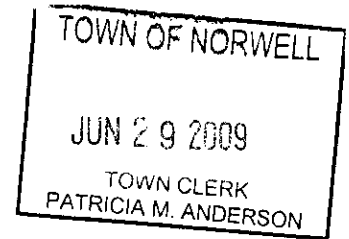


OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

P.O. BOX 295  
NORWELL, MASSACHUSETTS 02061  
(781) 659-8018 • Fax (781) 659-1892



## ***DECISION of the BOARD of APPEALS***

### **Comprehensive Permit,**

*Pursuant to G.L. c. 40B, §§ 21-23,*

### **Simon Hill LLC**

**ZBA FILE NO. 08-18**

#### **I. PROCEDURE**

##### **A. PROPERTY:**

As presented by Simon Hill LLC (the applicant), the property is located on a single parcel of land in Norwell with access to the property proposed from Prospect Street. The property is shown on Norwell Assessors' Map 13C, Block 37, Lot 6 and is comprised of 22.6± acres of wooded upland and 6.1± acres of wetlands with approximately 28.7 total acres. The deed to the property is dated June 26, 2001 and is recorded at Plymouth Registry of Deeds Book 20071, Page 174. The property is located within the Residential Zoning District A and within the Aquifer Protection Overlay District under the Norwell Zoning Bylaws. A portion is located within the Floodplain Watershed and Wetlands Protection Overlay District under the Norwell Zoning Bylaws. The easterly section of the property is connected to the westerly portion of the property by a narrow "neck" of land, varying in width from approximately 32' at the west end to approximately 48', to the east end. The property is currently under a written Purchase and Sale Agreement, dated May 28, 2008, between "Maureen V. Jensen, Trustee of Jensen Realty Trust, of 96 Manatee Rd., Hingham, MA," as seller, and "Simon Hill LLC of 1420 Providence Highway, Suite 200, Norwood, MA or its nominee," as buyer.

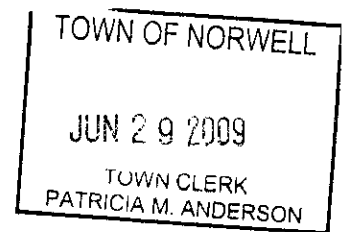
##### **B. APPLICATION:**

On or about July 1, 2008, the applicant filed an incomplete Comprehensive Permit Application, pursuant to M.G.L. c. 40B, sections 21-23, (Act), to construct eighty-four (84) townhouse-style condominium units on the property of which twenty-one (21) were restricted as Affordable Units. Subsequently, in revised plans submitted on February 18, 2009, the project was reduced by four (4) units to the currently proposed eighty (80) dwelling units of which twenty (20) dwelling units are restricted as Affordable Units.

**C. LATEST PROJECT PLANS:**

1. **Revised Project Plan Set**, dated 11/5/08, as revised 2/16/09, entitled "Simon Hill Village/(Tax Map 13C, Block 37, Lot 6)/ Comprehensive Permit Plans/in/Norwell Massachusetts," prepared by McKenzie Engineering Group, signed and sealed by Bradley C. McKenzie, Registered Professional Civil Engineer, consisting of 28 sheets, as follows:

- 1 Cover Sheet
- 2 General Notes, Legend, & Abbreviations
- 3 Index Plan
- 4 Overall Existing Conditions Plan
- 5 to 8 Existing Conditions Plans
- 9 Overall Site Layout Plan
- 10 to 13 Site Layout Plans
- 14 Overall Grading and Drainage Plan
- 15 to 18 Grading and Drainage Plans
- 19 Road A Plan and Profile: -0+18.20-9+50
- 20 to 23 Roadway Plans and Profiles
- 24 Overall Landscape Plan
- 25 to 28 Landscape Plans



2. **Revised Architectural Plan Set**, dated 01 23 09 Architectural Plan set, entitled Simon Hill Condominiums/Norwell, Massachusetts, prepared by The MZO Group (NOT STAMPED OR SIGNED), consisting of five sheets, including:

- 1. List of Drawings Cover Sheet
- 2. First Floor Plan
- 3. Second Floor Plan
- 4. Elevations 1
- 5. Elevations II

- D. **Technical Review Consultants:** The Board retained the following peer review consultants to assist in its review of this application:

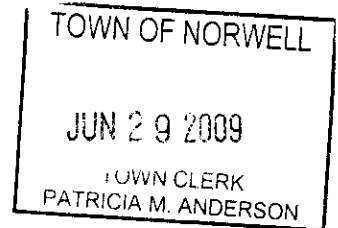
- Engineers: Professional Services Corporation, PC  
Ten Lincoln Road, Suite 201  
Foxboro, MA 02035
- Geotechnical Engineer: McKown Associates, LLC  
39 Dodge Street, #296  
Beverly, MA 01915
- Pro Forma: Melanson Heath and Company  
10 New England Business Center Drive, Suite 112  
Andover, MA 01810

- E. **Town Boards and Departments:** The Board of Appeals ("Board") notified all local boards and commissions of this application and considered their comments when making its decision. Comments were received from the Town's Planning

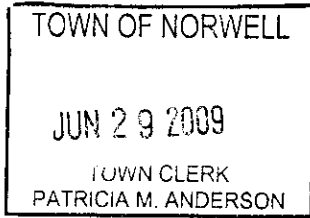
Board, Conservation Commission, Board of Health, Fire Chief, Water Department Superintendent, Water Commissioners, and Planner.

- F. **File Inventory:** Various plans, reports, and correspondence, including but not limited to those listed in **Exhibit A**, attached to and made a part of this decision, were submitted during the course of the public hearings and constitute a substantial portion of the official record.
- G. **Requested Waivers:** **Exhibit B**, attached to and made a part of this decision, lists the requested waivers and indicates Board actions thereon.
- H. **Public Hearings:**

All Public Hearings, Site Visits, and Work Sessions were duly noticed, as required, and held on the following dates, as indicated:



07 01 08	Application date-stamped by Norwell Town Clerk
07 22 08	Public Hearing opened
08 11 08	Peer Review Consultant selection
09 10 08	Hearing continued: Consultant selection under appeal to Board of Selectmen
09 24 08	Hearing continued: 30B process underway
10 15 08	Hearing continued: Board has not received required escrow
10 20 08	Escrow deposit received in the amount of \$20,000
10 29 08	Presentation by the Applicant's Traffic Engineer and Archaeological Consultant (PSC and MEG not present)
11 19 08	PSC presents initial review findings and Historical Commission makes presentation about potential Native American sacred site
12 17 08	Applicant responds to peer review and PSC to review recently submitted drainage calculations
02 04 09	Hearing continued at applicant's request: Soils Testing Program not completed
03 11 09	Peer Review of revised plans, dated 2/16/08
03 20 09	Site Walk by two of three Board members
03 26 09	Site Viewing of connector access roadway area by Fire Chief
04 01 09	Discussion by the Board of information that remains outstanding. Applicant insists all required information has been submitted, which the Board disputes, citing specifics
04 15 09	Applicant not in attendance. Geotechnical Peer Review presentation by McKown Associates
05 06 09	Applicant not in attendance. Discussion of waivers and conditions
05 27 09	Applicant not in attendance. Discussion of waivers and conditions
06 01 09	Applicant not in attendance. Review of draft decision documents
06 03 09	Work Session
06 03 09	Applicant not in attendance. Review of draft decision documents



- 06 17 09 Site Viewing of connector for access roadway area by one Board member and consulting engineer with Applicant's representatives and Work Session
- 06 24 09 Applicant not in attendance. Review of draft decision documents and waivers
- 06 29 09 Applicant not in attendance. Final review of decision documents

The Board voted to close the public hearing on Monday, June 29, 2009.

## II. **FINDINGS OF FACT**

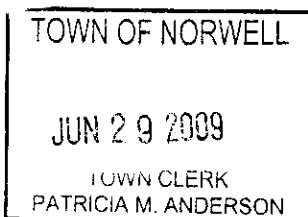
- A. **JURISDICTION**: Based upon the information presented at and during the course of the public hearings and incorporated as part of the official record, the Board makes the following findings:
  - 1. **Limited Dividend Organization**: The applicant is or will become a "limited dividend organization" within the meaning of the Act in that it is willing to enter into a written regulatory agreement with MassHousing under the Housing Starts Program and/or the New England Fund Program of the Federal Home Loan Bank of Boston ("Bank") and the Town of Norwell ("Town"). This permit is transferable in accordance with 760 CMR 56.05(12)(b).
  - 2. **Fundability**: With respect to 760 CMR 56.04(1)(b), the Applicant has provided a project eligibility letter from MassHousing dated June 30, 2008. The Board hereby incorporates each of the conditions of the MassHousing letter as conditions into this decision.
  - 3. **Site Control**: With respect to compliance with the site control requirements of 760 CMR 56.04(1)(c), the Applicant has stated that the locus is the subject of a purchase and sales agreement dated May 28, 2008. This Decision relies upon this agreement, most particularly the sales price contained therein (\$2,500,000).
- B. **STATUTORY MINIMA**:
  - 1. Based on the most recent Subsidized Housing Inventory maintained by the Department of Housing and Community Development, the Town does not have more than 10% of its available housing units dedicated to low and moderate-income households, as defined by the Act.
  - 2. The applicant has represented that:
    - a. The sites used for the Town's affordable housing do not comprise more than one and one-half percent of the total land area zoned for residential, commercial or industrial land use, and
    - b. The construction of the proposed project would not result in the commencement of construction of low and moderate income housing on sites comprising more than .3% of the Town's land or ten acres, whichever is larger, in any one calendar year.
- C. **LOCAL CONDITIONS, PUBLIC HEALTH AND PUBLIC SAFETY**: The Act allows communities to protect local health and safety concerns by conditioning the issuance of a comprehensive permit. The conditions must be reasonable, considering the

need to provide affordable housing juxtaposed against valid health, safety, environmental, design, open space, and other local concerns. The Board finds that the proposed project, subject to the conditions listed below and the Waivers detailed in Exhibit B, attached to and made a part hereof, is consistent with local needs and are consistent with the need for Affordable Housing in Norwell.

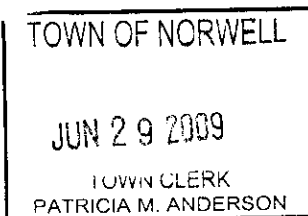
D. **APPLICANT RESPONSE TO BOARD'S REQUESTS FOR INFORMATION:** The Board is cognizant of the law and regulations that govern the construction of Affordable Housing under G.L. c. 40B and 760 CMR 56.00 and has acted accordingly in good faith throughout the public hearing process to examine the issues set forth in MassHousing's Project Eligibility Letter of June 30, 2008, and to address local concerns of the Town of Norwell Planning Board, Conservation Commission, Water Department, and other Town boards and departments. Despite the Board's repeated requests, the Applicant has refused to provide this information, which would have enabled the Board to more accurately assess the proposed project and its impacts on the relevant issues. The decision of the Board, therefore, is based only on the information presented and available at the close of the public hearing. The Board, therefore, reserves the right to reopen its proceedings to review and reconsider any information submitted by the Applicant after the close of the public hearing. The Board requested the Applicant to provide information during the proceedings conducted under 760 CMR 56.05 to address public health, safety, and welfare concerns relating to (1) Stormwater and Wastewater Management, (2) Groundwater Mounding, (3) Stormwater Recharge, (4) Internal Roads and Parking, (5) the narrowed land area over which a roadway is proposed to connect the lower portion of the parcel to the upper portion ("Neck"), and (6) several other items enumerated below.

1. **Stormwater and Wastewater Management:** Although the Applicant is required by law to meet all requirements of federal, state, and local regulations (not specifically waived herein) pertaining to wastewater and stormwater management, including soils and other site testing requirements, the Applicant has not so demonstrated that the Project meets those requirements. The written record shows that repeated requests by the Board and its consultants for missing or additional required information relating to fundamental constructability concerns have been consistently rejected by this Applicant, including, but not limited to:

- a. Monitoring wells to locate groundwater levels
- b. Identification of volumetric increases in stormwater runoff that may require hydrogeological analysis.
- c. Geotechnical information:
  - (1) To determine the structural feasibility of constructing buildings and locating stormwater basins in immediate proximity to wetlands,
  - (2) To determine the relationship and interaction of groundwater, the sanitary soil absorption system, and the proposed on-site stormwater basins adjacent to wetlands.
- d. Data that demonstrate the proposed construction can meet the DEP groundwater separation requirements
  - (1) For stormwater basins to be located at least 2' above groundwater, and



- (2) For the soil absorption system to be located a minimum of 5' above groundwater.
- e. Relative to DEP Stormwater Management standards, the Board's consulting engineer has opined that:
- (1) The proposed design does not adhere to good engineering practice, particularly for the two basins along Road 'C' that under the largest design storm will surcharge into the water quality control structures, back through the incoming drain manhole and in two locations above the rims of the contributing pairs of catch basins (Basins P-P3.2 and P-P4.2).
  - (2) This may further create a violation of Standard 4, which requires 80% total suspended solids removal, if resuspended solids are again resuspended in the incoming systems under the larger storm events, including a 100-year event, and not re-captured.
  - (3) The Applicant has not demonstrated the proposed design to be in compliance with Standard 3, the recharge standard, particularly if the cumulative groundwater mounding effects restrict infiltrative capacity of the basins near the Sanitary Soil Absorption System.
  - (4) The 2/18/09 drainage calculations submitted by the Applicant's engineer indicate that the two catch basins on Road 'A' at Station 6+30 (rim elevation 131.5) will surcharge above their rims from the Road C basin (P-P3.2) from the 100-year water elevation in the basin  $e_l=131.95$  by approximately 6-inches.
  - (5) The last pair of catch basins at the end of Road C will be surcharged above their rim under the 100-year storm (basin P-P4.2 at the end of this road 100-yr water elevation of 132.00 versus rim elevations of 131.60). To provide more capacity, either the basins need to become larger in area, or deeper. The subsequent soils tests provided groundwater elevations that were not deeper than expected, therefore, not allowing lowering of the basins.
  - (6) The author of the DEP Stormwater Management Standards would have reasonably presumed that no one would design a system that surcharged, so there is no specific standard prohibiting surcharging.
  - (7) Although the basins are generally designed to accommodate the 100-year Cornell storm event, the data show that the basins in the lower part of the site, particularly the basins along Road C are so shallow that the 100-year event causes surcharging and back flushing of the catch basins. In a worst case, they may reach near the rim or overtop.
  - (8) In the Board's approved minutes for the meeting of April 1, 2009, at the top of p. 9, Mr. Houston is quoted as stating emphatically that, "DEP stormwater standards have not been met."
  - (9) Page 19 of PSC's memorandum of April 1, 2009, states, "it will be very difficult to provide this portion [lower portion] of the project with a stormwater management system that has sufficient depth and cover to operate 'in-the-dry'. It is likely that the stormwater management basins are not constructible above



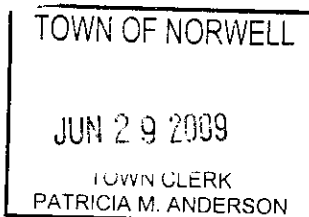
groundwater elevations." This relates to a repeatedly stated concern by the consulting engineer about the interaction of the groundwater in proximity to the SAS and SWM systems, especially relating to Frank Molla's property adjacent to Basin P3.3 and the Simon Hill residences. This concern was further articulated by John Parmentier and Andy McKown at the Board's public meeting on April 15, 2009.

- (10) No. 6 on page 20 of PSC's memorandum of 4/1/09 discusses the flood plain, the lines of which remain undefined. Until it is clear where those lines may be drawn, it will be problematic to confirm with certainty that SMR compliance can be met, as PSC has identified and stated since its first report, dated 11/13/08.
- (11) An additional concern has been expressed in No. 8 of PSC's April 1, 2009, memorandum states that the "Volumetric increases of surface stormwater runoff due to construction of the project must be identified."
- (12) Finally, an approved identification of the flood plain lines may exacerbate the Applicant's ability to construct the project, as proposed. The flood plain delineation must provide with reasonable certainty that the project, as proposed, can be constructed without violating state regulations. No compensatory storage area is proposed on the project development plan.

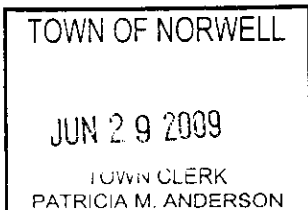
**2. Groundwater Mounding:**

a. Although in the event a DEP Groundwater Permit may be required to service the proposed development, the groundwater mounding analysis required for that permit would only establish the design elevation under the proposed soil absorption system and would not address local concerns.

