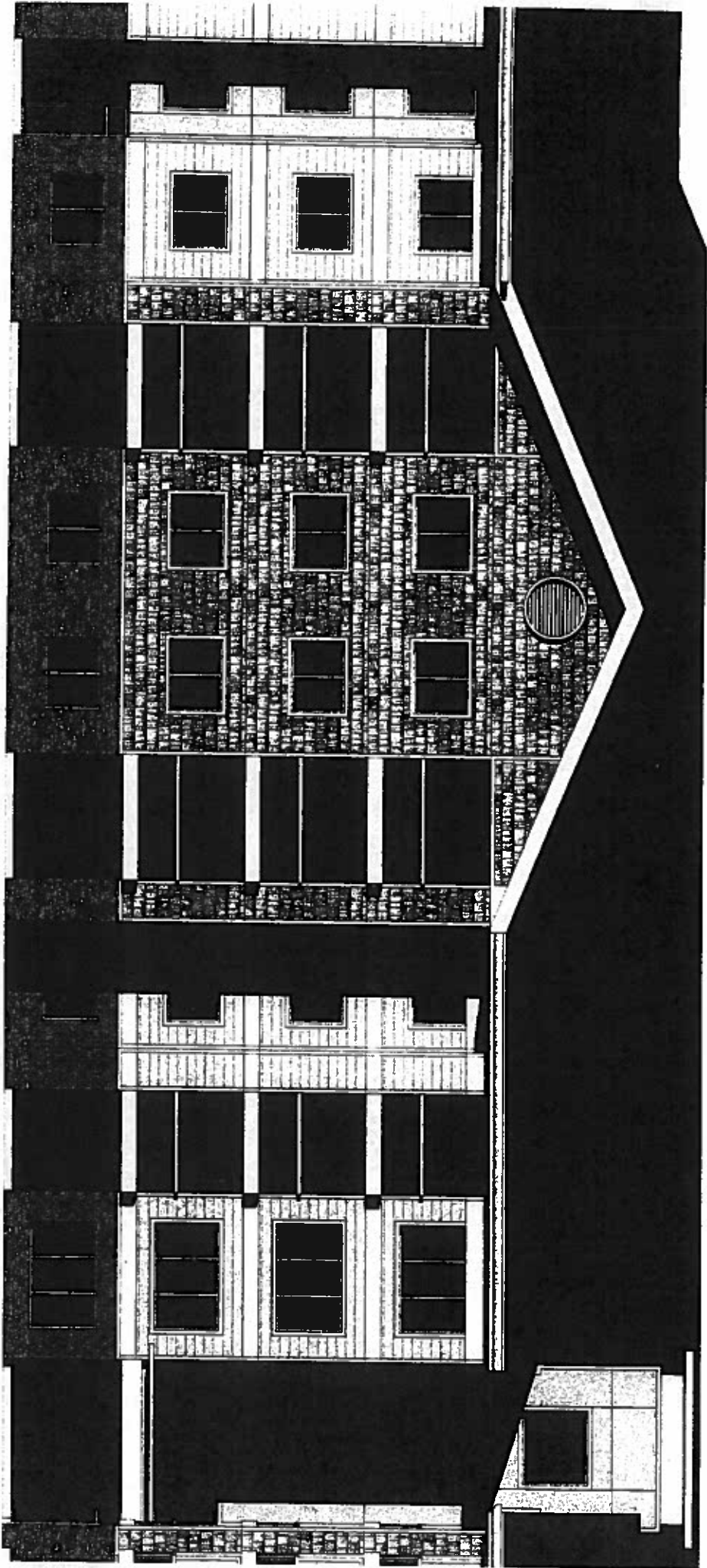


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PRELIMINARY





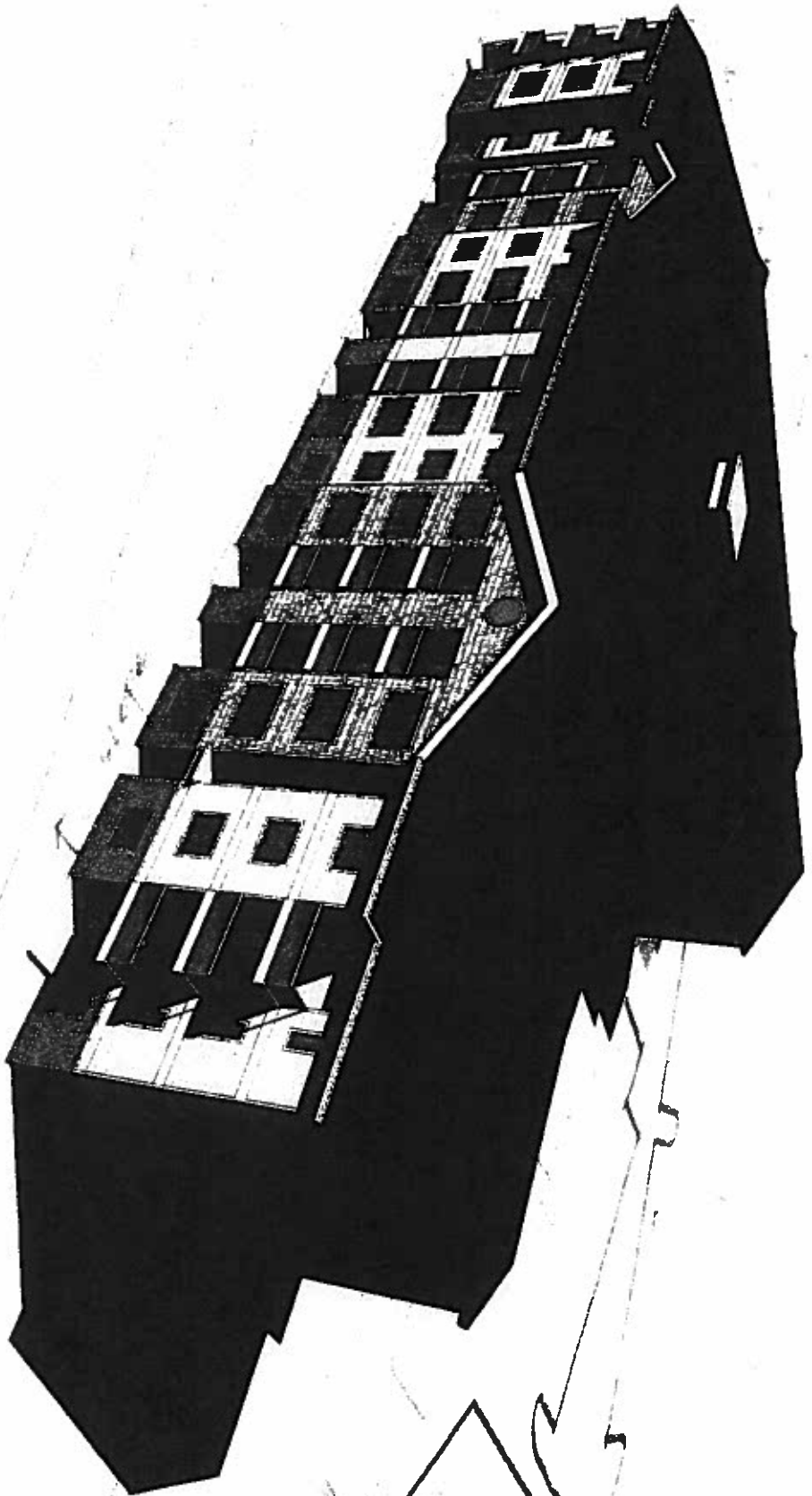
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