- (1) The DEP requirement does not evaluate impacts of the potential rise in groundwater elevation on neighboring properties nor examine those impacts in conjunction with the stormwater management components or relative to proximity to any adjacent wetlands.
- (2) If groundwater levels are elevated by any significant amount, there is currently no information to gauge that impact on either the proposed project development and/or neighboring properties and/or facilities or to evaluate the functioning of the infrastructure as proposed. As this information has not been provided, the Board is unable to evaluate those significant public health and safety impacts and concerns. The Applicant has, therefore, not demonstrated the reasonableness of or requirement for any and all related waiver requests.
- (3) According to the Board's consulting engineers, as stated in the public meeting on April 15, 2009, test pits would be required in areas down-gradient from the location of the proposed wastewater treatment facility and soil absorption field to determine existing natural groundwater levels and the potential that exists for groundwater mounding in proximity to the adjacent wetlands between the soil absorption system and stormwater management system, particularly in the area of Basins 3.2 and 3.3

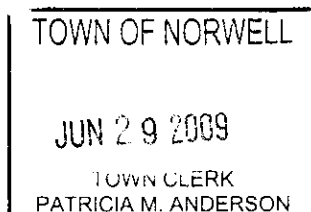


- b. Although the Board's geotechnical consultant has indicated that slurry walls fortified with bentonite, an easy and relatively inexpensive impervious barrier, could be constructed at a depth and length to be determined along the easterly boundary of the soil absorption facility to prevent water mounding impacts from flowing in the direction of the Simon Hill Road neighborhood, this has not been addressed by the Applicant as possible mitigation to alleviate flooding and other water damage concerns of abutters.
  - c. The basins near Road A show the cumulative effects of mounding from the wastewater Soil Absorption System (SAS) and from the stormwater basins which are in close proximity to each other and the wetlands. This is a concern for both the P-P3.3 basin, the triangular-shaped basin across from Road A and the Road C intersection, and Basin P-P3.2 at Road C Sta 1+50.
  - d. The extent of the basins' surcharge and backflush due to mounding is unknown and could violate DEP Stormwater Management Standards 1 and 4. While it is possible the system would comply during normal storm events, the standards would be violated during the 100-year or other major storm events.
  - e. More importantly, surcharging and back flushing violates standard engineering practice.
  - f. Stormwater Management Standards potentially violations include:
    - (1) Standard 1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
    - (2) Standard 4. Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of Total Suspended Solids (TSS).
3. **Stormwater Recharge:** On the lower portion of the site, the basins are designed to recharge, but sufficient data has not been submitted to the Board to demonstrate the proposed design will meet Standard 3. Standard 3 requires loss of annual recharge to ground water shall be eliminated or minimized through the use of infiltration measures, including environmentally sensitive site design, low impact development techniques, stormwater best management practices, and good operation and maintenance. At a minimum, the annual recharge from the post-development site shall approximate the annual recharge from the pre-development conditions based on soil type.
4. **Internal Roads and Parking:**
- a. The Applicant has at various times indicated the project roadways are to be 22, 24, and 26' in width. The submitted pro forma indicated a 26' road width.
  - b. The proposed project is deficient in parking areas provided for visitors and guests of residents.
5. **Proposed Access through the "Neck":** This area was identified by the Norwell Planning Board as Major Development Issue No. 3 in its comment letter of August 14, 2008.
- a. It was not until mid-June 2009 (ten (10) months after being given notice of the issue and only several weeks before the date of the decision) that the Applicant finally provided long requested details of the proposed layout and road profiles for this area, which remain deficient in detail and required information. The request by the Board's consulting engineer for more specific measurements of the ground distance between the two stonewalls located at the pinch point was refused by the Applicant's engineer in an email dated June 23, 2009, under instructions of the Applicant.

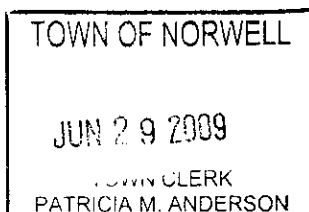




- b. The Applicant has not provided the required on-the-ground boundary survey delineating the project property lines, as the project land surveyor admitted to a Board member at a site walk on June 17, 2009.
6. **Other:**
- a. The Applicant has not provided information that would enable the Board to properly evaluate impacts of wetlands, including the flood plain or alleged intermittent or perennial stream, on the public health, safety, and welfare of residents of the proposed development and that of neighboring properties, including:
- (1) Any required wetlands replication
  - (2) Vernal pool identification to be completed in the appropriate season
  - (3) Nor has the Applicant addressed the many outstanding issues raised by the Norwell Conservation Commission in its comment letters of September 2, 2008, and March 31, 2009, such as permeable application pavers, water quality swales, and artificial wetlands
  - (4) Nor has the Applicant provided a valid Order of Conditions that would address many of the Board's outstanding concerns, including mandated wetland replication area for any altered BVW and BLSF and any Rare and Endangered Species.
- b. Open Space: There is little if any useable open space or walking trails to show development consistent with the Town's Master Plan.
- c. The Applicant has not demonstrated compliance with many issues raised in the Project Eligibility Letter, dated June 30, 2009, issued by MassHousing, specifically:
- (1) Compliance with the Commonwealth's **Sustainable Development Principles** to preserve open space, promote energy efficiency, and make developments pedestrian friendly, as identified in the Norwell Planning Board comment letters of August 14, 2008 and March 25, 2009 letters:
    - (a) Inconsistent with Town's Master Plan
    - (b) "Suburban Greenfield Development" inconsistent with at least eight of the Commonwealth's ten Principles (Principles 3 and 8 excepted)
    - (c) Planning Board standards for subdivision and site plan review incorporate Sustainable Development Principles and 40B applications should meet the same requirements.
    - (d) Transportation Options: No transportation options to or from a relatively dense development site, minimal pedestrian amenities are included on the plan, and waiver request for the bicycle racks zoning requirement
    - (e) Principle 7 (Provide Transportation Choice), including shared-vehicle and shared-ride services
    - (f) Principle 1 (Concentrate Development and Mix Uses):
    - (g) Compliance required in MassHousing Project Eligibility Letter and PB states, "therefore also required by 760 CMR 56 (g)."
    - (h) Pedestrian amenities and communal open space should be provided

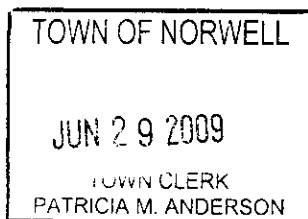


- (i) Water Use and Conservation (Major Development Issue 6 in PB letter of 8/14/08):
  - (j) Water recapture and use from direct roof runoff and other gray water with storage in cisterns and re-use lines
  - (k) Employ "Greenscapes" program, as designed for the South Shore, when making landscaping choices
- (2) Conservation Commission comments in 9/2/08 and 3/31/09 letters:
- (a) **Principle 4** Protect and restore environmentally sensitive lands, natural resources, agricultural lands, critical habitats, wetlands and water resources, and cultural and historic landscapes. Also, open space and recreational opportunities.
  - (b) **Principle 5** Use Natural Resources Wisely through "efficient use of land, energy, water, and materials"
- (3) Local Concerns:
- (c) 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. The Comprehensive Permit must include a condition that you provide evidence of such compliance prior to issuance of the building permit for the Project.
  - (d) 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. The comprehensive permit must include a condition that you provide evidence of such compliance prior to issuance of the building permit for the Project.
  - (e) MGL 61A-Assessment and Taxation of Agricultural and Horticultural land. Applicant "will be required to comply with any applicable statutory requirements when and if the Site is converted to residential use. You should be prepared to discuss this issue with town officials during the public hearing.
  - (f) Concerns over the single entrance/exit to the proposed development and the potential for public safety vehicles having difficulty negotiating the site in the event of an emergency. During the public hearing process you should be prepared to discuss these concerns with town officials.
  - (g) Submit drainage calculations that satisfy current DEP Stormwater Management requirements and fully comply with Site's underlying Aquifer Protection District zoning. The Applicant is "encouraged to discuss these concerns with town officials during the public hearing.
  - (h) Municipality and MassHousing request that [the Applicant] contact the Massachusetts Historical Commission to determine whether the Site contains Native American artifacts early in the permitting process and preferably at the onset of the public hearing. During the public hearing [the



Applicant} should be prepared to discuss this concerns (sic) with town officials.

- d. **Pro Forma Peer Review:** Although the Applicant was insistent upon providing information for a pro forma review, a review has not been performed. The Board has requested escrow and additional information requested by the accounting firm of Melanson Heath to which the Applicant has not responded. Therefore, no review has been possible, as allowed under 760 CMR 56.05(6).



## VOTE OF THE BOARD

A quorum of the Board of Appeals, consisting of Lois S. Barbour, Ralph J. Rivkind, and Patrick J. Haraden, being all of the members of the Board designated to hear and act upon this application, **VOTED** unanimously at a public hearing duly held on June 29, 2009, upon a motion made by Mr. Rivkind and seconded, by Mr. Haraden, to **GRANT** the application for a Comprehensive Permit, subject to and upon the Conditions set forth herein and the Waivers granted as shown on Exhibit B, attached hereto.

## CONDITIONS

The proposed project shall be constructed in accordance with the Plans referenced and defined in Paragraph C, Project Plan, of Procedure, and as limited by the Conditions of this Decision. Any deviation from these Plans and the Conditions set forth in this Decision shall require a modification of this Comprehensive Permit, as set forth in 760 CMR 56.00 and applicable revisions thereto, and the Board's Rules, as may be amended from time to time.

### GENERAL CONDITIONS

1. **Definitive Site Development Plans:** At least ninety (90) days prior to application for a building permit, the Applicant shall submit a revised Comprehensive Permit Plan Set as set forth in Condition 90 incorporating revisions required to comply with all Conditions of Approval including without limitation the "Design Standards," Conditions 35 through 88. These conditions encompass design revisions that the Board repeatedly requested during the public hearing and in correspondence that the applicant incorporate throughout the Board's review of the Comprehensive Permit Application.
2. **Further Development:** The project site shall not be further developed, divided, subdivided, or modified nor shall additional dwelling units or bedrooms be added nor shall the exterior of any building be modified, other than as expressly allowed by this Comprehensive Permit, and shall be enforced by a deed running with the land and duly recorded.
3. **Archaeological Resources:** The project design and the project construction shall be modified to comply with requirements and mitigating measures required by the agencies set forth herein in order to ensure that the proposed project does not cause any significant adverse impacts on archeological resources, including Native

American sacred sites, if any are determined to exist. Abutters and the Town of Norwell Historical Commission have submitted information during the public hearing process before the Board suggesting that the site may contain significant archeological resources including the possibility of Native American sacred sites. The applicant represented to the Board that the project will require approval under Massachusetts Environmental Policy Act (MEPA) and that as a part of that review there will be a submission to the Massachusetts Historical Commission (MHC). Accordingly, the project must be reviewed in compliance with Section 106 of the National Historic Preservation Act of 1966, reviewed by MHC in compliance with Massachusetts General Laws Chapter 9, sections 26-27C, and be approved under the MEPA for the preservation, protection and/or mitigation of impacts to significant archeological resources. The Applicant shall provide the Board with a copy of any documentation submitted to MHC, including any Project Notification Form acceptable to the Massachusetts Historical Commission with attachments in accordance with Condition 98.

4. Continuing Jurisdiction: The Board shall retain continuing jurisdiction over the Simon Hill Village Project to ensure the Definitive Site Development Plans are consistent with the terms and conditions of this Decision, to ensure revisions required by any other local, state, and federal officials, agencies, boards, or commissions are incorporated into the Definitive Site Development Plans, and in furtherance of the Board's rights under 760 CMR 56.00 to protect the interests of the Town of Norwell and its residents.
5. Successors: The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of Simon Hill Village, LLC pursuant to 760 CMR 56.05 12 (b).
6. Change in Ownership: Any change in financial interest and/or ownership and/or control of the Simon Hill Village Project must be approved in advance solely by the Board pursuant to 760 CMR 56.05 12 (b) or, in the event such regulation is not sustained, with the consent of the Board.
7. Inconsistencies: If the Inspector of Buildings determines that the Simon Hill Village Definitive Site Development Plans and/or any component of the completed construction are different from those approved by the Board, the Inspector of Buildings shall notify the Board forthwith. The Board shall determine whether these changes are substantial or material and in accord with this Decision. If the Board determines that the changes are substantial or material, the applicant must file for approval whether or not to allow these changes after notice at a public hearing. If the Board determines that the changes are minor in nature, it shall decide whether or not to allow these changes at a public meeting. Any changes to the proposed plans shall also be and all inconsistencies are subject to review by the Board's consulting engineer at the reasonable cost and expense to the applicant.
8. Modification for Amenities: Additional site amenities (such as swimming pools, game courts, garages, sheds, paved surfacing, and other amenities) shall constitute changes to the approved Definitive Site Development Plans and shall require approval by the Board prior to construction which such approval shall not be unreasonably withheld, delayed or conditioned. The Board shall determine whether provision of these amenities constitutes a substantial or material change. If the Board determines that the changes are substantial, it shall decide whether or not to allow these changes after notice at a public hearing.
9. Project to be Private: The project, both during and after construction and occupancy, shall be and shall remain forever private. Further, in the event of a default by the applicant in the performance of its obligations, the Town shall have

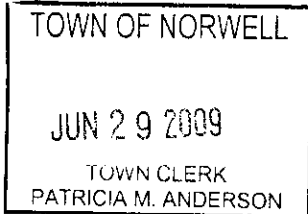
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the right but not the obligation (legal or financial) to complete the construction or to reconstruct, maintain, repair, replace at the cost and expense of the applicant and/or Homeowners Association, including but not limited to the following:

- a. All roadways, driveways, and parking areas
- b. Stormwater Management and other drainage systems;
- c. Snowplowing and ice removal
- d. Landscaping and site work
- e. Trash Removal (which shall be by private arrangement and not a service provided by the Town)
- f. Street lighting and utilities
- g. All building upkeep, maintenance, repair and replacement; and
- h. Subsurface sewage disposal facilities or components thereof.
- i. In the event that the Town should elect to exercise its rights, excepting in the event of an emergency, the Town shall give at least ten (10) days' written notice to the applicant and/or Homeowners Association of its intention to perform any work. The applicant and/or Homeowners Association shall be legally bound and obligated to reimburse the Town for all cost and expense associated with any such work.



10. No Board Certifications or Warranties Stated or Implied: The Board does **not** by issuance of any permissions granted under this permit certify, warrant, or imply that the information submitted by the Applicant in the course of this application conforms with or meets all or any requirements relating to submission of such, or could conform with or meet the requirements of any other permitting authorities having jurisdiction in the development and construction of the proposed project.
11. As required in the MassHousing Project Eligibility Letter, dated June 30, 2008, the Regulatory Agreement with MassHousing shall comply with applicable Program and DHCD Comprehensive Permit Rules and Guidelines, including Financing that:
  - a. Must originate from a subsidizing lender such as MassHousing or a bank that is a member of the FHLBB
  - b. 25% of construction financing must be obtained from the NEF program
  - c. Provide evidence of financing for the Project during Applicant's request to MassHousing for Final Approval
  - d. Regulatory Agreement shall provide any transfer of all or a portion of 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 Project Administrator.)
12. The Applicant shall comply with the conditions of MassHousing's Project Eligibility Letter of June 30, 2008, as detailed in *Findings*, Paragraph D above.
13. The Applicant shall comply with the Sustainable Development conditions of MassHousing's Project Eligibility Letter of June 30, 2008,
14. Severability: If any provision of this decision or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of the decision (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

### **Affordable Housing**

15. Income Eligibility Requirements: The Affordable Units are those dwelling units located in Norwell that shall be made available for purchase and occupancy by

households of one or more persons whose maximum income does not exceed 70% of the area median income, adjusted for household size, as published annually by the Department of Housing and Urban Development for the Boston Primary Metropolitan Statistical Area (Qualified Purchasers). Said households shall be known as "Income Eligible Households."

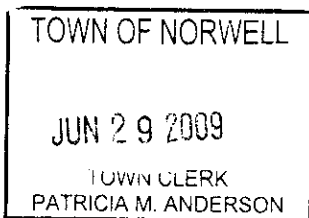
16. Unit Size: All Affordable Units shall provide living space area approximately equal to the other units, and shall have not less than one (1) garaged parking space and one driveway parking spaces as set forth in Condition 52.
17. Proportionality: The number of bedrooms per unit provided in the affordable units shall be proportional to or shall exceed the number of bedrooms per unit provided in market-rate units.
18. Units Interspersed: The Affordable Units shall be interspersed throughout the project site and the exteriors of the market-rate and Affordable units shall be indistinguishable as observed from the street. As for interior finishes of and appliances in the Affordable Units, the applicant shall, prior to construction of any units, provide outline specifications and manufacturer's product information to the Board for its review and approval which shall not be unreasonably withheld.
19. Location: The location of the proposed affordable units shall be identified in the approved Regulatory and Monitoring Agreements and shown on the approved Definitive Site Development Plans submitted to the Board. The location of these units shall be approved by the Board prior to construction, which said approval shall not be unreasonably withheld, delayed or conditioned
20. Lottery Preference: As proposed by the applicant in its application to the Board, preference in the lottery for purchase of seventy (70%) per cent of the total permitted Affordable Units shall be given to either
  - a. Norwell residents, or
  - b. The children or parents of Norwell residents, or
  - c. Employees of the Town of Norwell.
21. Lottery Costs: The applicant shall pay all Lottery and Monitoring Agent costs for the initial sales of the Affordable Units not to exceed 1% of the sales price of each affordable unit.
22. Accommodation of Disability: If a lottery winner has a physical disability, the applicant shall modify the Affordable Unit for that winner to reasonably accommodate the winner's physical disability and to comply with the all AAB and ADA requirements. The applicant has the option, but not the obligation, to select or re-designate units as Affordable, so as to assist the applicant in complying with this requirement as a modification of this Comprehensive Permit.
23. The Comprehensive Permit application was based on a project eligibility letter originally issued to the applicant on June 30, 2008 from MassHousing for project financing pursuant to the Housing Starts and the New England Fund programs. This Permit is conditional upon the execution of a Regulatory Agreement for this Permit by MassHousing and the grant of subsidy funding by MassHousing through the Housing Starts program or through the New England Fund. Execution of such Regulatory Agreement and the grant of subsidy funding by MassHousing through the Housing Starts program or the New England Fund are condition precedents to any grading, land disturbance, construction of any structure or infrastructure, or issuance of any building permit. Regulatory and Monitoring Documents: That prior to the grant of a building permit, the applicant shall submit draft Regulatory and Monitoring Agreements to the Board and Town Counsel for review and approval for consistency with this Decision. Such documents shall contain, at a minimum the following terms:

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- a. No less than twenty-five (25%) percent of the units shall be owned by Qualified Purchasers in perpetuity or for the maximum term allowed by law, but in no case less than 99 years;
  - b. The monitoring agent for Simon Hill Village shall be designated by MassHousing. However, if MassHousing shall now or in the future fail to perform such duties and oversight authority it may enjoy for any reason whatsoever, the Board reserves the right to protect the interests of the Town by appointment of the Norwell Housing Authority or other recognized agency to preserve the affordability requirements on behalf of the Town under M.G.L. c. 40B and any modifications thereto.
  - c. The maximum sales price of the Affordable Units (including condominium fees, insurance, and taxes) shall be no more than "that which can be afforded" (as set forth in the MassHousing guidelines) by households earning a maximum of seventy percent (70%) of area Median Income.
  - d. The applicant's profits shall include all amounts accruing to the benefit of the applicant, designee, successors, and/or assigns for the total project, for any and all construction authorized pursuant to this permit, including construction activities or related activities by or on behalf of the applicant.
24. Construction and Occupancy: That the Affordable Units shall be constructed on a schedule that provides for issuance of Certificates of Occupancy of at least one Affordable Unit for every three market-rate units.
25. Affordable Unit restrictions and lien priority
- a. No dwelling unit identified as an "affordable unit" may be sold, conveyed or otherwise transferred to anyone other than a qualified purchaser pursuant to the Deed Rider required by this Decision and consistent with the requirements of MassHousing, DHCD and other relevant state agencies governing the sale of below market rate units in a comprehensive permit project. An affordable housing restriction, enforceable by the Town of Norwell, requiring that the affordable units remain affordable in perpetuity and in a form approved by Town Counsel for the town, shall be recorded senior to any liens on any land or dwelling unit within the limits of the Project to protect the requirement for the affordable units in the event of any foreclosure, bankruptcy, refinancing or sale.
  - b. Right of First Refusal: That subject to approval by MassHousing, this decision and the Regulatory and Monitoring Agreement shall be senior to all MassHousing mortgage loans. In the event MassHousing approval is not forthcoming, the Regulatory and Monitoring Agreement shall provide for a minimum of a ninety (90) day right of refusal by the Town, or its designee, in the event of foreclosure.
  - c. Owner Occupancy: That the Affordable Units shall be owner-occupied. Each affordable unit shall be sold pursuant to an affordable housing restriction, more fully described below, ensuring that only income eligible individuals or families may purchase the dwelling unit. Upon each sale of an affordable dwelling, the seller shall provide written notice to the buyer that the premises are subject to an affordable housing restriction and is subject to the terms and provisions of the affordable housing restriction and that any amendment purporting to alter, amend or delete the restriction shall be void and of no effect.

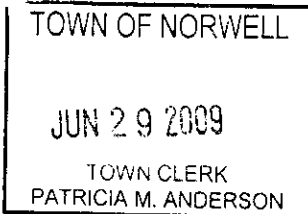


## Profits

26. The applicant shall comply with the current DHCD guidelines and/or regulations which require the posting of financial surety pending certification of the project profits.

## Condominium

27. Responsibilities: The Condominium Documents shall provide that the applicant shall be responsible for all duties and obligations for operation and maintenance and for provision of all required services to homeowners, until such time as the Homeowners Association shall assume such obligations and responsibilities. When the term Homeowners Association is used in this Decision, this term shall apply to the applicant prior to the time that the Homeowners Association assumes their obligations and responsibilities for operation and maintenance of the site.
- a. The Applicant shall prepare documents in a form that conforms to this Decision and applicable law including but not limited to documents that create a homeowners association, consistent with applicable laws, designed to manage the Project and ensure that the terms and conditions of this Decision are enforced.
  - b. The Applicant or an assignee acceptable to the Board shall assume responsibility to maintain and repair the dwelling units and all areas under the control of the homeowners association and associated infrastructure, including the stormwater management system, landscaping, ways, and other improvements within the locus. The Applicant shall prepare and submit for the Board's approval documents that set forth its obligations for the operation and maintenance of the dwelling units and all common areas and improvements, which said approval shall be limited to ensuring consistency with this Decision. Prior to the issuance of any Certificate of Occupancy, the Applicant shall provide the documents establishing his obligations to the Board for approval by Town Counsel as to form and for verification that such documents are in conformance with this Decision.
28. Homeowners Association: The Condominium Documents shall describe the organization and funding mechanism for a homeowners' association or other organization to be responsible for maintaining on-site access and parking, utilities, and landscaping and for contributing to ongoing maintenance of the shared private wastewater treatment system and Stormwater Management facilities. Conditions set forth in this Decision that relate to the condominium governance must be set forth in the Condominium Documents.
29. Beneficial Interest: That the beneficial interest in the condominium of the Affordable Units shall be in proportion to the ratio of the initial price (the price set forth in the Master Deed) of the Affordable Units to the initial price of the market-rate units.
30. Operation and Maintenance Responsibilities: That the condominium documents shall provide that the site Homeowners Association shall be responsible for operation and maintenance of the site in accordance with this Decision. The Homeowners Association shall be responsible in perpetuity for the following:
- a. Operation and maintenance of all common areas and improvements, landscaping, mowing, watering and irrigation, snow and ice removal, the Stormwater Management System, drainage, and the Wastewater Disposal System.



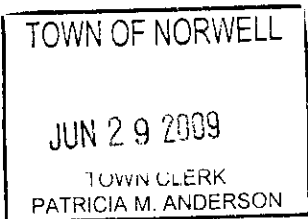


- b. Curbside collection of household trash and garbage and a separate collection of recyclables shall be provided.
- c. Fire lanes and parking areas are kept clear at all times;
- d. Operation and maintenance of the shared wastewater treatment system shall be in accord with the unwaived local requirements of Section 4354(b) of the Norwell Zoning Bylaw, the DEP requirements for the Groundwater Discharge Permit and Title 5 (310 CMR 15.00), or superseding regulations, where applicable;
- e. Inspections and monitoring of the wastewater treatment plant shall comply with requirements of the Groundwater Discharge Permit.
- f. Inspections of all components of the stormwater management system shall be conducted in accordance with the Operation and Maintenance plan but no less frequently than twice annually, the first no later than April 30th and the second no later than October 31st each year and a written report shall be filed within fifteen (15) days thereof with the Board with copies to the Board of Health, Conservation Agent, the Stormwater Management Plan supervisor and/or other local agency at interest;
- g. Avoiding, due to the site's location in the Town's Aquifer Protection District, the use of road salt or de-icing chemicals for access roadways, driveways, parking areas or sidewalks within the project site and no chemical fertilizers, herbicides or pesticides are used for plant or lawn maintenance, unless applied by a licensed applicator in accordance with an integrated pest management plan and unless specifically approved in writing by the Board. The Homeowners Association shall, on an annual basis, certify in writing, to the Board of Health and the Norwell Water Department that the Homeowners Association and the unit owners are in compliance with this condition.
- h. Ensuring that there shall be no use or storage of hazardous materials in amounts greater than associated with normal household use
- i. Up-keep, operation, maintenance, repair, and up-grading of the drainage and stormwater management systems as specified in the approved Operations and Maintenance Plan.
- j. In order to prevent an impact to the public water supply no water from the Norwell public water supply shall be used for irrigation, as the proposed project is located in the Town's Aquifer Protection District.
- k. There shall be no garbage disposal units incorporated as a component of the plumbing system in any and all housing and/or other units.
- l. A snow removal plan shall be provided by the Homeowners Association (1) to the snow removal contractor and (2) a copy of such plan and any amendments thereto shall also be filed with the Town of Norwell Water Commissioners.
- m. Intersection sight triangles along Prospect Street shall be maintained such that they remain free of obstructions in perpetuity to the extent permitted by the Town authorities having jurisdiction.
- n. The Homeowner's Association documents, which shall be recorded at the Registry of Deeds, shall contain the following terms and conditions:
  - (1) A specific plan to maintain drainage facilities, stormwater basins and appurtenances.
  - (2) A specific plan to maintain roads, including snow removal, spring clean- up, repair of road surface and resurfacing as needed. The road and roadway infrastructure excluding the water system and private-

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utility-company systems, are to be privately owned and maintained by the Project in perpetuity.

- (3) A specific plan to maintain and periodically replace plants, shrubs and other landscaping proposed within the Project.
  - o. The Applicant's documents shall provide that he or his successor is responsible for, and that the Town of Norwell shall never have any legal or financial responsibility for, operation or maintenance of roadways, driveways, parking areas, storm water management systems, snow plowing, landscaping, trash disposal or pick up, street lighting or other illumination, or other street infrastructure (excluding the connection to the water system and connection to the wastewater treatment system).
31. Failure to Properly Operate and Maintain the Site: The Town shall have the right but not the obligation to perform emergency and routine maintenance where the applicant or the Homeowners Association fails to conform to operate and maintain the site as required by this Decision. In the event that the Town determines that either the Homeowners Association has materially failed in its obligation to maintain operate and maintain the site in accordance with the requirements of this Decision, the Town shall have the right but not the obligation, upon written notice to the Association, and upon the Homeowners Association's failure to remedy the maintenance issue within thirty (30) days' notice thereof, to enter upon the Property to perform the required maintenance. The Homeowners Association shall reimburse to the Town all costs, including legal, incurred by the Town in connection with its performance of such required maintenance on the Property within thirty (30) days of the Homeowners Association's receipt of the Town's invoice for such costs.
32. Insurance: That the Homeowners Association shall have the obligation to maintain insurance coverage as follows:
- a. The Homeowners Association must maintain Casualty and Loss Insurance sufficient to ensure 100% replacement. The Master Deed shall provide that in the event of condemnation or casualty, Affordable Units shall be restored to habitable condition and in compliance with this Decision. Insurance proceeds for the damage to the Affordable Units shall be payable to the Town of Norwell or its designee, which shall ensure that the proceeds are first used for restoration of the Affordable Unit(s).
  - b. The Master Deed shall also provide that in the event of condemnation or casualty, any proceeds in excess of the replacement cost of the Affordable Unit(s) as set forth in the Deed Rider shall be given the Town or its designee for affordable housing purposes.
  - c. The insurance policy of the Homeowners Association that provides Fire and other perils for real property shall include the interests of the Town of Norwell, as a "named insured" for all Affordable Units located in Norwell. A certificate of insurance shall be provided by the Homeowners Association to the Town of Norwell, prior to the expiration date of any and all such coverage.
33. Affordable Housing: That the Homeowners Association shall have responsibility for continuing provision of affordable housing as follows:
- a. There shall be no amendments to provisions relating to the Affordable Units or the votes afforded to them, without the Board's written approval.
  - b. All Affordable Units shall be owner-occupied, unless controlled by a private qualifying affordable housing agency as landlord. Any occupant or tenant under those circumstances shall meet any income and/or other financial



- restrictions or requirements as may be imposed by that agency for such occupancy or tenancy.
- c. Upon turnover of the Association by the Declarant to the non-Declarant unit owners, at least 25% of the trustees of the Homeowners Association shall be owners of an Affordable Unit, if the Affordable Unit owners desire to serve as trustees.
34. Additional Bedrooms: That the Condominium Documents shall provide that as a prerequisite to the creation of any additional bedrooms, in addition to those constructed by the applicant under this Comprehensive Permit, is:
- a. Homeowners Association approval at a duly noticed meeting of all unit owners by at least a majority vote, attested to under penalties of perjury by the officers of that association, and then
  - b. Such approvals as may be required by the Board at its sole discretion under an application to modify this Comprehensive Permit. Any application for modification shall be subject to engineering review by the Board at its sole discretion at the expense of the applicant.
  - c. No demolition or construction permit shall issue without such approval by the Board.

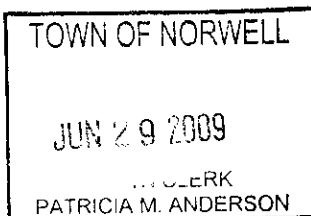
## **DESIGN STANDARDS**

### **Site Planning Standards**

35. Internal Roadways:
- a. Internal Road Length: No on-site drives ("roads") shall be more than 1,100 linear feet in length cumulatively along the centerline and the centerlines of all connecting on-site roadways leading to Prospect Street measured along the shortest route beginning at the centerline of Prospect Street and terminating at the end of pavement of the on-site drive ("road") The Board carefully considered the Town current safety standard as set forth in the Planning Board's Rules & Regulations as well as the number of dwellings potentially isolated in the event of road blockage during or due to an emergency and, based upon the Board's desire to foster Affordable Housing Resources in Norwell, established the maximum length of a dead end road as 1,100 linear feet, which is two hundred percent (200%) of the Town's safety standard.

The Board considered the following Local Safety Concerns when establishing this condition.

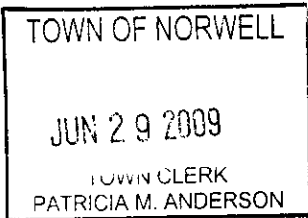
- a. The proposed slope and 6% grade of the roadway beyond 1,100 linear feet.
- b. The proposed sharp curve of the road after the "neck" area.
- c. The proposed density of the development in the portion of the development after the "neck" area", without a second means of egress.
- d. The proximity of proposed buildings #10, #11, #22 to the "neck" area.
- e. The proposed construction of the roadway in the "neck" area and the proposed sidewalk construction below the grade of the roadway.



- f. The restriction on the use of road salt in this area due to it being located in the Aquifer Protection District.
- g. The "shading" of the "neck" roadway by trees located on properties not owned by the applicant which would prevent or slow natural snow and ice melting.
- h. The constructability of the proposed roadway without adversely impacting the abutting properties or requiring encroachment in abutting properties.
- i. The opinions of our peer review civil and geotechnical engineers expressing doubts and/or concerns relating to the safety and constructability of the roadway in this "neck" segment.
- j. Proximity of the of proposed snow storage areas to the "neck".
- k. The unavailability of soft shoulders and the existence of guardrails restricting emergency access off any paved surface.

b. Internal Road Width: Roadway design plans and construction details (inclusive with the Final Plans) shall be provided for approval by the Board. Except as otherwise provided by this Decision, roadway design and construction standards shall conform to the requirements of the Norwell Planning Board Subdivision Rules and Regulations. All proposed roadway and utility construction, grading, and appurtenant work shall be described in complete detail to readily enable peer review and construction. A note shall be placed on each pertinent sheet of the Plans stating that the Project is the subject of a comprehensive permit under G.L. c. 40B § 22-23, that the roads and ways within the Project in some cases may and in other cases may not, conform to the standards and requirements of the Norwell Subdivision Rules and Regulations. Sidewalks shall be provided as per approved plans and shall conform to the requirements of the Norwell Planning Board Subdivision Rules and Regulations. The roadway cross section shall include Cape Cod berms, and four (4) foot grassed stabilized shoulders on each side. Complete development roadway profiles shall be provided for existing centerline and sideline grades, and proposed centerline grade. The Applicant may submit plans for pedestrian paths on one side of the ways, and any such paths shall be separate from the stabilized shoulders and shall respect existing trees.