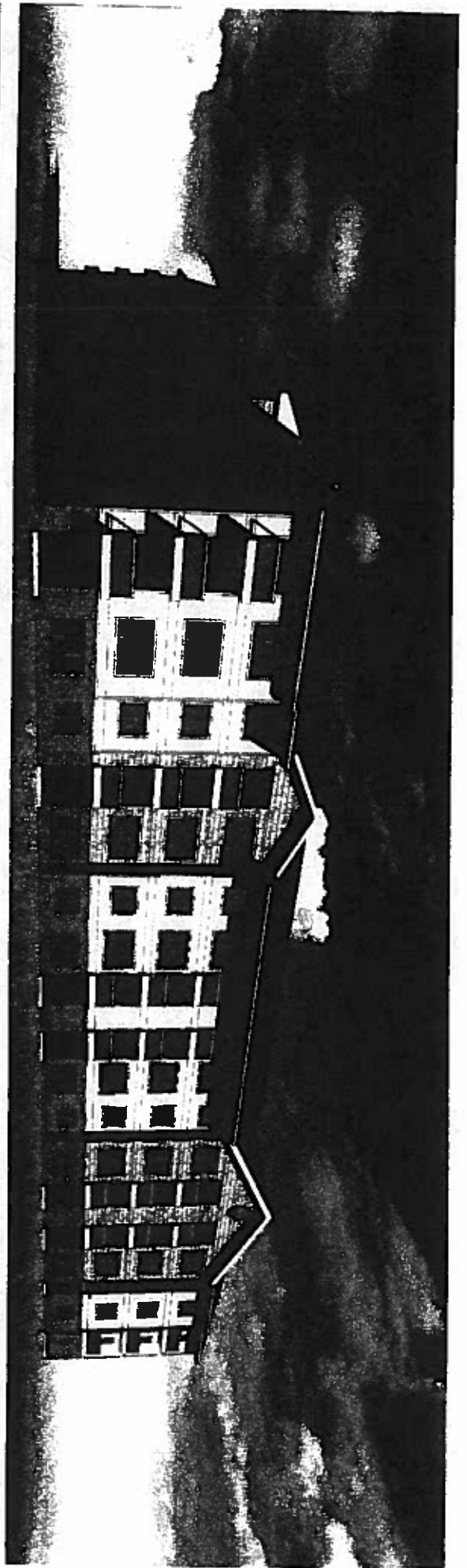
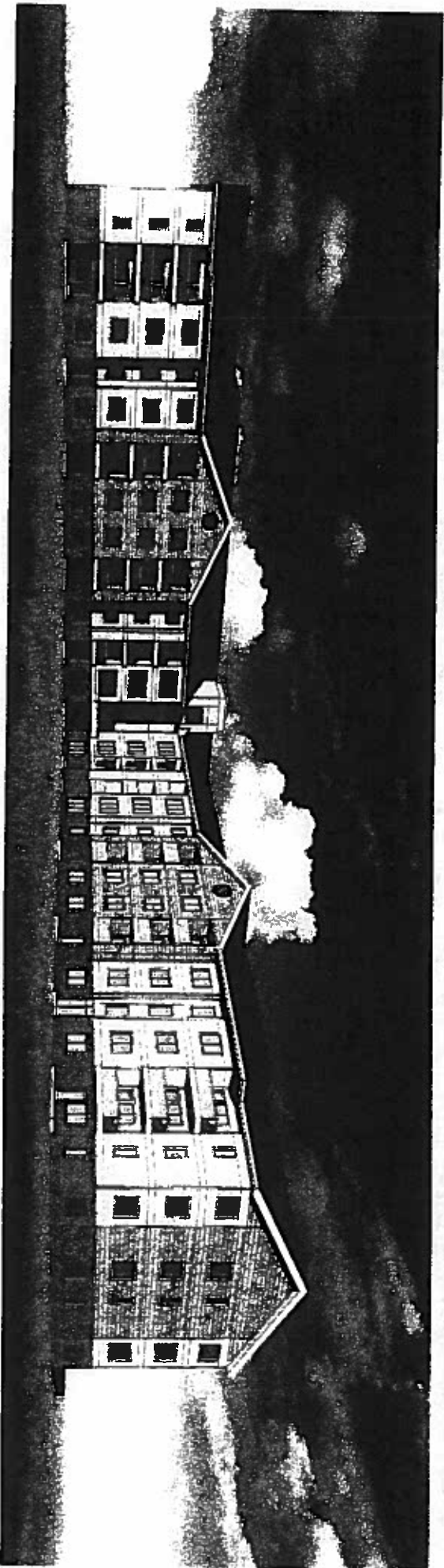
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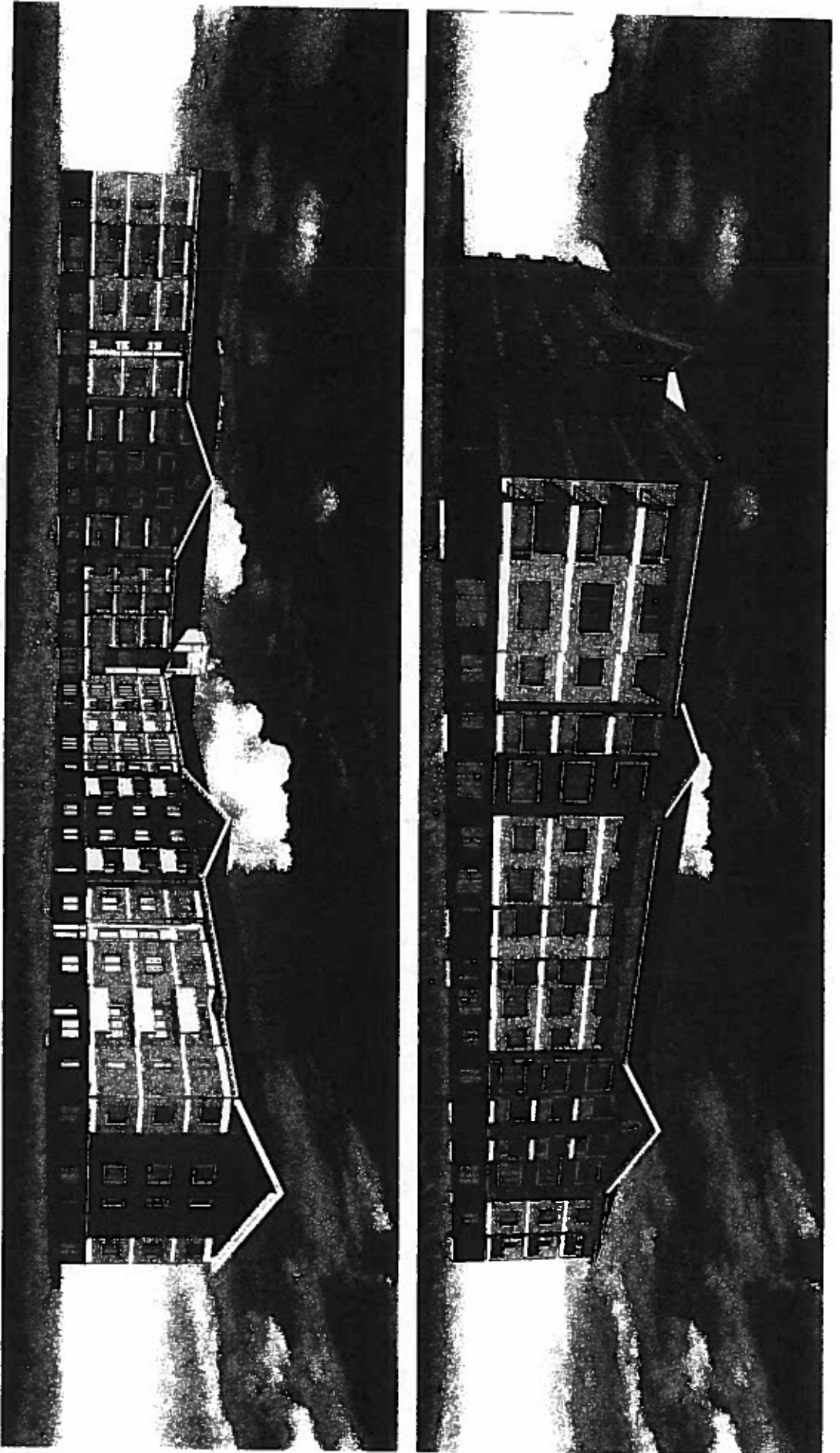