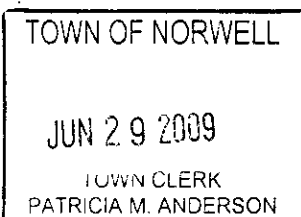
- 36. Building Location Restrictions: Construction of any residential building shall be prohibited within the required front yard setback of fifty (50) feet from the right-of-way of Prospect Street and within the required setback of twenty (20) feet from all other lot lines.
- 37. Retaining Wall Location Restrictions: Construction of any retaining wall having an exposed face of four (4) feet or more shall be prohibited
  - a. within the required front yard setback of fifty (50) feet from the right-of-way of Prospect Street and
  - b. within the required setback of twenty (20) feet from all other lot lines. This restriction shall not preclude construction of Road 'A' between Station 8+50 and Station 12+00.



38. US Mail Delivery: The applicant shall coordinate with the Postmaster and, if required, provide a centralized mail pickup facility designed with a minimum of two (2) dimensionally conforming off-street parking spaces. If a central location is required, the applicant shall submit such plan to the Board and a minor modification of this permit may be required at the sole discretion of the Board. The design of the centralized mail facility shall be consistent with any federal regulations established by the U.S. Postal Service.
39. Easement: An easement shall be provided to the benefit of the Town and approved as to form by Town Counsel, granting the Town rights to perform emergency and routine maintenance where the applicant or the Homeowners Association fails to conform to operate and maintain the site as required by this Decision and providing the Town with the right to charge to the responsible party the full cost of such performance by the Town, including legal costs to comply.

### **Resource Protection Standards**

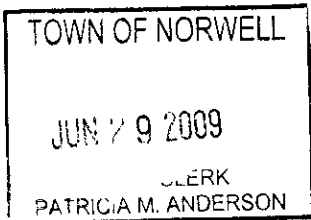
40. Existing Resource Areas: All existing conditions plans and base plans shall be revised to show all "Resource Areas" including without limitation all streams, banks, isolated and bordering land subject to flooding (100 year floodplain), isolated wetlands, bordering vegetated wetlands, based upon the plan incorporated by reference in a current Order of Resource Area Delineation or in a current Order of Conditions issued by the Norwell Conservation Commission and in a current Superseding Order of Resource Area Delineation or in a Superseding Order of Conditions issued by DEP, as applicable. All on-site isolated wetlands shall be evaluated to determine if they should be classified as vernal pools whether or not such vernal pools were certified at the time of submission of the Comprehensive Permit Application. Further, any Order of Resource Area Delineation, Superseding Order of Resource Area Delineation, Order of Conditions, or Superseding Order of Conditions shall include delineation of all resource areas regulated under the "Massachusetts Wetlands Protection Act" and (with respect to any order issued by the Norwell Conservation Commission) shall include delineation of all resource areas including isolated wetlands regulated under the "Norwell Wetlands Bylaw Article XVI-a, Wetlands Protection.
41. Required Buffer Zones: Any residential building construction and any land disturbance including cutting of vegetation or earthwork shall be prohibited within twenty-five (25) feet of any bordering vegetated wetland or within 100 feet of the bank of any river or intermittent or perennial stream delineated as provided in Condition 37. The aforesaid no disturbance limits shall not apply to any on-site drives ("roads") or to any watermain crossings of wetlands to provide a looped water distribution system if authorized by a current Order of Conditions. Further, to comply with the Norwell Conservation Commission's recommendations contained in comment letters of September 2, 2008, and March 31, 2009, for reduction of the buffer zone required by the Norwell Wetland Protection Bylaw (Article XVI-a), the project plans shall be revised so that:
  - a. Stormwater Basin P3.5 shall be moved completely outside of a 25' buffer zone including the associated grading (DWG 18).
  - b. Stormwater Basin P4.2 shall be moved completely outside of a 25' buffer zone including the associated grading (DWG 17).
  - c. The grading for all of the Stormwater Basins shall be moved outside of a 25' buffer zone.



- d. Building #4 shall be reduced in size or relocated so that the building, porches, retaining wall and lawn are outside of a 25' buffer zone (DWG 17).
- e. Building #5 shall be reduced in size or relocated so that the building, porches, and lawn are outside of a 25' buffer zone (DWG 17).
- f. No snow storage shall be located within a 25' buffer zone per DEP's Snow Storage Guideline Number BRPG01-01.
- g. The parking spaces located at the end of "Road C" shall be moved outside of a 25' buffer zone (DWG 17).
- h. Wetland replication areas shall be created for any altered BVW and BLSF in accordance with the DEP's guide to Inland Wetland Replication at a rate of at least 1:1.
- i. A thorough review for Eastern Box Turtles (*Terrepenne carolina*) and other Rare and Endangered Species shall be completed during the required application process to the Norwell Conservation Commission.
- j. Additional information including a cross section of any proposed trail shall be provided for the "Walking Trail Connection to Town Property" shown on DWG 10. The trail shall also connect to "Road A".
- k. Any features permitted in the buffer zone shall employ the **design measures** the Commission detailed in its September 2, 2008 letter, including the use of permeable application pavers, water quality swales, and artificial wetlands. The Applicant shall provide information to the Norwell Conservation of any and all proposed mitigation during the required application process to the Norwell Conservation Commission.
- l. The proposed development shall comply with the Massachusetts Wetlands Protection Act (M.G.L. c. 131, s. 40) and Regulations (310 CMR 10.00) and, except as waived by this decision, The Town of Norwell Wetland Protection Bylaw (Article XVI-a).

The reasons for the maintenance of a 25-foot buffer zone are set forth in The Norwell Conservation Commission's letter of March 31, 2009 to the Norwell Zoning Board of Appeals is incorporated into this condition. The Board has considered the need for affordable housing and has determined to further reduce the non-disturbance and buffer zones to permit the construction of this project.

- 42. Conservation Restriction: The non-disturbance zones required in Condition 41 shall be enforced through provision of a duly recorded Conservation Restriction that includes all land within twenty-five (25) feet of the edge of bordering and isolated wetlands and areas within one hundred (100) feet of the bank of any intermittent stream.
- 43. Floodplains: The plans shall be revised to show the location and extents of fill within the 100-year jurisdictional floodplain and location of compensatory flood storage areas based upon the 100-year jurisdictional floodplain delineated as provided in Condition 37. Compensatory flood storage volumes shall be shown.
- 44. Documentation Requirements: Copies of the detailed numeric groundwater model developed for the DEP process shall be submitted to the Board for record purposes at the same time they are filed with the DEP.
- 45. Vernal Pool Protection: Any on-site isolated wetlands determined to have vernal pool characteristics shall be protected and preserved whether or not such vernal pools were certified at the time of submission of the Comprehensive Permit Application.



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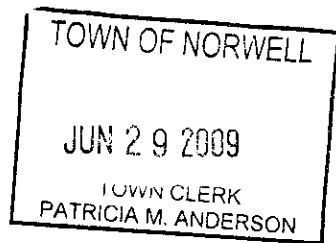
46. On-Site Drive ("Road") Width: The plans shall be revised to show the pavement width of all on-site roads increased to 26 feet (as is required for subdivision roadways) and regulatory signage provided that restricts parking to one side of these roads. These road width and parking restrictions are necessary to ensure the unimpeded passage of emergency vehicles where vehicles are parked on the drives. The 26' width is also required to address visitor parking concerns since wholly inadequate visitor and guest parking were shown on the submitted plans.
47. On-Site Drive ("Road") Geometry: The plans shall be revised to provide geometry for all "Roads" that is sufficient to accommodate the largest fire department equipment represented by the AASHTO Large School Bus Design Vehicle. Cul-de-sacs shall be provided at the terminus of any dead end Road, including the end of "Road C," capable of accommodating the largest fire department equipment.
48. Cul-de-sac: The plans shall be revised to provide a cul-de-sac with a minimum pavement diameter of 90 feet at the terminus of all dead end on-site drives ("roads").
49. Fire Lanes: Regulatory signage shall be provided requiring that all fire lanes and emergency parking areas shall be kept clear at all times to ensure access by fire trucks and emergency vehicles and further requiring that violators shall be towed at the owner's expense.
50. Sidewalks: The plans shall be revised so that sidewalks shall be provided on one side of all on-site roads. The bituminous width of the sidewalk shall be no less than 4 feet in all areas.
51. Crosswalks: The plans shall be revised to show cross walks that consist of white reflectorized traffic paint in conformity with the Manual on Uniform Traffic Control Devices (MUTCD).

**Parking Standards**

52. Resident Parking: Each unit shall have an attached garage with no less than one (1) parking space and a unit driveway sufficient to provide a minimum of one (1) outdoor paved parking space adjacent to the garage.
53. Exterior Parking Spaces: Unit driveways shall provide at least one exterior parking space with a minimum area of nine (9) feet by twenty (20) feet for all units.
54. Surface Grades: Surface grades within parking spaces shall be limited to a maximum of four (4) percent where practicable and six (6) percent maximum. Surface grades within accessible parking spaces shall comply with Architectural Access Board (AAB) standards.

**Grading and Retaining Wall Standards**

55. Retaining Walls: All retaining walls with an exposed face of four (4) feet in height or greater, unless otherwise prohibited in this decision, shall be designed by a Structural Professional Engineer based upon site specific geotechnical investigations and a foundation engineering report as regulated under the Massachusetts State Building Code. Retaining wall design shall be based on site specific soil testing and may not be conditioned on establishment of soil conditions by others.



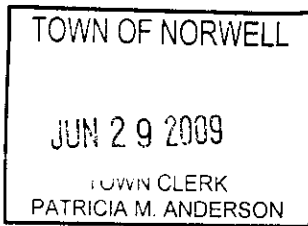
### **Water Distribution Standards**

56. **Municipal Water Service:** All dwelling units shall be connected to the municipal water system.
57. **Water Distribution System:** The water distribution system shall meet all requirements of federal, state, and local regulations not specifically waived herein pertaining to public water supplies, including, but not limited to the Norwell Aquifer Protection District Zones II and III of the Town well identified as Bowker Street No. 9, located in Burnt Plain Swamp, northerly of the proposed project development.
  - a. The previously submitted plans and documentation for the comprehensive flow test to determine adequate sizing of project water mains shall be stamped and signed by the professionals that made them.
  - b. **Three Valve Connections:** All connections to existing water mains shall be three valve connections of full diameter.
58. **Looping:** The plans shall be revised to show a second point of connection to the municipal water distribution system. If a second point of connection to the municipal water distribution system cannot be provided from the vicinity of Simon Hill Road, a second point of connection off Prospect Street shall be required for looping of the water service to provide for the public health, safety, and welfare
59. **Fire Protection:** All buildings shall be constructed with a residential sprinkler system as required pursuant to the Massachusetts State Building Code. The applicant shall provide evidence that such systems shall be designed, constructed in compliance with applicable codes and maintained in a manner approved by the Norwell Fire Chief.
60. **Fire Hydrants:** Fire hydrant locations shall be indicated and documentation shall be provided of approval by the Fire Chief as to the number and arrangement of the fire hydrants prior to Definitive Site Development Plan approval. The hydrant assembly shall be the Norwell standard complying with Fire Department and Water Department requirements.
61. **Water Quality Monitoring:** Water Quality monitoring wells to be installed along property line downgradient of project in vicinity of Well 9. Number, placement, analytes, and frequency of sampling to be determined by the Board of Water Commissioners.

### **Stormwater Management Standards**

62. **Stormwater Management Compliance:** The plans as required in Condition 89 shall be revised to show a stormwater management system that is in full compliance with the DEP Stormwater Management Standards (2008), standard engineering practice, Best Management Practices, and with Bylaws and Rules and Regulations of the Town of Norwell including without limitation Section "7C, Drainage Design" of the Norwell Planning Board's "Rules and Regulations Governing the Subdivision of Land," and section 3159 of the Zoning Bylaw.
63. **Stormwater Management Design:**
  - a. **Computational Standards:** In order to protect local interests by fully addressing offsite stormwater impacts from the project, the computation of runoff shall comply with Town of Norwell requirements including use of the Cornell Curves (TR93-5 Atlas of Precipitation Extremes for Northeastern United States and Southeastern Canada (Cornell)). The





Cornell Study methodology is also published in DEP - Hydrology Handbook for Conservation Commissioners.

- b. Basin Requirements: The plans shall be revised to show stormwater basins that provide for a "free discharge" inflow above the 100-year design elevation and that provide an outlet invert located above the 100-year jurisdictional flood elevation. The bottom for all basins shall be two feet above seasonal high groundwater.
  - c. Testing: Exfiltration shall be based on a minimum of two permeability tests per basin and shall not exceed published values of the Rawls Tables for the class of soil.
  - d. Fencing: All stormwater basins shall be fenced to a minimum height of 42 inches to comply with the Massachusetts Building Code, so they will not become an attractive nuisance for children and shall not be disturbed other than during maintenance.
64. Roof Water Recharge: Wherever soils so permit, a roof water recharge system shall be provided for each building and shown on the approved Definitive Site Development Plans. Leaching structures shall be located a minimum of two-feet above groundwater and in areas where sandy soil with an infiltration rate of 3.0 in/hr or faster can be documented by soil evaluations witnessed by an agent of the Town.
65. Sedimentation and Erosion Controls. Sedimentation and erosion controls shall be provided, adjusted, and maintained that include temporary stilling basins, hay bales/silt fences, a crushed stone-tracking pad at the site entrance, stockpile locations, trailer and equipment storage locations.
66. Operation and Maintenance Plan: An Operation and Maintenance Plan shall be provided that is consistent with DEP guidance incorporating elements such as a stabilized rock construction entrance, temporary settling basins, stabilized stockpile areas, inlet protection, and stabilization notes and details.

### **Wastewater Standards**

67. Wastewater Collection and Treatment System: The Proposed Project shall be served by a private, shared wastewater collection and treatment system or the septic system design indicated on the Definitive Site Development Plans in compliance the DEP Groundwater Discharge Permit or a Norwell Board of Health Septic Works Construction Permit, as applicable, and the system shall incorporate the following:
- a. The operation and maintenance of the shared wastewater treatment system shall be in accord with the DEP Groundwater Discharge Permit or Title 5 (310 CMR 15.00), as applicable and such requirement shall be included in the Condominium Documents.
  - b. Prior to issuance of the written "Notice to Proceed" by the Board, the applicant shall submit approved design drawings under the DEP Groundwater Discharge Permit or Septic Works Construction Permit pursuant to Title 5 (310 CMR 15.00), if applicable.
  - c. The applicant shall provide a copy of the DEP Groundwater Discharge Permit or the Norwell Septic Works Construction Permit (if applicable) to the Board upon receipt.
  - d. There shall be no garbage disposals installed in any and all dwelling units.
68. Wastewater Treatment: The effluent from the proposed wastewater treatment plant shall comply with all DEP regulations governing the same, any DEP

standards for discharge to Class I groundwater and post development groundwater quality shall meet Norwell, Massachusetts and Federal drinking water standards at the property line.<sup>1</sup> Limitations on effluent quality are required based upon location of the soil absorption system within the Norwell Zone 2 Aquifer Protection District and the testimony of the Board's peer review consultants and information submitted by the Norwell Water Department which specifically identify the likelihood that discharge above these levels will to a reasonable degree of certainty detrimentally impact public health and the groundwater supply in the Town of Norwell which is the sole source of drinking water for the Town of Norwell.

69. Phosphorous Limitations: For any wastewater treatment plant, the process shall provide for a reduction of phosphorous to 0.1 mg/L in order to limit eutrophication of surface waters and on site wetlands and the downgradient Burnt Plain Swamp on the basis that effluent from the Soil Absorption System is determined to flow towards the on-site wetlands. This requirement is established based on the testimony of the Board's peer review consultants and information submitted by the Norwell Conservation Commission which have determined that to a reasonable degree of certainty that unmitigated phosphorous is likely to result in the eutrophication of surface waters and wetland resource areas which detrimentally impact open space and wetland resources of the Town of Norwell. Any wastewater treatment plant permitted by DEP shall have the capability and any septic system permitted by the Norwell Board of Health shall include an RSF equivalent providing the capability of reducing Nitrogen loading to the extent that the concentration in groundwater is limited to 10.0 mg/L at the downgradient property line in compliance with Section 4354(b) of the Norwell Zoning Bylaw.
70. Mounding Limitations: The increase in groundwater elevation due to mounding caused by the Soil Absorption System (SAS) shall be limited to one foot at the property line, which is good engineering practice and necessary to address any impact to abutting residences.

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### **Architectural Unit and Building Standards**

71. The development shall consist of 2-story garden-style townhouse condominium units with 1-2 car garages, comprised of 2, 3, 4 and 5-unit townhouse buildings to be constructed in such a manner as to meet all other terms and conditions of this Comprehensive Permit.

### **Bedroom Limitation Standards**

72. Bedrooms: A mix of two (2) and three (3) bedroom units shall be provided. A minimum of one-third ( $\frac{1}{3}$ ) of all dwelling units shall be two (2) bedroom dwelling units and no dwelling unit shall contain more than three (3) bedrooms. The tabulation of bedrooms shall include any room that may be used as a bedroom, including but not limited to studies, offices, dens or any other room not intended for use as a kitchen or living room (limited to one each), or bathroom(s) and any room that is larger than would normally be anticipated in a dwelling unit of the size proposed or that could reasonably be subdivided into a separate usable living space as the term "bedroom" is defined in the State Environmental Code 310 CMR

<sup>1</sup> Section 4354(b) of the Norwell Zoning Bylaw requires that "Ground water quality resulting from on-site waste disposal and other on-site operations will not fall below federal or state standards for drinking water at the down gradient property boundary (10 ppm concentration nitrate-nitrogen)."

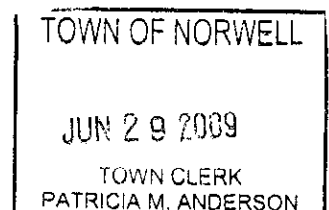
15.002 or as may be amended. The individual Deeds for each unit, both affordable and market-rate shall indicate the bedroom restrictions applicable to each unit. Further, individual interior Unit As-Built Plans, signed and sealed by a Registered Architect and/or Land Surveyor, shall identify room usage within the unit and shall be recorded with the first Deed.

### **Site Lighting Standards**

73. Minimum Illumination Levels: The site lighting system shall provide a minimum of ½ foot-candle of illumination on all pavement.
74. Light Trespass: The site lighting system shall use fixtures that minimize light trespass to 0.25 foot-candles at the property line.
75. Point Sources: The lighting fixtures shall not provide unshielded point sources of light that are visible off the property.
76. Dark Sky: The lighting system be designed using lower lighting levels consistent with safety and lighting fixtures shall be provided that avoid upward projection of light in compliance with Dark Sky principles.

### **Landscape Standards**

77. Tree Protection Plan: A tree protection plan shall be provided that requires physical marking of limits of clearing and protection of trees to remain by marking at the drip line with snow fence or other physical barrier.
78. Prospect Street: Trees over 6-inch caliper within the existing paved edge of the Prospect Street right-of-way shall be located and indicated for protection and preservation. Work within the Prospect Street right-of-way is subject to authorization by the Planning Board under the Scenic Road Bylaw.
79. Plant Material Guarantees: The plans shall require provision of a guarantee for all plant materials extending for one year following the date of submission and approval of the final As-Built Plans.
80. Native Plant Materials: Existing trees and vegetation shall be preserved to the maximum extent practicable. New trees and shrubs native to southeastern Massachusetts shall be installed to provide shade and screening. Additionally, all disturbed areas of the project site shall at a minimum, be loamed to a 6-inch depth, and then seeded.
81. Landscape Buffer: The plans shall be revised to provide at minimum a 20-foot buffer zone consisting of a double staggered row of spruce or fir trees spaced at a maximum of 20 feet on center (40 feet on center in each row) supplemented by a 6-foot high opaque fence along the property line of all abutting residential properties. This condition is required in order to screen the project from abutting properties and in order to promote and preserve the value of abutting residential properties and to screen the single family homes prevalent in the neighborhood from the proposed development.
82. Plant Materials Guarantee: That the applicant shall provide a guarantee for all plant materials extending for one year following the date of submission and approval of the final As-Built Plans.



### **Sustainable Design Standards**

83. Energy Efficiency: All building fixtures and appliances shall comply with Energy Star requirements and all energy efficiency requirements of the State Building Code.
84. Best Practices xeriscape techniques shall be used in design and construction.
85. Water conservation use shall meet the Massachusetts State Plumbing Code for water conservation device usage.

### **Construction Standards**

86. Limit of Work: The limit of work shall be marked by snow fencing or other durable barrier and "limit-of-work" signs shall be set at reasonable intervals that are plainly visible from outside the limit of work areas and plainly visible to one another, which shall be placed on the upland side of the erosion controls.

### **Design Coordination Standards**

87. Norwell Fire Department Requirements: The Applicant shall demonstrate that the Definitive Site Development Plans have been revised to incorporate all requirements of the Norwell Fire Department.
88. Norwell Police Department Requirements: The Applicant shall demonstrate that the Definitive Site Development Plans have been revised to incorporate all requirements of the Norwell Police Department.

## **PLAN SUBMISSIONS**

### **Definitive Site Development Plan Set Submission**

89. Definitive Site Development Plan Set: At least ninety (90) days prior to application for a building permit, the applicant shall provide to the Board for review and approval, six (6) complete sets of full-sized Site Development Plans, that include both contract documents and specifications (Definitive Site Development Plans). The submission shall also include three (3) complete sets (11 x 17) of reduced copies, as well as an electronic copy on disk in AutoCAD Civil 3D 2008 or other approved format. The Definitive Site Development Plans shall incorporate all revisions required to comply with all conditions of approval including without limitation the Design Standards set forth in Conditions 35 through 88 and shall be consistent with local requirements not waived elsewhere in this Decision. The Definitive Site Development Plans shall also include a Building Code review. All plans shall be signed and sealed by the Civil Professional Engineer, Landscape Architect, and the Professional Land Surveyor of record, registered in the Commonwealth of Massachusetts. The Definitive Site Development Plans shall be a "conformed" set, incorporating all revisions required by other agencies and parties having jurisdiction, including all Federal, state, and town permitting and regulatory agencies, and all departments of the Town of Norwell, and shall show all proposed site improvements, including the following:
  - a. Permit Coordination: All revisions arising from requirements of permitting agencies including a Groundwater Discharge or Septic System Permit process and the Massachusetts Wetlands Protection Act (WPA) process.

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- b. Wastewater: Final design of the on-site wastewater collection and treatment system including sewer profiles
  - c. Stormwater Management: Final design of the stormwater management system including storm drain profiles.
  - d. Water Distribution System: Final design of the water distribution system including valves, fittings, and hydrants, and incorporating all requirements and construction details of the Norwell Water Department.
  - e. Retaining Walls: Final design to include plans, profiles, and sections of all retaining walls with an exposed face of four (4) feet or greater in height including their location, type, and top and bottom of wall elevations.
  - f. On-Site Traffic Controls: Final design of traffic controls including traffic regulatory and warning signs and pavement markings including crosswalks.
  - g. Signs: Final signage design including street name and way finding signs.
  - h. Lighting: Final design of site lighting to include photometric plans.
  - i. Affordable Unit Locations: A final plan designating the locations of the affordable units, said units to be well distributed throughout the project.
  - j. SWPPP: A Final Stormwater Pollution Prevention Plan.
  - k. Easements: The plans shall indicate any deeded or prescriptive easement rights that may exist on or for the Property.
  - l. Operation and Maintenance Plan: A Final Operation and Maintenance Plan
  - m. Provide adequate protections to safeguard the public health, safety, and welfare of the residents of the Town of Norwell, including but not limited to (See SJC-10224):
    - (1) Likelihood of increased runoff and flooding to abutting properties or those downgradient of the proposed project
    - (2) If work occurs outside of the project property as shown on the plans, the applicant shall file for a modification of this Comprehensive Permit.
90. A Conservation Restriction pursuant to G.L. 184, s.31 in a form acceptable to Town Counsel shall be recorded, prior to the commencement of any construction, clearly identifying the land areas noted on the Definitive Site Development Plans to be left in their natural vegetative state with no provision for site alteration, including but not limited to a prohibition on tree removal, land clearing and site grading of these areas.
91. Plan Revisions and Modifications: Substantive revisions to the Project or the Plans, such as relocation (except relocation within the building "envelopes" as proposed) or deletion of dwellings (except as specified in this Decision), material changes in unit architecture, style or materials, relocations of more than one property line, relocation of the right of way or other substantive changes from the approved Plans shall not be permitted without the written approval of the Board. If, between the date that this decision is filed with the Office of the Town Clerk and the completion of the Project, Applicant desires to change any details of the Project (as set forth in the Plans, or as required by the terms of this Decision) the Applicant shall promptly inform the Board in writing of the change requested. Changes will be administered or addressed pursuant to 760 CMR 56.00 et seq.

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**Final Architectural Plan Submission**

- 92. Final Architectural Plans: At least ninety (90) days prior to application for a building permit, the Applicant shall submit provide to the Board for review and approval, six (6) complete sets of full-sized Architectural Plans, including contract documents and specifications, (Final Architectural Plans) for all proposed dwelling units, and

three (3) complete sets (11 x 17) of reduced copies, as well as an electronic copy on disk in AutoCAD 2008 or other approved format. The Final Architectural Plans shall incorporate all revisions required to comply with all Conditions of Approval including without limitation the Design Standards set forth in Conditions 35 through 88 and shall be consistent with local requirements not waived elsewhere in this Decision. All plans shall be signed and sealed by the architect of record who is a Registered Architect in the Commonwealth of Massachusetts.

93. Content: The Final Architectural Plans shall be provided for each type of building and shall be sufficient to apply for a Building Permit and for each type of building shall include the following:
- a. Floor plans: Floor plans of each floor level.
  - b. Elevations: Elevations of each building face.
  - c. Sections: Sections through each building.
  - d. Exterior: Exterior finishes including materials and colors.

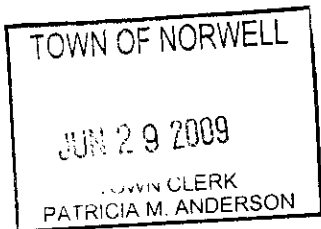
### **Peer Review Escrow**

94. All fees for peer review services by the Board's consultants, including review of submissions including supplemental submissions, testing, site inspections, engineering, and environmental monitoring required by this Decision shall be paid in full by the applicant. Escrow deposits shall be provided in compliance with the Board's Rules and Regulations.

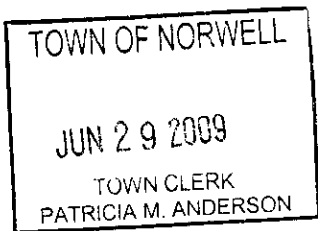
### **Prior to Construction**

95. Compliance: Prior to construction which shall include clearing of vegetation, earthwork, or other land disturbance ("prior to construction"), the Definitive Site Development Plans shall be approved by the Board and an endorsed copy bearing the signatures of the Board shall be maintained on-site.
96. Board Approval: Prior to the construction, the applicant shall obtain from the Board a written "Notice to Proceed" that shall be issued only at such time as all plan and other pre-construction approvals set forth herein are completed in compliance with the terms and conditions of this permit.
97. MassHousing: Prior to construction, the applicant shall demonstrate that it has received final approval from the Subsidizing Agency (MassHousing) and funding in accordance with the project eligibility letter, dated May 28, 2008, issued to Simon Hill LLC. The applicant shall demonstrate compliance with this section by providing a copy of the final approval letter from MassHousing and a certification from MassHousing or its lender that the project loan is in place and is in compliance with the general terms thereof.
98. Preconstruction Documentation: Prior to construction, documentation shall be furnished demonstrating that certificates, orders, permits, and licenses have been issued including following:

- a. A Certificate from the Secretary of Energy and Environmental Affairs stating that the Environmental Notification Form (ENF) or if applicable the Environmental Impact Report (EIR) adequately and properly comply with the Massachusetts Environmental Policy Act.
- b. An Order of Conditions from the Norwell Conservation Commission or a Superseding Order of Conditions from DEP.



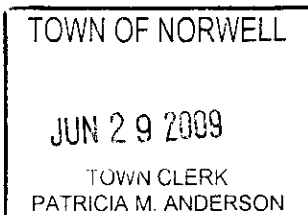
- c. A Groundwater Discharge Permit from the Massachusetts Department of Environmental Protection or a Septic Works Construction Permit from the Norwell Board of Health.
  - d. An NPDES Construction General Permit (CGP).
  - e. A copy of the Project Notification Form filed with the Massachusetts Historical Commission.
99. Intersection Sight Triangles: Prior to construction, the applicant shall document that authorization has been obtained from officials, agencies, or authorities having jurisdiction (including without limitation the Norwell Highway Surveyor and if a Scenic Road the Planning Board) for clearing and maintenance of the intersection sight triangles within the right-of-way of Prospect Street. Adequate Intersection Sight Distance (ISD) shall be provided in both directions at the intersection of "Road A" and Prospect Street based upon the 85th percentile travel speed along Prospect Street as set forth in the applicant's traffic report dated October 2008 which identifies the 85<sup>th</sup> percentile speed as 43 miles per hour northbound and 44 miles per hour southbound.
100. Construction Phasing, Scheduling, and Sequencing: Prior to construction, a detailed "Construction Phasing Plan" and "Construction Schedule," and "Construction Sequencing" information shall be submitted for review and approval by the Board. Approval will not unreasonably be withheld or delayed by the Board. Upon completion by the developer, the Board shall receive a copy of the construction, phasing, and sequencing, consistent with regulations relating to an appropriate number of affordable units.
101. Preconstruction Documentation: That prior to construction, the applicant shall provide the Board with the following:
- a. Emergency contact information including the name, address, email address, cell phone number, and telephone number for the individual responsible for all construction activities on the project site both during and after normal business hours, including nights and holidays.
  - b. A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the parcels comprising Simon Hill Village have been paid;
  - c. Certification that the applicant has fulfilled notification requirements of "Dig Safe," prior to commencement of any on-site work.
  - d. Preconstruction Meeting: At least forty-eight (48) hours prior to any initial site work, a pre-construction meeting shall be held with the Applicant, Applicant's contractor, a representative of the Board of Appeals, its consulting engineer, and representatives of the Town departments having an interest in the plan. Said meeting shall be for the purpose of familiarization with the project, the conditions of approval, and the project's construction sequence and timetable.
  - e. All dwelling units shall be built by the Applicant, and its agents or contractors over it will exercise supervision and control and the acts of which for which it will be responsible, in accordance with this Permit and the Regulatory Agreement. During construction, the name and mobile telephone number of the site manager or clerk of works employed by the Applicant shall be filed with the Building Department, the Board, and the Norwell Police Department, and such name and mobile telephone number shall be kept current.
102. Prior to commencement of construction, the Applicant shall provide to the Board:



- a. The name, address, e-mail and business telephone number of the individual(s) responsible for all activities on Site;
  - b. A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Site have been paid;
  - c. Proof that all required federal, state and local licenses and permits have been obtained;
103. Construction Work Delay: If work activity on the total project site ceases for a period of more than one month, appropriate notification must be given to the Inspector of Buildings prior to restarting work.