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PARK CENTRAL  
RESIDENTIAL  
SERVICES  
CORPORATION

CAPITAL GROUP





PARK CENTRAL  
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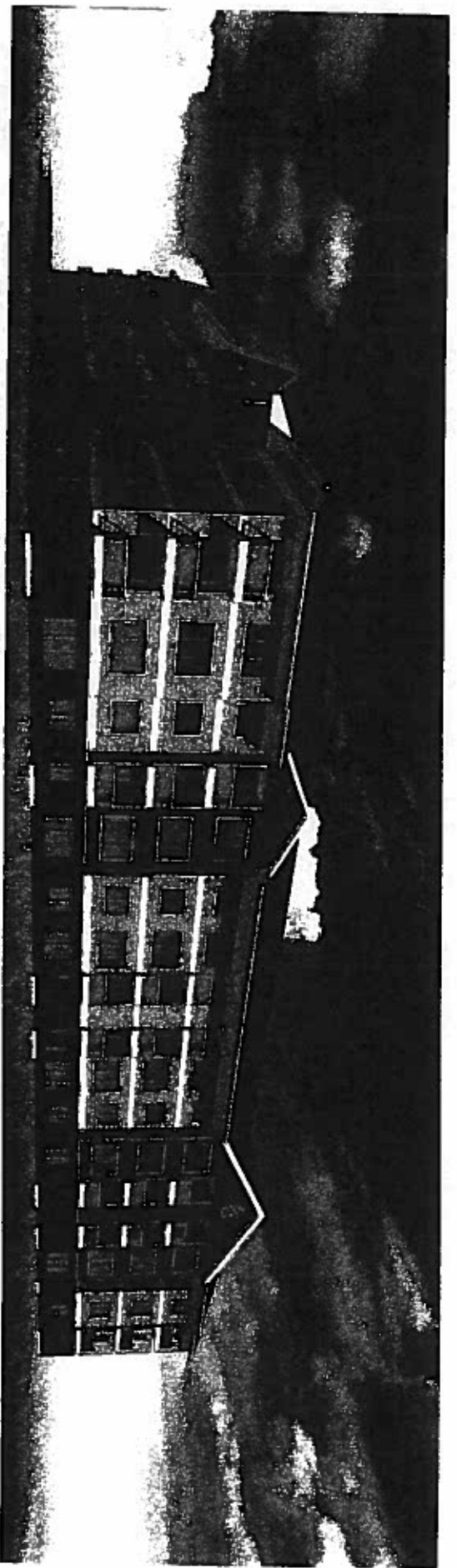
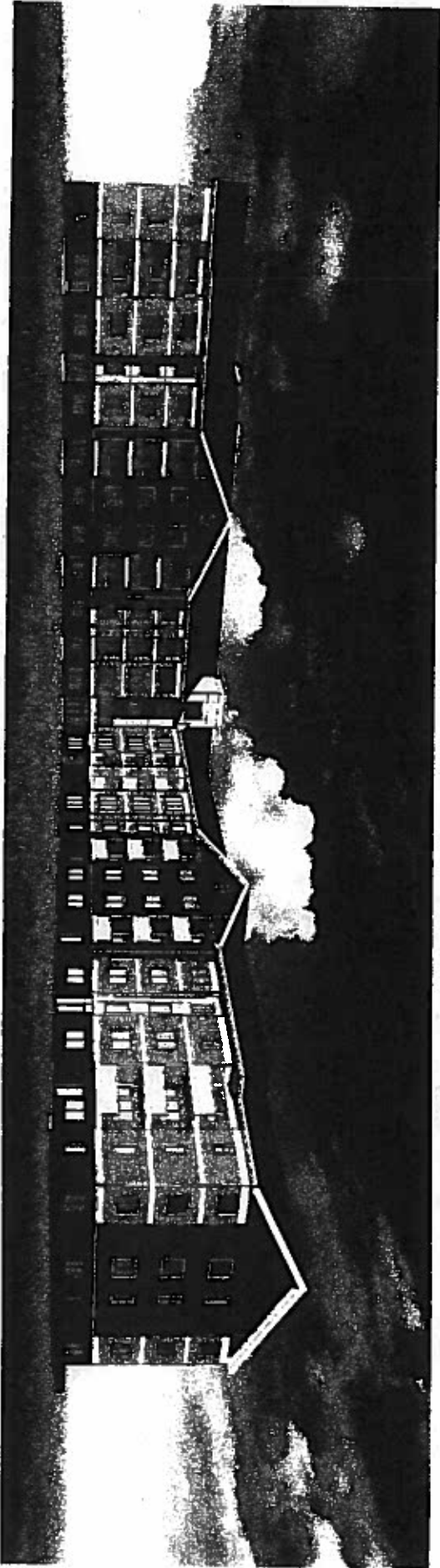
CAPITAL GROUP

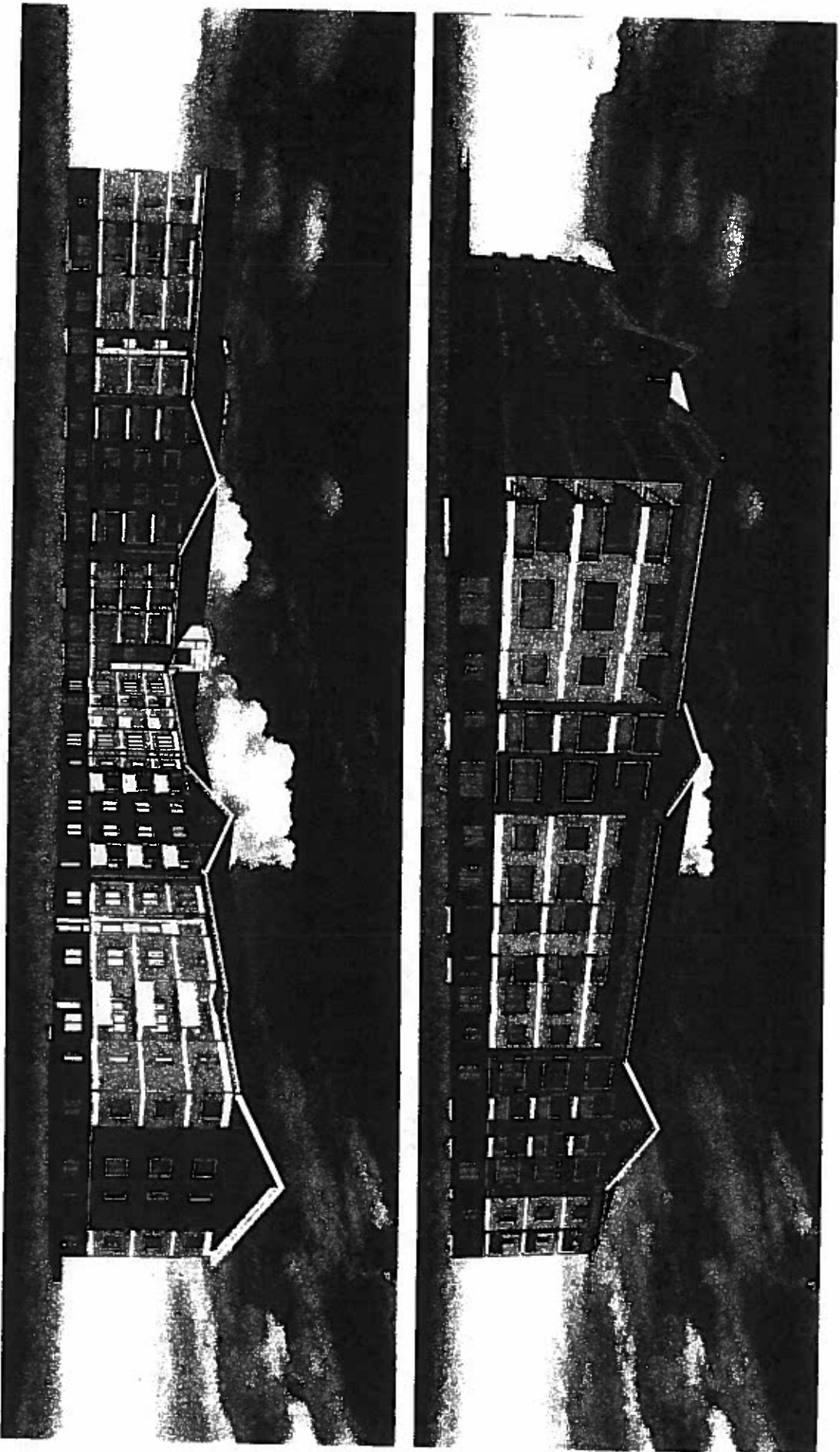
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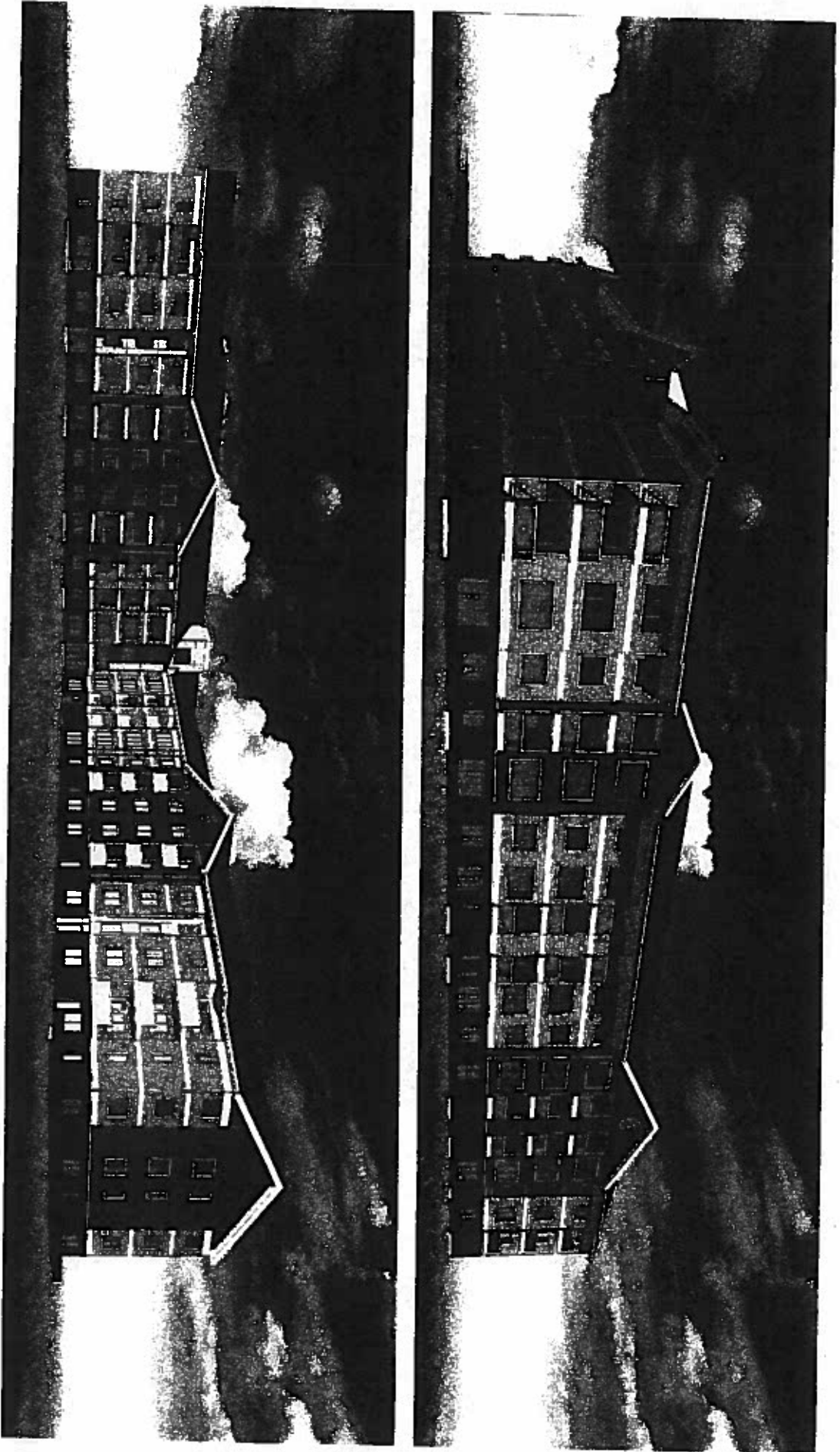