**During Construction**

104. Surety: Security shall be provided to ensure completion of improvements for each phase or sub-phase of work required to ensure that infrastructure is provided in safe, sustainable, maintainable, and functional configurations. Security shall be sufficient to provide for completion of work plus a cost contingency of 25 percent. The required amount of surety shall be reduced, based upon progress to date upon written request of the applicant provided that the remaining balance is sufficient to ensure completion of remaining work plus any contingency amount. Instruments of surety required under this Decision may be cash, an irrevocable letter of credit, or tri-partite agreement and shall be subject to review by Town Counsel as to acceptability of form and by the Town Treasurer/Collector as to creditworthiness or financial stability. The Applicant shall post a performance guarantee for each phase of work to be undertaken, satisfactory to and reviewed by the Board to be noted on the Plan to ensure that any construction related damage to adjacent roads is repaired by the Applicant in a manner satisfactory to the Board. This performance guarantee is to be received by the Board prior to the commencement of any of the improvements approved in the Plan and will be required until the Board decides that the Applicant has completed all of the improvements approved in the Plan. The form of the performance guarantee, adequacy and or amount may be varied from time to time by the Applicant subject to an agreement satisfactory to the Board and reviewed by Town Counsel.
105. Right of Entry: The applicant shall grant the Town of Norwell, its agents, and third parties engaged by the Town right of entry onto the lot for the purposes of observing construction and ensuring that the conditions and requirements of this permit are met.
106. Construction Monitoring: The Board's engineering consultant shall monitor construction of the project on behalf of the Board:
- a. The Consultant shall have the right to approve changes from the plans and other materials approved under this Decision if the change is not material.
  - b. The applicant shall schedule and sequence construction to accommodate observation of each construction task by the Board's consultant as set forth below.
  - c. For each construction phase, stormwater detention and retention basins shall be constructed, stabilized and vegetated prior to initiating construction of any other improvements.
  - d. The Board's consultant shall observe erosion control devices and safety devices prior to beginning other work, utility lines and structures prior to backfilling, excavations at extra depth prior to backfilling, pavement





- subgrade at completion, subgrade beneath embankments at completion, pavement gravel base at completion, and installation of pavement.
- e. No succeeding construction operation shall be initiated until the prior operation has been observed.
  - f. This condition shall not relieve the applicant of any monitoring or other requirements as may be imposed by the Norwell Conservation Commission or its Agent or those of other Town boards or departments that fall outside of the jurisdiction or authority of the Board under this Comprehensive Permit.
107. **Archaeological Resource Impact Mitigation:** All construction shall comply with the procedures for locating, documenting, and to the extent required by the Norwell Historical Commission or the State Historic Preservation Officer preserving Native American artifacts and resources, as applicable.
  108. **Work Hours:** No exterior work including equipment startup or delivery truck idling shall be allowed except in compliance with the limitations set forth herein. There shall be no construction on the project site before 7:00 AM or after 6:00 PM or dusk, whichever is earlier, from Monday through Friday and before 8:00 AM or after 5:00 PM or dusk, whichever is earlier, on Saturday. There shall be no construction on the project site on Sundays or the following legal holidays: New Year's Day, President's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, and Christmas. Exceptions may be granted by the Board upon request of the applicant and the Board may designate an agent to authorize temporary exceptions until the request can be deliberated by the Board.
  109. **Cleanup and Maintenance:** The applicant shall keep the total project site clean during construction. Upon completion of all work on the project site and prior to As-Built plan approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations. The applicant shall notify the Board in writing of the final disposition of the materials.
  110. **Workmanlike Execution:** The applicant shall ensure that all construction activities on the project site are conducted by skilled and licensed personnel in a workmanlike manner.
  111. **Maintenance of Traffic:** Prospect Street shall not be blocked or restricted by construction activities or equipment.
  112. **Resource Area Protection:** Construction impacts of resource areas by utilizing Best Management Practices including the following:
    - a. **Equipment Storage and Maintenance:** No construction equipment shall be parked or stored within one hundred feet (100') of any drainage channel, drainage inlet, or wetland area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and wetland buffer areas.
    - b. **Stockpiles:** Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long-term stockpiles over thirty (30) days shall be shaped, stabilized, and circled by siltation fence or hay bales and shall be stabilized by temporary seeding or netting.
    - c. **Dewatering:** Excavation dewatering shall be performed in a workmanlike manner and such water shall be free of suspended solids before being discharged into either a wetland or any stormwater drainage system. This condition applies to all forms of dewatering including pumping and trenching.

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- d. Construction Inlet Protection: Inlet protection is provided for the drainage system until all work has been completed and ground cover and erosion control vegetation is established.
  - e. Maintenance: All catch basins and detention basins shall be maintained in proper working condition during construction and shall be delivered to the Homeowners Association in a fully maintained, working order upon completion of construction. Thereafter, the applicant or the Homeowners Association shall be responsible for maintaining the Property's stormwater management system in compliance with all Federal, State, and local requirements and in accordance with best management practices.
  - f. Waterstops: Water stops shall be placed at fifty-foot (50') intervals in the backfill of all utility trenches to prevent drawdown of groundwater.
113. Earth Removal And Stockpiles: Prior to any earth removal, the applicant shall demonstrate to the satisfaction of the Board that the project site is in compliance with all earth removal requirements of the Town of Norwell By-Laws and Rules and Regulations. All stockpiles shall be established in locations consistent with the requirements of the Norwell Conservation Commission and the Board's Rules.
  114. Review: Any soil or earth material brought onto the project site or excavated on the project site and proposed for reuse on-site shall be subject to review by the Board's consulting engineer.
  115. Blasting: Any blasting operations shall require proper permits and shall not be undertaken on any weekend or holiday.
  116. Truck Traffic: Construction access and truck routes shall comply with requirements of the Norwell Police Department.
  117. On-Site Roadway Access: Once paved, all on-site ways ("Roads") shall be kept clear of obstructions and passable at all times. Equipment may be parked within an on-site road during construction, provided that such drive remains passable by emergency response equipment. No refuse containers, trailers or construction materials of any kind shall be placed or stored thereon.
  118. Fencing: Temporary construction fencing shall be provided for work areas where required by the Board's engineering consultant or the Inspector of Buildings.
  119. Hazardous Materials: There shall be no use or storage of hazardous materials in amounts greater than associated with normal to household use during construction.
  120. Best Management Practices: The applicant shall demonstrate that accepted Best Management Practices (BMPs) are to be utilized in all phases of construction.
  121. Noise, Vibration, Dust, And Sedimentation: Construction noise and vibration and construction dust and sedimentation shall be minimized to the maximum extent practicable.
  122. Applicable Laws: The applicant shall ensure that the construction process conforms in all respects to applicable Federal, State, and local laws, codes, and regulations including, but not limited to, building, plumbing, electrical, and health codes and regulatory limits on noise, vibration, dust, and sedimentation, except as waived herein.
  123. Erosion and Sedimentation Controls: Erosion and sedimentation controls shall be provided in accordance with the approved plans, the Order of Conditions, and the NPDES Construction General Permit (CGP).
    - a. Erosion controls shall be installed prior to any other construction activity.
    - b. Erosion controls be increased, supplemented, modified, adjusted, and maintained as required to effectively control sediment and erosion and minimize damage to wetlands and developed properties.

TOWN OF NORWELL

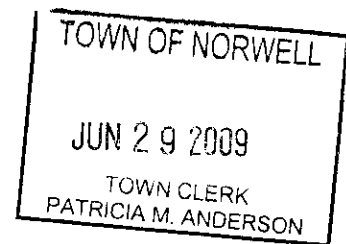
JUN 29 2009

TOWN CLERK  
PATRICIA M. ANDERSON

- c. Prospect Street shall be swept, as necessary, in order to remove sediment and debris prior to full site stabilization.
- d. All erosion control devices on the project site shall remain in place and shall be maintained throughout the project construction cycle until the last Certificate of Occupancy is issued or until such time as all disturbed areas have been stabilized with final vegetative cover or the Norwell Conservation Commission or its designee shall authorize removal, whichever occurs first.

**Prior to Issuance of Building and Foundation Permits**

- 124. Requirements to Issue Building Permits: Prior to issuance of any Foundation Permit or Building Permit (excluding Building Permits for retaining walls) by the Inspector of Buildings of the Town of Norwell,
  - a. all on-site ways ("roads") serving as a component of the route that provides access from a dwelling unit to Prospect Street shall be completed to binder base course, and the entire segment of said on-site road shall be completed, extending past the dwelling unit to a cul-de-sac.
  - b. all associated utilities for each road segment including storm drains and other site utilities and stormwater retention/detention basin(s) receiving runoff from the dwelling unit, driveways for each unit, or roads serving each unit shall be completed.
  - c. the areas along the on-site road segments that contribute runoff to the unit driveways as well as the area surrounding the dwelling unit shall be fully stabilized.
  - d. Security shall be provided in accordance with Condition 104.
  - e. Payment of all outstanding fees and payment of a reasonable escrow amount will be a precondition to the issuance of all Building Permits.
- 125. Required Documents: Prior to issuance of any Foundation Permit or Building Permit (excluding Building Permits for retaining walls) by the Inspector of Buildings of the Town, the applicant shall provide documentation to the Inspector of Buildings, establishing that the Board or its designee and Town Counsel have reviewed and approved the following:
  - a. Regulatory Agreement and Deed Rider.
  - b. Monitoring Services Agreement.
  - c. Master Deed.
  - d. Condominium Trust.
  - e. Performance Guaranty.
  - f. Stormwater Operation and Maintenance Plan.
  - g. Construction Phasing Plan.



**Certificates of Occupancy**

- 126. Required Improvements: Prior to issuance of any Certificate of Occupancy, all site improvements relating to each particular building shall be complete.
- 127. Temporary Certificates of Occupancy: Temporary Certificates of Occupancy may be issued provided that the site improvements are substantially complete and provided that sufficient security is submitted to guarantee completion of such improvements and provided that sufficient security is submitted to guarantee completion of such improvements and provided that incomplete items are limited to the following:
  - a. The top course of pavement;

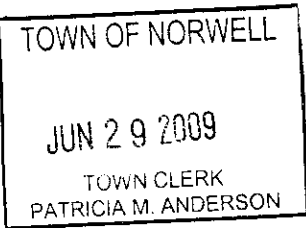
- b. Punch-list type items;
  - c. Items that cannot be completed due to seasonal limitations.
  - d. The required As-Built drawing.
  - e. The required Engineer's Certificate stating that construction substantially complies with the approved Final Site Development Plans, this Decision, and the "As Built" Plans.
128. Completion: Failure to complete improvements and failure to make required submissions within the stated time limits shall (unless said time limits are extended by the Board due to delays beyond the applicant's reasonable control) constitute sufficient cause after notice and hearing to revoke the temporary Certificate of Occupancy and deny any permanent Certificate of Occupancy.
- a. The top course of pavement shall be completed within thirty days following completion of the last building foundation served by each on-site drive ("Road") segment or if seasonally delayed by July 1st.
  - b. Punch-list items shall be completed and the As-Built drawing and the Engineer's Certificate shall be submitted, reviewed, and accepted within 60 days following issuance of the temporary Certificate of Occupancy.
  - c. Items differed due to seasonal limitations shall be completed by the next July 1st.
129. As-Built Plans – Interior: Prior to issuance of an Occupancy Permit, the applicant shall provide a certified, individual interior As Built Plan for such unit, stamped by a Registered Architect or Land Surveyor, as specified in Condition 44.

**Final "As Built" Plans & Guarantees**

130. As-Built Survey – General: Upon completion of construction of the project infrastructure (including but not limited to the drives ("roads") and stormwater and wastewater systems), the applicant shall engage a Professional Land Surveyor, Landscape Architect, and a Professional Engineer to perform an as-built survey, based upon field observations, and prepare an as-built plan that demonstrates substantial conformance with the approved plans. Three (3) paper copies and an electronic copy in AutoCAD format shall be submitted. The applicant's Professional Land Surveyor, Registered Landscape Architect, and Professional Engineer shall provide a final certification under his/her/their signature and seal, stating that the construction substantially conforms to the approved Final Site Development Plans, and this Decision or alternatively to identify all deviations from the approved plans and the Decision. The As-Built plan is subject to review by the Board's consulting engineer.
131. Interim As-Built Foundation Survey: An as-built foundation survey shall be provided for each unit foundation demonstrating that each foundation conforms to the approved plans.

**Waivers**

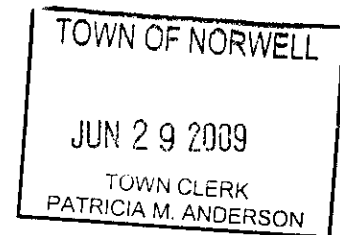
132. The Board grants waivers as requested by the applicant only to the following sections of the *Norwell Zoning Bylaw, Rules and Regulations of the Norwell Planning Board (adopted May 20, 2006)*, the *Norwell Board of Health Regulations*, the *Town of Norwell Bylaws and Rules and Regulations*, and the *Rules and Regulations of the Board of Appeals* to the extent necessary to ensure that the proposed project is constructed in accordance with the Definitive Site Development Plans as approved



- by the Board, as detailed below. If any waiver is in conflict with a specific Condition of the Comprehensive Permit, the Condition shall apply.
133. The proposed project shall conform to requirements of the Planning Board's *Rules & Regulations* as amended from time to time unless otherwise waived herein.
134. Waivers from any and all Town of Norwell rules, regulations, and/or bylaws not specifically listed in Exhibit B, attached to and incorporated as part of this decision, are hereby denied.

### **Decision Filing, Appeals, and Recording**

135. Activation: This Comprehensive Permit shall be deemed final after expiration of all applicable appeal periods and after all appeals, if any, have been decided. Within thirty (30) days:
- a. of expiration of the appeal periods or
  - b. after all appeals have been decided; whichever date is later, the applicant shall record this decision at the Plymouth Registry of Deeds and shall provide the Board and the Building Department with documentation (book and page) of the filing or a copy of the decision with all recording information stamped thereon. A recordable Site Development Plan Set shall also be filed with the Plymouth Registry of Deeds after approval by the Board and its consulting engineer.
136. Filing: As provided in 760 CMR 56.05(8)(a), the Board shall file its decision within fourteen (14) days of its vote with the office of the Town Clerk, forward a copy to the applicant or its designated representative, and to the Department of Housing and Community Development.
137. Appeals: Any person or parties aggrieved by this decision may appeal pursuant to Section 21 of the Act. An appeal may also be made, in certain cases, to Superior Court within twenty (20) days after filing of the written decision with the Town Clerk.
138. Expiration: The applicant shall commence construction within two (2) years from the required date of recording of the Comprehensive Permit, as detailed in this section, or it shall lapse. Construction, once commenced, shall proceed expeditiously without interruption on a timeline submitted to the Board by the applicant. Any material or substantial delay or deviation from such agreement by the applicant is subject to review and may result in modification of the Comprehensive Permit by the Board.

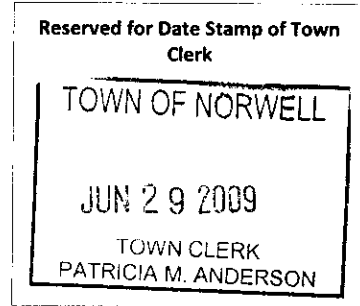


*Lois S. Barbour*  
\_\_\_\_\_  
Lois S. Barbour Date 6/29/09

*Ralph J. Rivkind*  
\_\_\_\_\_  
Ralph J. Rivkind Date 6/29/09

*Patrick J. Haraden*  
\_\_\_\_\_  
Patrick J. Haraden Date 6/29/09

Date Filed with Office of the Town Clerk



**ZBA FILE NO. 08-18**

**EXHIBIT A: File Inventory for Comprehensive Permit Decision  
Simon Hill, LLC, off Prospect Street, Norwell**

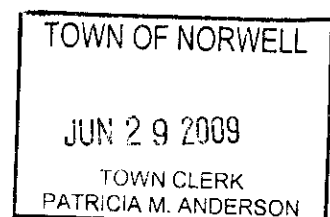
*N.B. Although care has been taken to ensure all documents received in the course of this public hearing are included on this list, this Exhibit A is not represented to include all documentation, communications, or information submitted in the course of the public hearing, but to serve as a convenient reference.*

**ORIGINAL APPLICATION:**

07 01 09

**Application Packet** with formal application request under MGL c. 40B, §§ 20-23, stamped by Norwell Town Clerk on July 1, 2008, including the following documentation:

1. Application transmittal letter of 5/28/08, signed by J. J. Sullivan, Mgr, Simon Hill, LLC, date-stamped by the Board of Appeals on 7/1/08
2. Letter of 5/28/08, regarding application and fee requirements
3. Application, dated 5/28/08, signed by J.J. Sullivan
4. Abutter's Notification
5. Development Narrative
6. Letter of 5/28/08, signed by J.J. Sullivan stating jurisdictional requirements have been met, including Limited Dividend Entity, Project Eligibility letter from MassHousing, Site Control, and Statutory Minima
7. Documentation of limited dividend organization status: Application, dated 1/2/07, stamped as filed by the Secretary of the Commonwealth Corporations Division
8. Professional Experience of John J. Sullivan, developer, and Bradley C. McKenzie, P.E.
9. Project Eligibility Letter, dated 6/30/08, issued to *Simon Hill Village*, by MassHousing (see letter Conditions)
10. Development Team
11. Site Control Norwell Assessors Map 13C, Block 37, Lot 6: P&S Agreement, dated May 28, 2008, by Maureen V. Jensen, Trustee of Jensen Realty Trust, 96 Manatee Road, Hingham, MA, to Simon Hill LLC, 142 Providence Highway, Suite 200, Norwood, MA.
12. **Plans and Drawings:** ½ size plan-set
  - a. **Sheet EC-1: Existing Conditions Plan**, entitled "Simon Hill Village" Comprehensive Permit Plans in Norwell, Massachusetts," prepared by McKenzie Engineering Group, Inc., of 150 Longwater Drive, Suite 101, Norwell, Massachusetts 02061, dated 5/22/08, stamped and signed by Bradley C. McKenzie, Registered Professional Civil Engineer
  - b. **Sheet PC-1: Proposed Conditions Plan**, entitled "Simon Hill Village" Comprehensive Permit Plans in Norwell, Massachusetts," prepared by McKenzie Engineering Group, Inc., of 150 Longwater Drive, Suite 101, Norwell, Massachusetts 02061, dated 5/22/08, stamped and signed by Bradley C. McKenzie, Registered Professional Civil Engineer
13. **Architectural Plan set**, entitled Simon Hill Condominiums/Norwell, Massachusetts, prepared by The MZO Group (not stamped or signed), consisting of five sheets, including:
  - a. List of Drawings Cover Sheet
  - b. Rear and Left Elevations
  - c. Front and Right Elevations
  - d. Second Floor Plan



- e. First Floor Plan
- 14. Preliminary List of Requested Exemptions and Waivers
- 15. Letter of 5/28/09, signed by J. J. Sullivan, regarding MassHousing Final Approval/Regulatory Agreement

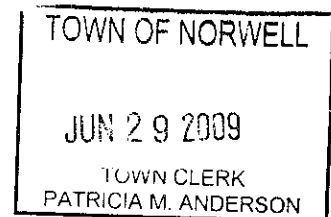
**SUPPLEMENTAL PLANS, DOCUMENTS, and REPORTS:**

01 05 09 **Plan Sheet: Conventional Zoning Yield Plan/Open Space Residential Development**, dated 5/22/08, prepared by McKenzie Engineering Group (NOT SIGNED) N.B. The OSRD plan is NOT a by-right plan, but would require a special permit from the Planning Board, prior to filing a subdivision application.