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CAPITAL GROUP

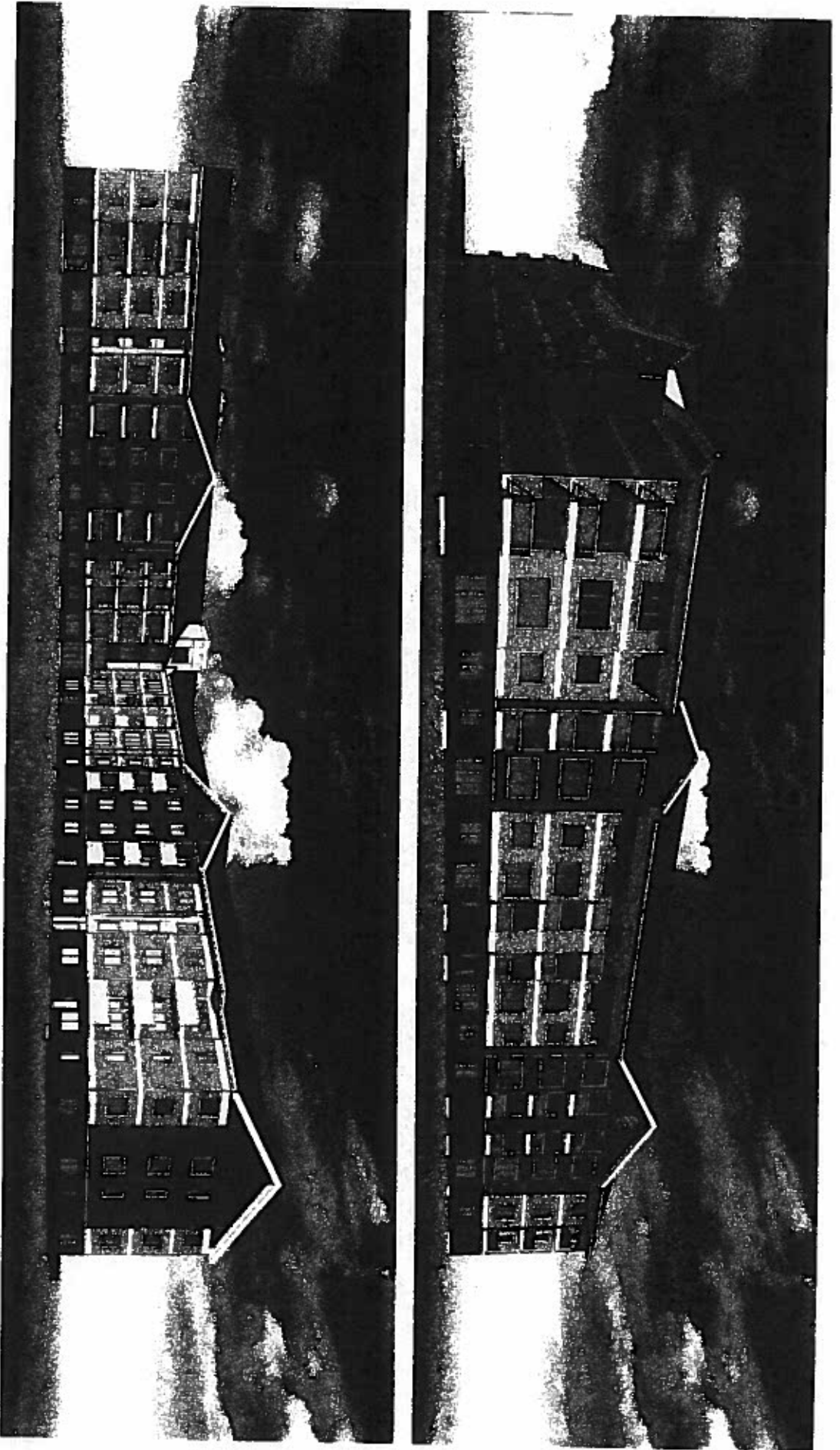




PARK CENTRAL  
RESIDENTIAL STUDIOS

CAPITAL GROUP

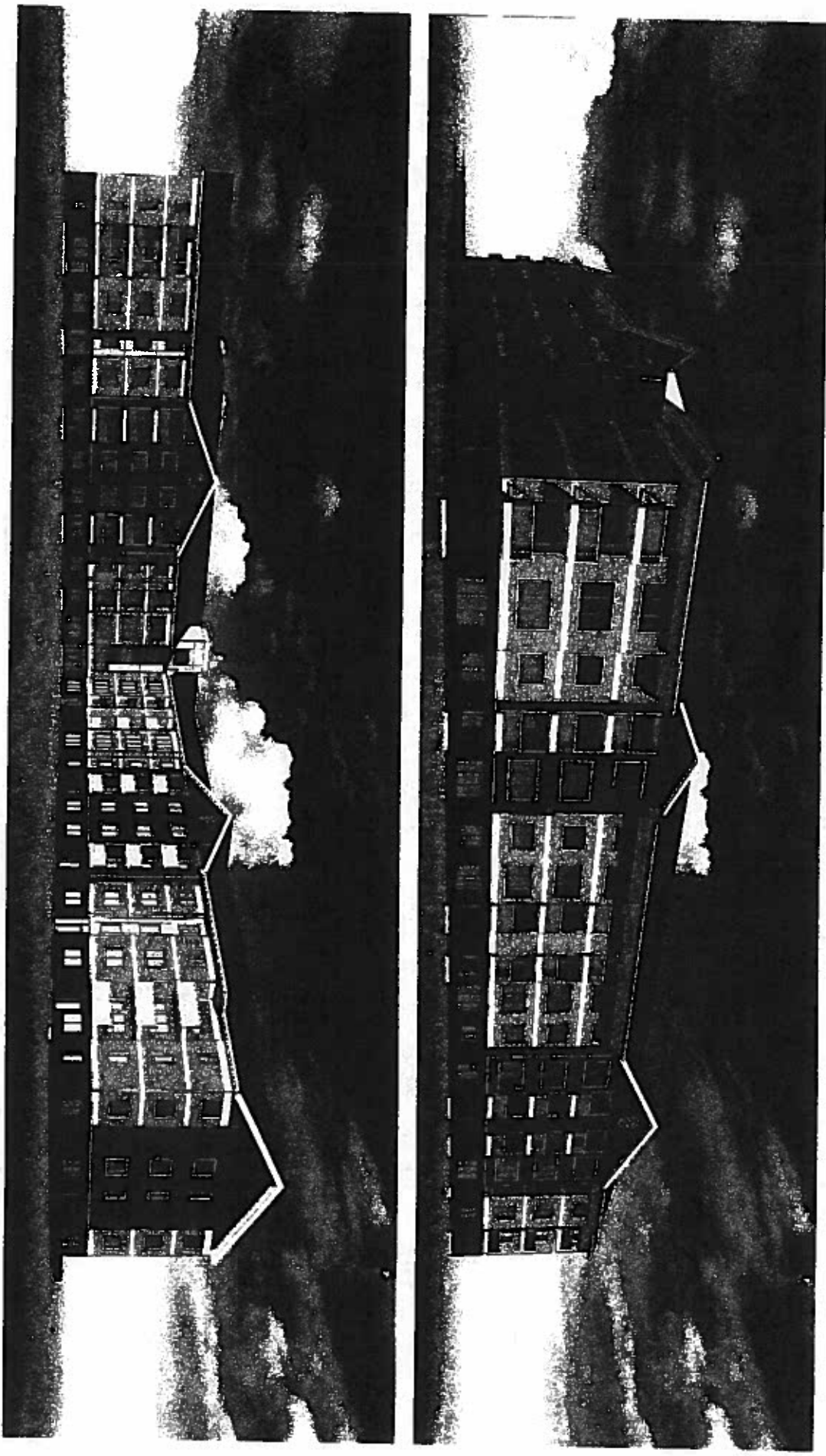




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CAPITAL GROUP

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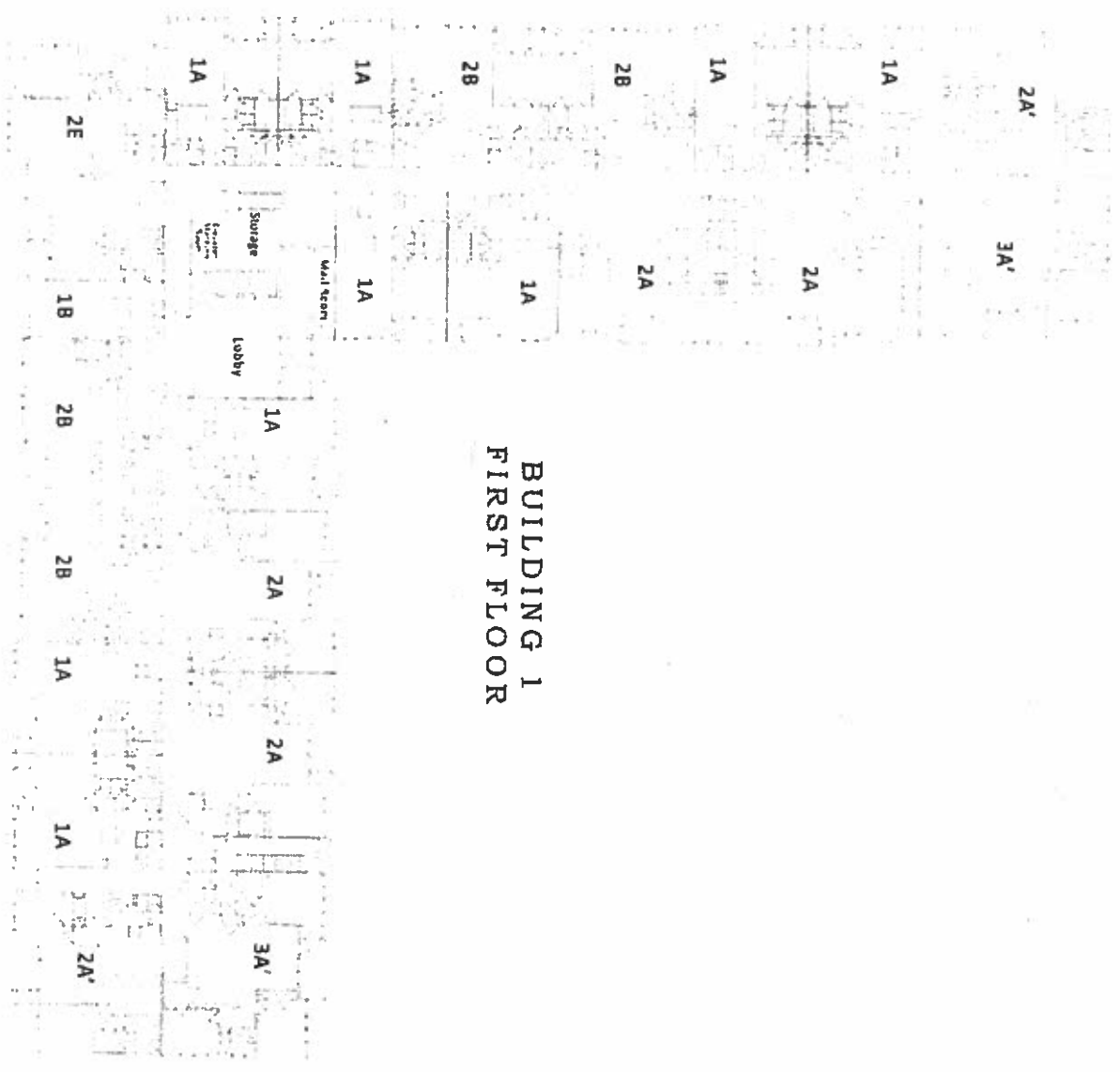


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CAPITAL GROUP

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BUILDING 1  
FIRST FLOOR

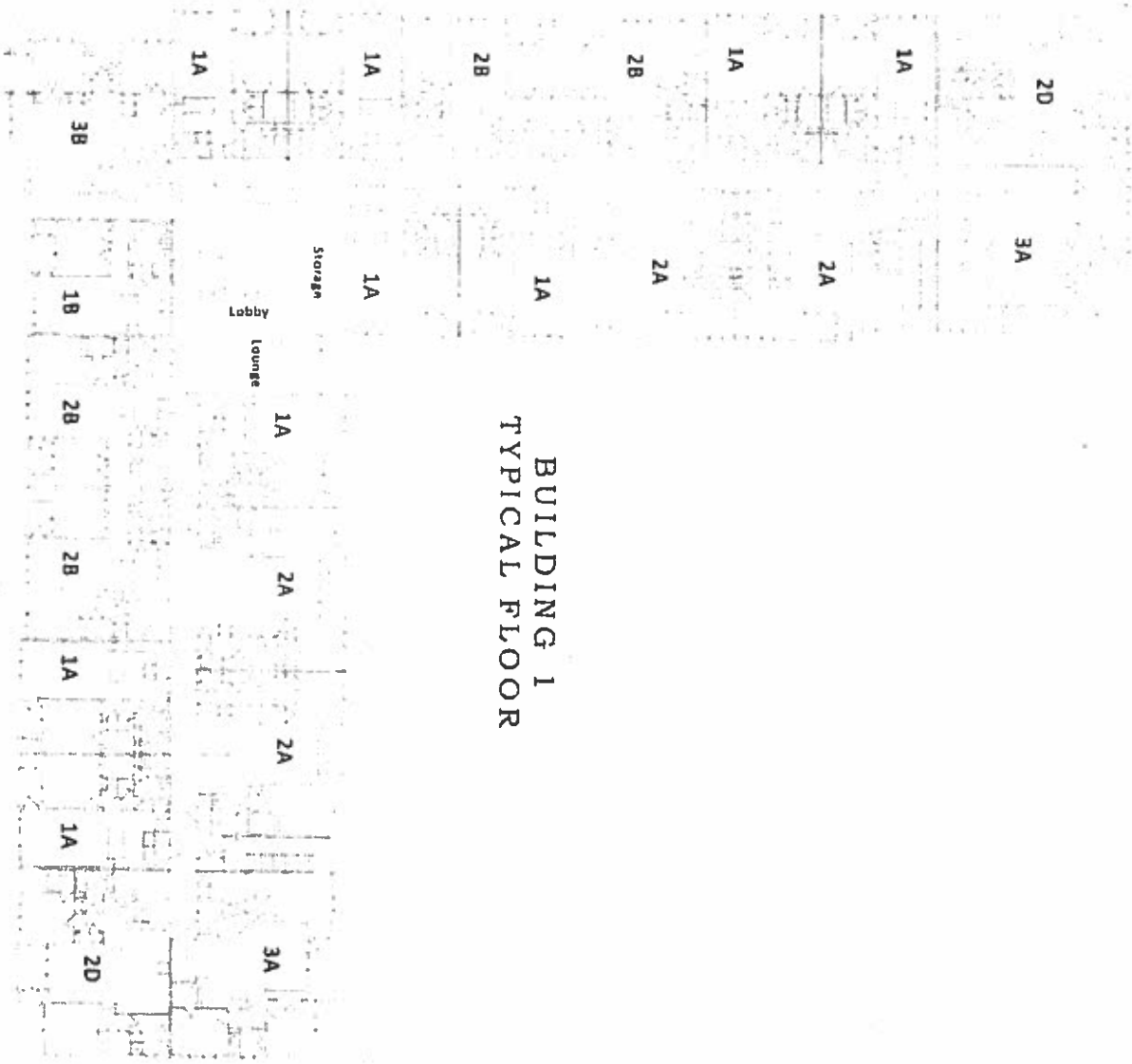


SEPTEMBER 9, 2015



**PARK CENTRAL**  
RESIDENTIAL  
BUILDING PLAN





BUILDING 1  
TYPICAL FLOOR



SEPTEMBER 9, 2015



**PARK CENTRAL**  
RESIDENTIAL  
BUILDING PLAN



BUILDING 2  
FIRST FLOOR



SEPTEMBER 9, 2015



**PARK CENTRAL**  
RESIDENTIAL  
BUILDING PLAN



BUILDING 2  
TYPICAL FLOOR



SEPTEMBER 9, 2015



**PARK CENTRAL**  
RESIDENTIAL  
BUILDING PLAN



**CAPITAL GROUP**  
PROPERTIES

August 14, 2015

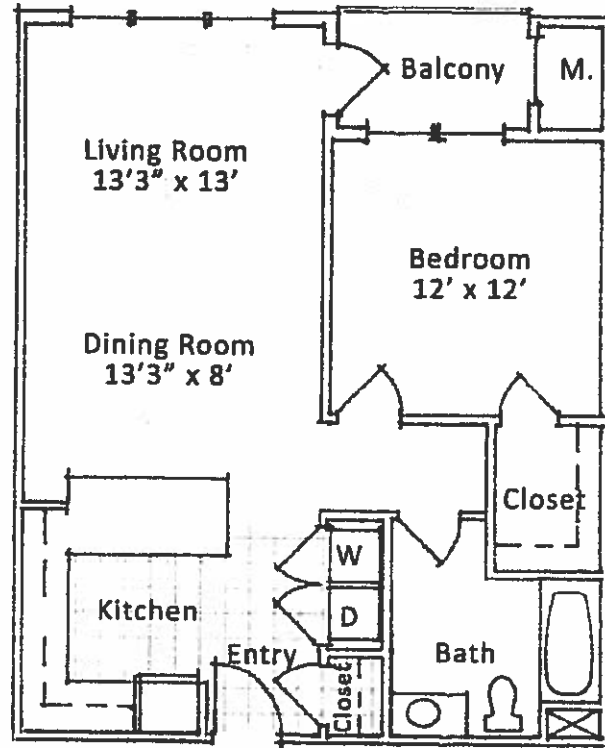
Unit Types	One Bedrooms			Two Bedrooms				Three Bedrooms			Total Units		
	1A	1B	1C	2A	2A'	2B	2D	2E	2F	3A		3A'	3B
<b>BUILDING 1</b>													
Fourth Floor	9	1		4		4	2			2		1	23
Third Floor	9	1		4		4	2			2		1	23
Second Floor	9	1		4		4	2			2		1	23
First Floor	9	1		4	2	4		1			2		23
Total by Unit Type	36	4		16	2	16	6	1		6	2	3	92
Subtotal by Bedrooms		40				41					11		
<b>BUILDING 2</b>													
Fourth Floor	10			3		4	2		1	1		1	22
Third Floor	10			3		4	2		1	1		1	22
Second Floor	10			3		4	2		1	1		1	22
First Floor	10		1	2	2	4			1		1		21
Total by Unit Type	40		1	11	2	16	6	1	4	3	1	3	87
Subtotal by Bedrooms		41				40					7		
<b>Total by Bedrooms</b>		81				81					18		180