01 05 09 **Site Development Phasing Plan**, dated 11/5/08, prepared by McKenzie Engineering Group (NOT SIGNED)

11 14 08 **Plan Set**, dated 11/5/08, entitled "Simon Hill Village/(Tax Map 13C, Block 37, Lot 6)/ Comprehensive Permit Plans/in/Norwell Massachusetts," prepared by McKenzie Engineering Group, stamped and signed by Bradley C. McKenzie, Registered Professional Civil Engineer, consisting of 24 sheets, as follows:

- 1 Cover Sheet
- 2 General Notes, Legend, & Abbreviations
- 3 Index Plan
- 4 Overall Existing Conditions Plan
- 5-8 Existing Conditions Plans
- 9 Overall Site Layout Plan
- 10-13 Site Layout Plans
- 14 Overall Grading and Drainage Plan
- 15-18 Grading and Drainage Plans
- 19 Road A Plan and Profile: -0+18.20-9+50
- 20 Road A Plan and Profile: 9+50-18+00
- 21 Road A Plan and Profile: 12+50-end
- 22 Road B Plan and Profile
- 23 Road C Plan and Profile
- 24 Road D Plan and Profile



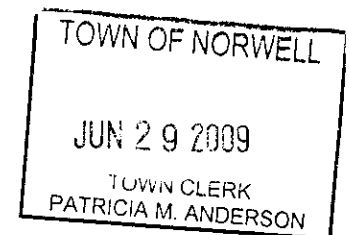
11 14 08 **Preliminary Drainage Calculations and Stormwater Management Plan** for Simon Hill Village, dated 11/5/08, prepared by McKenzie Engineering Group, and date-stamped by the Board of Appeals on 11/14/08 (NOT STAMPED OR SIGNED)

02 03 09 **Architectural Plan Set**, dated 01 23 09 Architectural Plan set, entitled Simon Hill Condominiums/Norwell, Massachusetts, prepared by The MZO Group (NOT STAMPED OR SIGNED), consisting of five sheets, including:

- a. List of Drawings Cover Sheet
- b. First Floor Plan
- c. Second Floor Plan
- d. Elevations I
- e. Elevations II



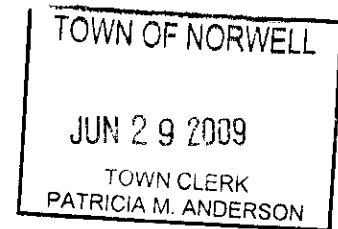
- 01 26 09 **Field notes** for 1/26/09 test pit project, jointly submitted by McKenzie Engineering, PSC, and the Norwell Conservation Agent
- 02 18 09 **PH-1: Phasing Plan** drawing, dated 2/18/09, prepared by McKenzie Engineering Group, and date-stamped by the Board of Appeals on 2/18/09 (NOT STAMPED OR SIGNED)
- 02 18 09 **Revised Plan Set**, dated 11/5/08, as revised 2/18/08, entitled "Simon Hill Village/(Tax Map 13C, Block 37, Lot 6)/ Comprehensive Permit Plans/in/Norwell Massachusetts," prepared by McKenzie Engineering Group, stamped and signed by Bradley C. McKenzie, Registered Professional Civil Engineer, consisting of 28 sheets, as follows:
- 1 Cover Sheet
  - 2 General Notes, Legend, & Abbreviations
  - 3 Index Plan
  - 4 Overall Existing Conditions Plan
  - 5-8 Existing Conditions Plans
  - 9 Overall Site Layout Plan
  - 10-13 Site Layout Plans
  - 14 Overall Grading and Drainage Plan
  - 15-18 Grading and Drainage Plans
  - 19 Road A Plan and Profile: -0+18.20-9+50
  - 20-23 Roadway Plans and Profiles
  - 24 Overall Landscape Plan
  - 25-28 Landscape Plans
- 02 18 09 **Preliminary Drainage Calculations and Stormwater Management Plan** for Simon Hill Village, dated 11/5/08, as revised 2/18/09, prepared by McKenzie Engineering Group, and date-stamped by the Board of Appeals on 02 18 09 (NOT STAMPED OR SIGNED)
- 02 18 09 "Plan Sheet of Hydrant Testing Location Plan – Figure 2" (NOT STAMPED OR SIGNED) with "Hydrant Flow Test and Hydraulic Summary" (NOT STAMPED OR SIGNED) for test date of 2/2/09, both prepared by McKenzie Engineering
- 06 15 09 **DWG 1 "Road A Cross Sections / Sta 9+40 and 9+80,"** prepared by McKenzie Engineering Group, dated November 5, 2008, and revised 2/18/09 (NOT STAMPED OR SIGNED)
- 06 15 09 **DWG 2 "Road A Grading and Drainage Plan,"** prepared by McKenzie Engineering Group, dated November 5, 2008, and revised 2/18/09 (NOT SIGNED OR STAMPED)
- 08 26 08 **Traffic Review Memorandum**, 2-page memorandum from Vanasse & Associates, Inc. to John Sullivan at Woodland Development
- 10 17 08 **Traffic Impact and Access Study/Simon Hill Village/Norwell, MA**, dated October 2008, prepared by Vanasse & Associates, Inc., 10 New England Business Center Drive, Suite 314, Andover, MA 01810
- 12 15 08 Vanasse response to PSC report of 11/13/08
- 12 16 08 Vanasse response to Town Planner's memorandum of 11/19/08



11 13 08 **PSC Peer Review Report**  
11 13 08 **TIAS Peer Review** – PSC memorandum of 11/13/09  
12 31 08 **PSC Peer Review of Preliminary Drainage Calculations** and Stormwater  
Management Plan  
03 11 09 **PSC Peer Review of Phase 2.0** modifications, dated 3/10/09  
03 11 09 **PSC Peer Review of Phase 2.0 Drainage Calculations** and Stormwater  
Management Plan, dated 3/10/09  
04 01 09 **PSC Waiver Evaluation and Project Recommendations**  
  
06 17 09 **PSC Peer Review of DWG 1 AND DWG 2: On-Site Drive (“Road A”) Cross  
Sections 9+40 and 9+78**, dated and received 6/17/09  
  
10 21 08 **Archaeological Reconnaissance Survey Report**  
04 01 09 **PAL Cultural Resources Report** of 3/31/09 to Norwell Historical Society, peer  
review detailing results of recent walkover with recommendations  
05 07 09 **Massachusetts Historical Commission Form A** completed and submitted by  
the NHC to MHC  
  
04 15 09 **McKown Geotechnical Peer Review report 1**  
06 27 09 **McKown Geotechnical Peer Review report 2**

**DRAFT DECISIONS**

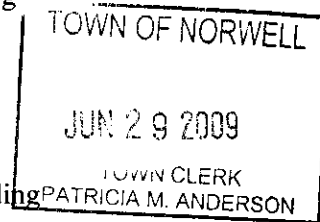
05 07 09 Board draft decision template 1.0 distributed  
05 26 09 Board draft 1.7 distributed with Minutes Excerpts  
05 26 09 Witten draft conditions distributed  
06 01 09 PSC draft decision v. 2  
06 03 09 PSC draft decision v. 3  
06 22 09 PSC draft decision v. 3.1  
06 23 09 PSC draft Waivers  
06 24 09 Applicant’s attorney’s draft v. 4.0  
06 28 09 Final decision draft v 5.3 clean

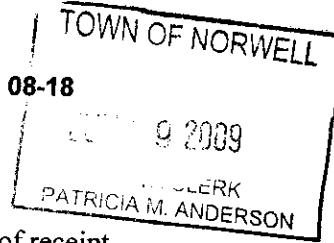


**CORRESPONDENCE**

07 28 03 MassHousing denial letter for the proposed Bowker Street 40B  
06 30 08 MassHousing Project Eligibility Letter for the proposed Simon Hill 40B  
07 03 08 Town Counsel to Applicant’s attorney regarding deficiency in application and  
escrow  
08 04 08 Simon Hill letter of 8/1/08: Freedom of Information request for 07 22 08  
08 07 08 Applicant’s attorney letter of 8/7/08 to Board: Peer Review consultant selection  
08 11 08 Applicant’s attorney letter of 8/11/08: Appeal to Board of Selectmen on  
consultant selection  
08 11 08 Amory Engineers peer review services fee schedule  
08 12 08 Applicant’s attorney letter of 8/12/08: withdrawal of appeal to BOS  
08 13 08 Chessia Consulting Services LLC peer review proposal  
08 08 08 Mainstream Engineering peer review proposal

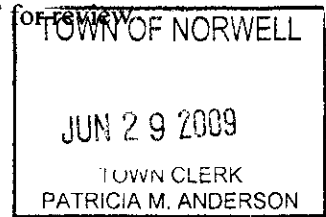
06 28 08 Professional Services Corporation peer review proposal  
08 12 08 ZBA status letter to Applicant's attorney  
08 22 08 Simon Hill letter of 8/21/09: Freedom of Information request for 08 11 08  
09 02 08 Applicant's attorney letter of 9/2/08: Resubmission of Appeal to Board of  
Selectmen on consultant selection  
09 03 08 Town Clerk meeting certification  
09 05 08 Applicant's attorney letter of 9/5/08 to Board relating to conduct of hearing  
09 05 08 Copy of letter from J.J. Sullivan to Attorney General  
09 05 08 Copy of letter from Applicant's attorney to Inspector General  
09 08 08 Town Counsel to Attorney General  
09 08 08 Town Counsel to Inspector General  
09 08 08 Town Counsel to Applicant's attorney  
09 10 08 Norwell Historical Commission letter of 9/10/08 to Planning Board regarding  
Interest in the proposed site  
09 23 08 Town Counsel to Chief Counsel – DHCD to request waiver/extension of 180-day  
timeframe for local hearing  
09 26 08 Chief Counsel – DHCD response to RWG letter granting waiver  
10 02 08 Applicant's attorney letter of 10/2/08 to DHCD regarding Request for  
Waiver/Extension of 180-Day Time Frame  
10 15 08 Simon Hill RFP for Peer Review  
10 15 08 Applicant's attorney letter of 10/15/08 to Town Counsel regarding continuance  
of the 10/15/08 public hearing  
10 21 08 Archaeological Reconnaissance Survey Report on the Simon Hill Village Project  
Area, prepared by Craig S. Chartier, Massachusetts Archaeological Professionals  
of 355 Orchard Street, New Bedford, MA 02740, dated October 2008  
10 22 08 PSC Peer Review Proposal  
11 03 08 Letter of 11/3/08 from Applicant's attorney relating to claimed delay  
11 03 08 ZBA response to Applicant's attorney  
11 13 08 Applicant's letter to ZBA regarding drainage report and plan revisions  
12 03 08 PAL proposal for archaeological peer review  
12 10 08 Response from JJS to PSC report of 11/13/08 with Phasing Plan Sheet  
12 14 08 Simon Hill letter of 12/10/08, signed by J.J. Sullivan, responding to Peer  
Review report of 11/13/08  
12 22 08 Board's letter of 12/22/09 in response to Simon Hill's letter of 12/10/08 and in  
confirmation of actions and discussion at the 12/17/08 meeting, including traffic,  
drainage calculation report, engineering meeting requirements, Phases 1 and 2  
status, revised Phase 2 plans and documents, anticipated Phase 2 peer review  
report, and additional Town comments  
12 29 08 Applicant's letter of 12/29/09 to Board regarding engineering peer review and  
archaeological peer review  
12 30 08 Board's letter of 12/30/09 to Applicant's attorney in response to letter of  
12/29/08  
01 07 09 Applicant's attorney's letter of 1/7/09 regarding various items and in response to  
Board letter of 12/30/0  
01 09 09 Board letter of 1/9/09 to Applicant's attorney responding to 1/7/09 letter and  
commenting on escrow requirements for engineering peer review and PSC  
meeting attendance, archaeological peer review, the recent joint engineering  
meeting, and proposed test pit project plans  
01 15 09 Applicant's attorney letter of 1/15/09 to ZBA  
01 16 09 Applicant's attorney letter of 1/16/09 to ZBA





- 01 16 09 Board letter of 1/16/09 to Applicant's attorney regarding funding of archaeological peer review, PSC witnessing of test pits, and noting lack of receipt of promised Phase 2 plans
- 01 18 09 Simon Hill LLC letter of 1/18/09 regarding proposed test pits and phase 2 plans and requesting rescheduling of the public hearing to 2/25/09
- 01 19 09 Board letter of 1/19/09 responding to Simon Hill LLC letter of 1/18/09
- 01 22 09 Simon Hill LLC letter of 1/22/09, signed by John Sullivan, responding to Board letter of 1/19/09
- 01 22 09 Norwell Conservation Commission copy of letter of 1/22/09 with enclosure, forwarding the ORAD to the applicant
- 01 27 09 Board letter of 1/27/09 with PSC letter of 1/26/09 responding to Simon Hill letter of 1/22/09
- 02 04 09 Simon Hill LLC letter of 2/4/09, signed by John Sullivan, to Town Counsel requesting continuance of the public hearing to March 11, 2009, due to delay resulting from exploratory test pits yet to be dug at that time
- 02 18 09 McKenzie Engineering Group letter of 2/18/09 to Board, responding to PSC's Preliminary Drainage Calculations and Stormwater Management Plan comments of 12/31/08, received 2/18/09
- 03 19 09 Applicant attorney's letter of 3/19/09 to the Board responding to PSC's recommended conditions contained in the peer review memorandum of 3/10/09, received 3/19/09
- 03 30 09 Simon Hill LLC letter of 3/30/09, signed by John Sullivan, in response to the Planning Board's letter of 3/25/09
- 03 31 09 Norwell Historical Commission letter of 3/31/09 to Board detailing recent site visit and providing a picture of the artifact found and given to the owner's representative after it was photographed
- 04 06 09 Board letter of 4/6/09 to the Applicant's attorney delineating outstanding issues, including insufficient or missing required information
- 04 06 09 Email of 4/6/09 from C.R. Agostino to L. S. Barbour denying permission for the Board's peer review engineer to access the site
- 04 10 09 Board supplemental letter of 4/10/09 regarding geotechnical peer review and pro forma peer review
- 04 14 09 J.J. Sullivan email to L.S. Barbour relative to delay in pro forma submission
- 04 15 09 ZBA to Applicant's attorney relative to traffic
- 04 15 09 Board letter of 4/15/09 to Applicant's attorney regarding pro forma peer review escrow and compliance regarding general peer review escrow
- 04 19 09 J.J. Sullivan to ZBA relative to escrow
- 04 21 09 ZBA response letter to J.J. Sullivan detailing Board's position on meeting status
- 04 27 09 Applicant's attorney to ZBA regarding termination of public hearing
- 05 01 09 ZBA response to Applicant's attorney regarding ongoing consultant review, conditions and waivers, applicant participation, engineering peer review, escrow, and *pro forma* peer review
- 05 04 09 Applicant's attorney's letter of 5/4/09 confirming that the applicant will not be in attendance at the next scheduled public hearing on 5/6/09
- 05 07 09 ZBA response letter of 5/7/09 forwarding draft decision template, file inventory draft, and review checklist of Town board and department submitted concerns; requesting list of specific waivers, *pro forma* escrow check, information requested by Melanson Heath for the *pro forma* review, and inviting the applicant to participate in the next scheduled meeting on 5/27/09 when the draft decision, conditions, and waivers are planned to be reviewed and voted