**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES



August 14, 2015



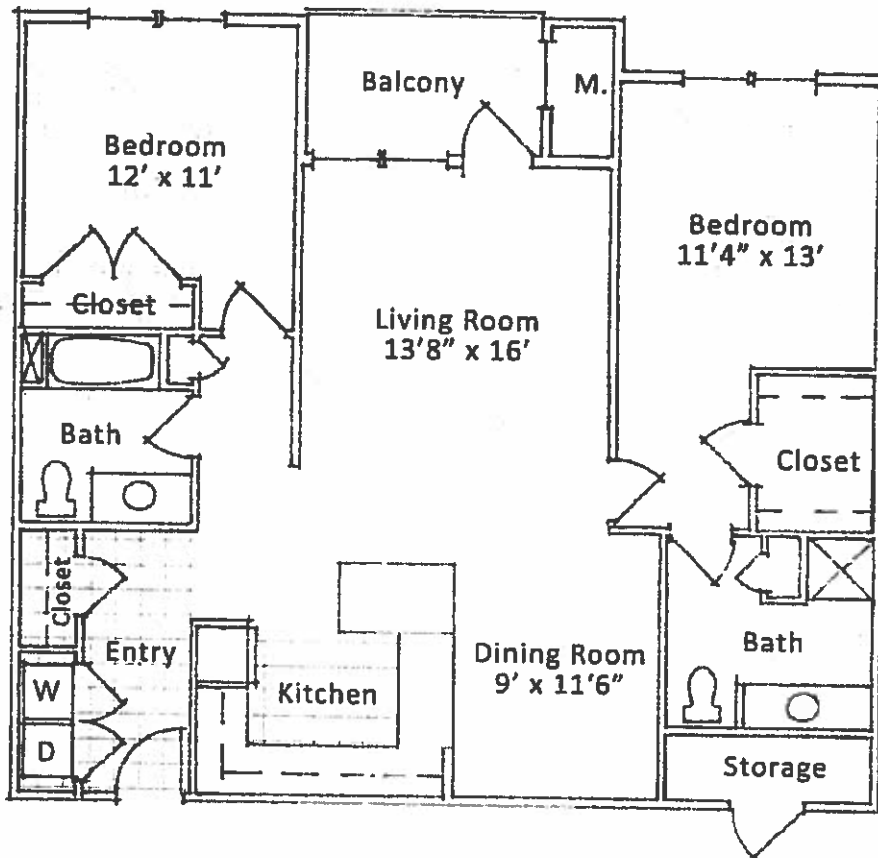
UNIT 1B  
760 sf.  
Building 1  
All Floors  
4 Total



**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES



August 14, 2015



UNIT 2A  
1170 sf.  
Buildings 1 and 2  
All Floors  
28 Total



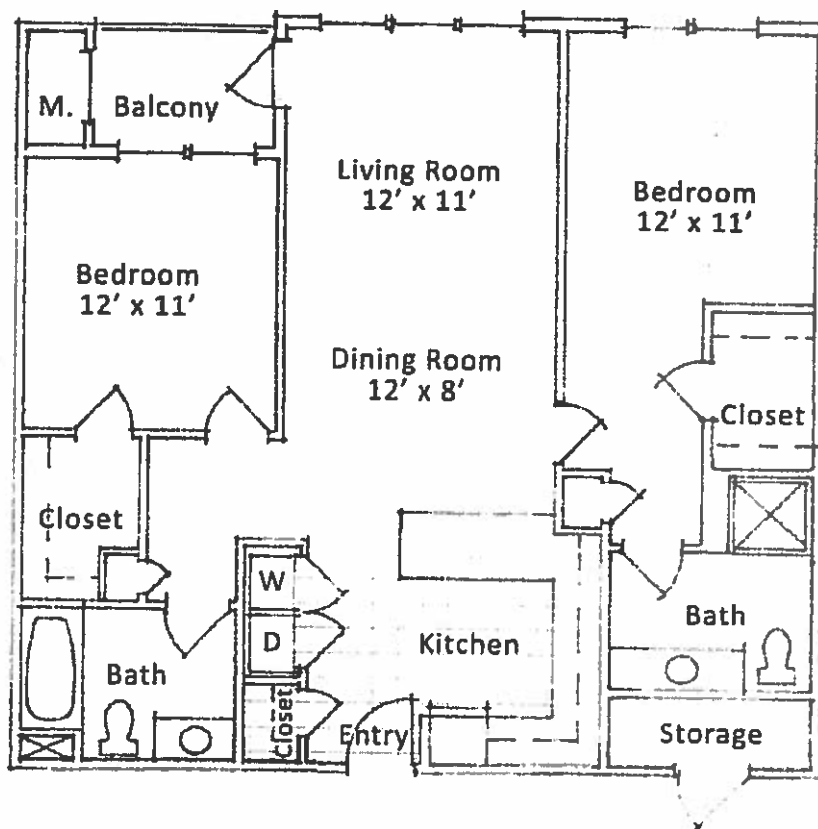
**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES



**CAPITAL GROUP**

PROPERTIES

August 14, 2015



UNIT 2B  
1075 sf.  
Buildings 1 and 2  
All Floors  
32 Total

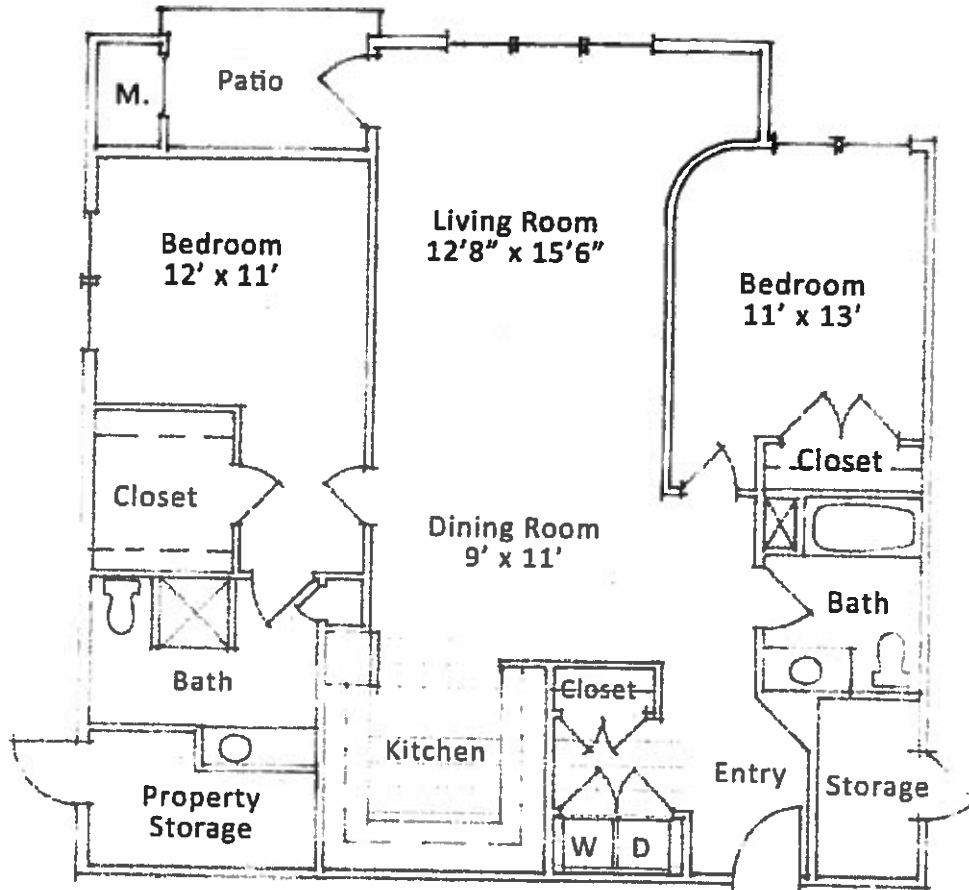


**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES





August 14, 2015



UNIT 2E  
1195 sf.  
Outside Corner Buildings 1 & 2  
Ground Floor  
2 Total

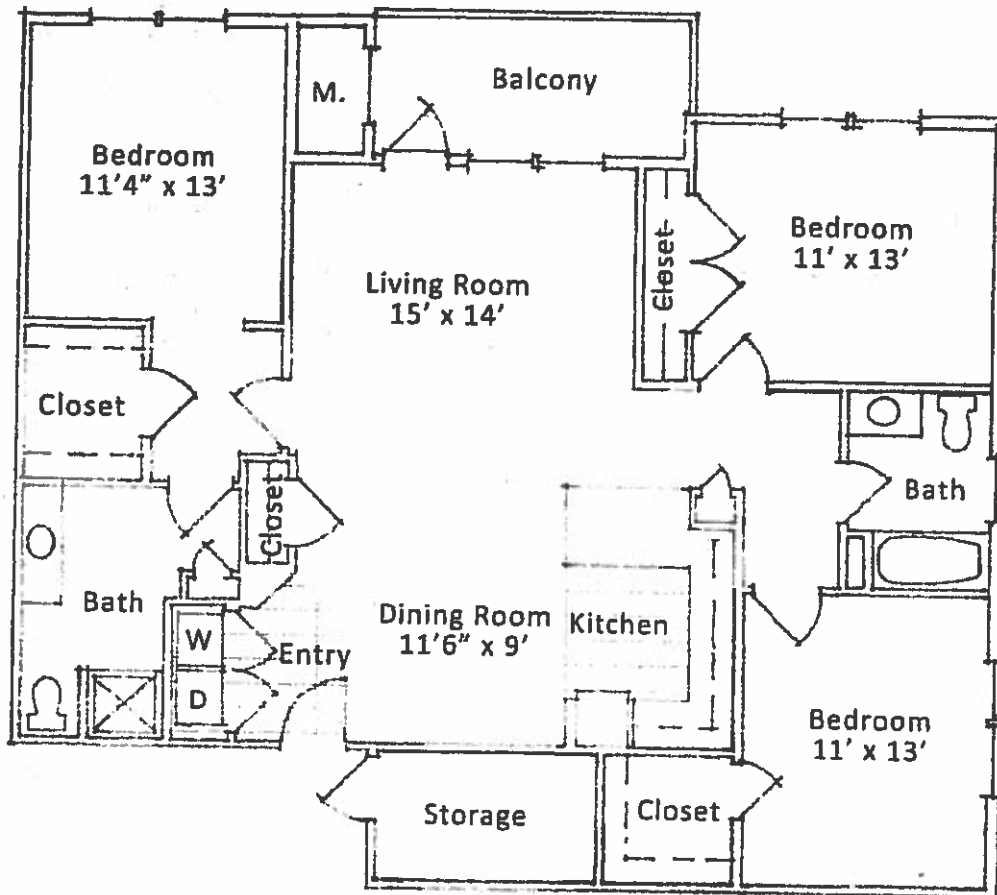


**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES



**CAPITAL GROUP**

August 14, 2015



UNIT 3A  
1365 sf.  
End Units Buildings 1 and 2  
Floors 2, 3 and 4  
9 Total



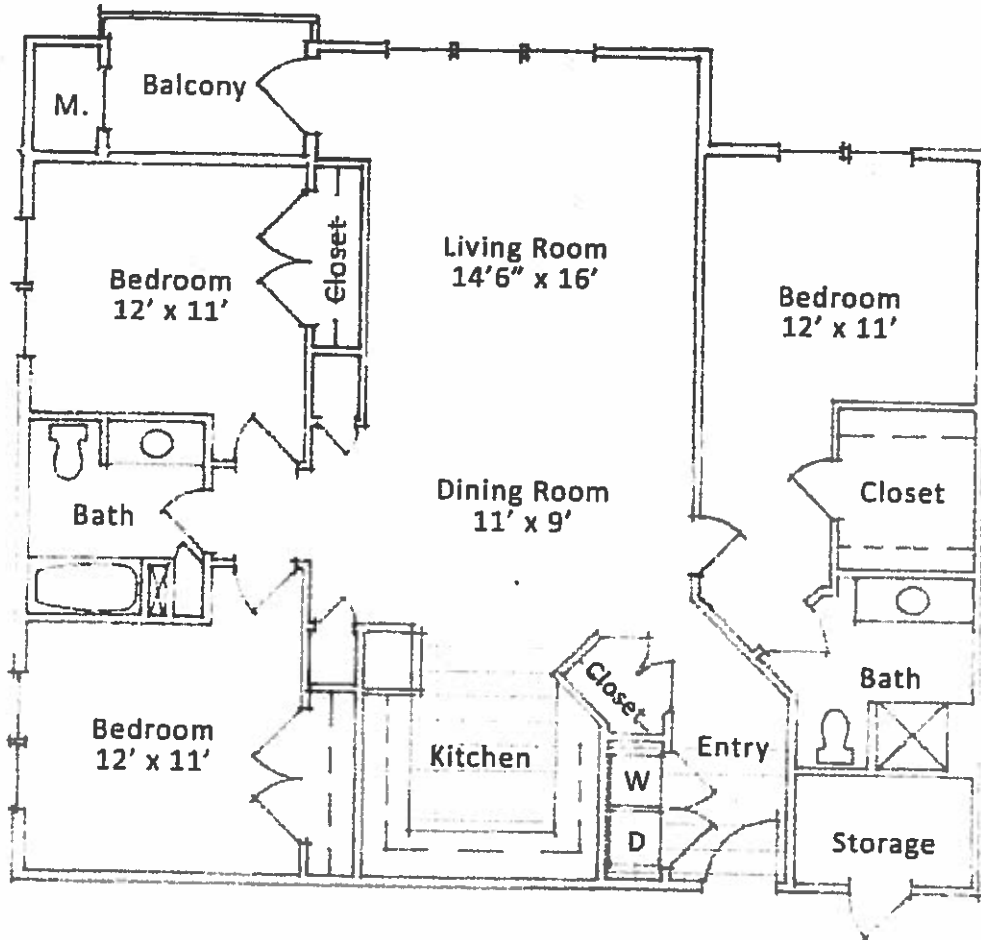
**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES



**CAPITAL GROUP**

PROPERTY

August 14, 2015



UNIT 3B  
1395 sf.  
Outside Corner Buildings 1 and 2  
Floors 2, 3 and 4  
6 Total



**PARK CENTRAL**  
RESIDENTIAL  
UNIT STUDIES