- 05 08 09 Norwell Historical Society letter of 5/8/09, submitting Form A to the Massachusetts Historical Society
- 05 12 09 Letter of 5/12/09 from Melanson Heath & Company, PC, to the Board regarding estimated cost for pro forma review.
- 05 26 09 Letters of 5/26/09 from Melanson Heath & Company, PC, to the Board detailing additional information required for a 20-unit pro forma review and 80-unit pro forma review, respectively. The 20-unit pro forma review is for specific information provided by Mr. Sullivan in the applicant's attorney's letter of 4/27/09. The 80-unit pro forma review would cover the current number of units before the Board, as detailed in the MEG plan revision of 2/18/09.
- 06 01 09 Letter of 6/1/09 from Applicant's attorney offering stay of 40-day deadline of required decision filing if the Board agrees to a Work Session
- 06 04 09 Letter of 6/4/09 from the Applicant's attorney granting a twenty-one (21) day extension of time required in which to file a decision to 6/29/09
- 06 12 09 Letter of 6/12/09 from ZBA to Applicant's attorney regarding escrow deficiencies and forwarding an escrow accounting
- 06 23 09 Forwarded email from McKenzie Engineering to PSC, refusing PSC's request for additional information regarding the "neck" dimensions
- 06 24 09 Massachusetts Historical Commission letter of 6/22/09 to Simon Hill LLC requesting that the Applicant complete and submit the required PNF for review



**MEETING MINUTES**

- 07 22 08 Open public hearing
- 08 11 08 Discussion of peer review consultant
- 09 10 08 Continuance with no evidence taken; pending consultant appeal to BOS
- 09 24 08 Continuance with no evidence taken, pending 30B process to select consultant
- 10 15 08 Continuance with no evidence taken (escrow not yet received)
- 10 29 09 Traffic and Archaeological consultant reports (no engineers present, including the Board's newly appointed consultant, PSC)
- 11 19 09 PSC peer review report and Norwell Historical Commission presentations
- 12 17 08 Discussion of peer review status and status of Phase 1 stormwater report
- 02 04 09 Meeting continued at request of Applicant with no evidence taken; plans not yet revised due to soils testing program still underway
- 03 11 09 MEK discussion of plan changes and peer review report by PSC; missing information
- 03 20 09 Site Walk by two Board members
- 03 26 09 Site Viewing by Fire Chief
- 04 01 09 Discussion of missing information and waiver recommendations by PSC; Applicant claims all required engineering is now complete, despite Board's insistence to the contrary
- 04 01 09 Amended minutes
- 04 09 09 Site viewing from off-site by McKown Associates to view area of "neck"
- 04 15 09 Applicant is not present; Board's geotechnical peer review engineer gives report; further discussion of missing information
- 05 06 09 Applicant is not present. The Board reviewed Town board and department concerns and discussed some of the proposed conditions. PSC to draft decision with conditions and proposed waivers
- 05 26 09 Draft decision from PSC

05 27 09 Applicant is not present. Review of the draft decision document v 1.7 developed by PSC  
06 01 09 Applicant is not present. Review of the draft decision document v 2.0 developed by PSC  
06 03 09 Applicant is not present. Review of the draft decision document v 3.0 developed by PSC  
06 17 09 Site Visit to area of the "neck" by PSC and a Board member  
06 17 09 Work Session held  
06 24 09 Applicant is not present. Review of draft decision and waivers

### **SITE WALKS AND VISITS**

01 22 09 Conservation Agent viewing of the proposed access path for test pit project  
01 26 09 Test Pit Testing for soils evaluation  
02 05 09 Additional Test Pit Testing for soils evaluation  
03 20 09 Site Walk by two Board members  
03 26 09 Site Viewing from off-site by Fire Chief  
03 27 09 Norwell Historical Commission site walk with Alan Leveille of PAL  
04 09 09 Site viewing from off-site by McKown Associates to view area of "neck"  
06 17 09 Site viewing of "neck" area by third Board member

### **TOWN BOARDS AND DEPARTMENTS**

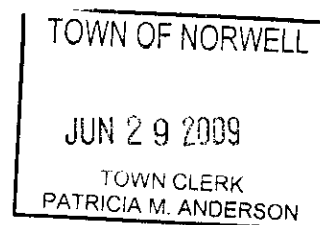
#### **Planning Board**

08 14 08 Planning Board comment letter of 8/14/09 relating to project concerns  
11 19 08 Town Planner comment letter to ZBA relating to traffic and other project concerns  
03 25 09 Planning Board letter of 3/25/09 providing supplemental comments to its 8/14/08 letter to the Board detailing additional project concerns, resulting from Phase 2 plan revisions of 3/18/09 and PSC peer review comments of 3/10/09

#### **Conservation Commission**

09 02 08 Conservation Commission comment letter to ZBA  
10 07 08 Notice of ANRAD public hearing, date-stamped 9/25/08, by the Board of Selectmen  
11 13 08 Report by EcoTech to the Conservation Commission  
01 06 09 Order of Resource Area Delineation, issued by the Norwell Conservation Commission, dated 1/22/09, date-stamped by the Board of Appeals on 2/18/09  
03 25 09 Conservation Agent's letter of 3/25/09 to the Board indicating that the Conservation Commission is currently drafting comments to submit regarding the proposed project, received 3/25/09  
03 31 09 Letter of 3/31/09 from Conservation Commission supplementing previous comment letter of 9/2/08

#### **Board of Health**



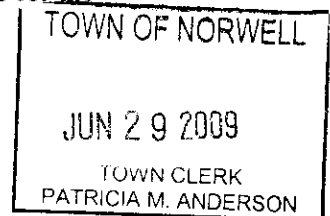
04 01 09 Memorandum of 4/1/09 to ZBA

**Fire Chief**

02 18 09 Letter of 12/18/09 from the Norwell Fire Department to McKenzie Engineering Group, relative to sprinkler systems and hydrant spacing. Also expressing concern regarding the roadway width of 22' and turnarounds  
03 31 09 Fire Chief memorandum of 3/31/09 to Board of Appeals expressing safety concerns about access between lower and upper portions of the proposed project, received 4/1/09

**Water Department**

06 02 08 Project comments  
08 11 08 Water Department letter of 8/8/08 comment letter on application  
01 14 09 Resubmission of 8/8/08 comments  
03 24 09 Water Department resubmission of its project comment letter of 8/8/08 for the third time to the Board  
04 15 09 Water Department supplemental comment letter of 4/13/09 to ZBA



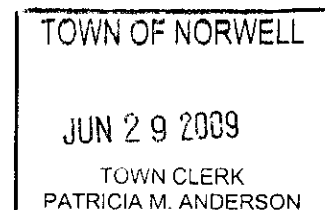
**Norwell Historical Society**

02 10 08 Norwell Historical Commission letter  
12 03 08 PAL peer review proposal  
03 31 09 Norwell Historical Commission letter of 3/31/09 reporting on the 3/27/09 site walkover by Public Archaeology Laboratory, including photographs of group and the found artifact  
05 06 09 Massachusetts Historical Commission Form A submission completed by the Norwell Historical Commission  
05 08 09 Norwell Historical Society letter submitting Form A to the Massachusetts Historical Society

**PUBLIC COMMENTS**

07 09 08 Abutters presentation  
09 12 08 Molla PowerPoint presentation  
09 16 08 Molla submits Massachusetts Historical Commission Review and Compliance Information from State website, including application, MEPA review information, and MHC Reconnaissance Survey Town Report for Norwell, dated 1981  
10 10 08 Traffic observation emails from M. Molla and P. McGloin  
11 24 08 Marie Molla comments  
12 15 08 Copy of letter of 12/15/08 from Paul McGloin of 58 Prospect Street to Board of Appeals with information submitted to the Norwell Conservation Commission  
12 17 08 Paul McGloin of 58 Prospect Street – Traffic information and concerns  
12 17 08 List of 24 concerns of Frank Molla of 84 Prospect Street with photos of entrance under water during recent rain event  
12 17 08 Letter of 12/17/09 from Anne and Ron Russo of 63 Simon Hill Road, relating to project concerns, including effluent, underground stream, and Town aquifer, and wetlands

02 11 09 Marie Molla to NHES  
03 11 09 Assessors' Office correspondence of 3/10/08 to DOR and various other information regarding 61A site control issue, Town's right of first refusal, and tax lien on the parcel that is the subject of the current 40B application  
03 11 09 Marie Molla – 61A info and DEP Snow Disposal Guidelines  
03 11 09 Marie Molla letter of 2/11/09 to Natural Heritage and endangered Species Program regarding the eastern box turtle  
03 18 09 Letter of 3/15/09 from Graham Reed of 79 Prospect Street, expressing concerns about the proposed project access to be located across the street from his driveway  
03 16 09 Johanna Molla Goldman of 104 Prospect Street letter of 3/16/09 expressing concerns about the proposed project, received 3/16/09  
03 16 09 Marie Molla of 88 Prospect Street letter of 3/16/09 expressing various concerns, including claims by the applicant on property owned by her, with evidence and photographs supporting her claim  
03 23 09 Marie Molla and Frank Molla's joint letter of 3/23/09 to the Board with comments and concerns relative to the proposed project, received 3/23/09  
03 24 09 Letter from Robert W. Bordewieck of 49 Green Street, expressing concerns relating to the proposed project that abuts his property  
03 25 09 M. Molla property line  
03 27 09 Engineering report of 3/27/09 from Cavanaro Consulting of Norwell with site impact comments on behalf of the Molla properties at 84 and 88 Prospect Street  
03 29 09 Rebecca Allen of 153 Bowker Street letter of 3/29/09 detailing various concerns about the proposed project  
03 31 09 Molla Engineering Report  
3/31/09 Email requests not to close the public hearing from Simon Hill neighbors, Tori Koch, Kim Nadeau, CJ and Joan Gabriel, and advising that Jon Witten has been retained as their attorney in the matter of the proposed 40B development of the adjacent property  
04 06 09 Marie Molla to Board with questions  
04 06 09 Marie Molla land width  
04 06 09 owl picture  
04 14 09 email from Kim Nadeau advising Jon Witten has been retained by Simon Hill Neighbors  
05 07 09 email from Marie Molla regarding Eastern Box Turtle with photographs  
05 07 09 Letter from C.J. Gabriel of 58 Simon Hill Road to National Heritage and Endangered Species Program  
06 26 09 Engineering report, dated June 26, 2009, from Cavanaro Consulting of Norwell to Marie Molla confirming the property dimension in the neck area previously provided by McKenzie Engineering.  
06 27 09 Photograph and measurements of 239 Washington Street road width from Marie Molla.





**EXHIBIT B: WAIVERS**  
**Comprehensive Permit Decision**  
**Simon Hill, LLC, off Prospect Street, Norwell**

**ZBA FILE NO. 08-18**

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By letter dated May 28, 2008, a copy of which was submitted as part of the Application for a Comprehensive Permit dated May 28, 2008, the Applicant, Simon Hill, LLC, has requested waiver of strict compliance with certain provisions of bylaws and regulations of the Town of Norwell as follows: a) waiver of strict compliance with the provisions of Sections 2311, 2411, 2430, 2442, 2450, 2460, 3130, 3156, 3157, 3158(d), 3158(e), 3159(b), 3159(c), 3160, 3310, 3321, 3340, 4200, and 4300 of the Norwell Zoning Bylaw; b) waiver of strict compliance with the provisions of Part 2; Sections 3, 6, 7, 8, and 12 of the Norwell Board of Health Regulations; c) waiver of strict compliance with all provisions of the Norwell Bylaws and Rules and Regulations, Article XVI-a Wetlands Protection Bylaw and Regulations; d) waiver of strict compliance with all provisions of the Norwell Bylaws and Rules and Regulations, Article XVI Removal of Soil, Loam, Sand, or Gravel; e) waiver of strict compliance with all provisions of the Norwell Bylaws and Rules and Regulations, Article XII Permanent Drainage Committee; and f) waiver of strict compliance with all provisions of the Norwell Bylaws and Rules and Regulations, Article XII, Town Rules and Regulations, Board of Appeals. The waiver requests are submitted without specificity as to the relief requested and further the applicant reserves the right to amend the list if the project plans or changes thereto necessitate further waivers. Additionally, the applicant requests waiver of all fees pertaining to permits for the project.

<b>Regulation</b>	<b>Description</b>	<b>Board Action</b>
<b><u>NORWELL ZONING BYLAWS</u></b>	The Applicant seeks waiver of strict compliance with the provisions of Sections 2311, 2411, 2430, 2442, 2450, 2460, 3130, 3156, 3157, 3158(d), 3158(e), 3159(b), 3159(c), 3160, 3310, 3321, 3340, 4200, and 4300 of the Norwell Zoning Bylaw.	
<u>Zoning Bylaws Section 2311 Permitted Residential Uses.</u>	Section 2311 limits uses on the site to one-family detached dwellings and associated outbuildings with not more than one such dwelling located on any lot.	<u>Waiver is granted</u> in order to permit multi-family dwellings as shown on the submitted plans and as modified by the Conditions of Approval to be constructed.
<u>Zoning Bylaws Section 2411 Building.</u>	Section 2411 provides that all buildings shall meet the minimum requirements dimensional requirements of Section 2400.	<u>Limited waiver is granted</u> with respect to specific requirements is addressed hereinafter; however, blanket waiver is denied as this section required compliance with all dimensional requirements.
<u>Zoning Bylaws Section 2430 Lot Frontage and Width.</u>		
<u>Section 2431.</u>	Section 2431 requires that the minimum frontage measured at the street line shall be 80 feet for lots in all districts and requires that street frontage shall be continuous and uninterrupted.	<u>Waiver is denied</u> on the basis that the project complies with the requirements of the Zoning Bylaws and waiver is not required.
<u>Zoning Bylaws Section 2432.</u>	Section 2432 requires that the minimum lot width measured at the required setback line shall be 150 feet in all districts except Business Districts A and B where the minimum shall be 125 feet.	<u>Waiver is denied</u> on the basis that the project complies with the requirements of the Zoning Bylaws and waiver is not required.
<u>Zoning Bylaws Section 2433.</u>	Section 2433 provides that no two points on lot lines shall be less than eighty (80) feet apart, measured in a straight line, except where the shortest distance between such points, measured along the perimeter of the lot, is less than or equal to three times the aforesaid straight line	<u>Partial waiver is granted</u> to allow construction of townhouses as provided hereinbefore in the Conditions of Approval. The rear portion of the lot does not comply with the requirement that no two points on lot lines shall be less than eighty (80) feet apart, measured in a straight line. Only limited waiver of the provision

**EXHIBIT B: Waivers for Comprehensive Permit Decision**  
**Simon Hill, LLC, off Prospect Street, Norwell**

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	distance. (Voted at Special Town Meeting 1/21/1999; approved by A/G on 2/26/99).	of this subsection can be granted due to significant life safety concerns based upon the excessively long length of the dead end access drive (Road A) which is characterized by substandard horizontal and vertical geometry and given that stacked parking which is allowed on Road A contributes to the likelihood that blockage will occur precluding emergency vehicle access.
<u>Zoning Bylaws Section 2440 Required Yards.</u>		
<u>Zoning Bylaws Section 2441 Front Yard.</u>	Section 2441 provides that no building and/or structure shall be erected, placed or added to extend within 50 feet of the right-of-way or within 75 feet of the centerline of a street, in this instance Prospect Street.	<u>Waiver is denied.</u> Building No. 1 violates these setbacks. Waiver was not requested and is not necessary as the building could be relocated to comply without eliminating dwelling units or measurably revising the site plan.
<u>Zoning Bylaws Section 2442 Side and Rear Yards.</u>	Section 2442 provides that in the Residential District A, no building and/or structure shall be located within 20 feet of a side or rear (back) lot line.	<u>Waiver is denied</u> on the basis that the plans as submitted substantially comply with the required yard setback requirements of the Zoning Bylaws or could be adjusted to fully comply with said requirements with minimal impact on the overall site plan. The required side and rear yard setbacks are 20 feet which is considered minimally adequate to provide separation to abutting uses, to ensure adequate access around the building in case of fire or emergency, and to ensure privacy for new and existing residents.
<u>Zoning Bylaws Section 2450 Lot Shape.</u>	Section 2450 provides that no building lot may be created in the Residential District A unless it complies with the following: a) the lot has a width of at least 150 feet at the required setback line at the required setback line 50 feet measured from the front property line or 75 feet measured from the Way centerline; b) the lot contains at least 5,000 square feet of land between the required setback line and the Way; c) the area of the lot between the said required setback line and a line drawn parallel to the said required setback line, a distance of 100 feet beyond the required setback line shall be not less than 11,500 square feet; and d) the dwelling must fit within a circle 150 feet in diameter inscribed within the lot lines.	<u>Waiver is granted in part.</u> The lot complies with Section 2450.a in that the lot is more than 150 feet wide at the required setback line of 50 feet measured from the front property line and at the required setback line of 75 feet measured from the Way centerline. The lot complies with Section 2450.b in that the lot contains at more than 5,000 square feet of land between the required setback line and the Way. The complies with 2450.c in that the lot area between the required setback line and a line drawn parallel to the said required setback line, a distance of 100 feet beyond the required setback line contains more than 11,500 square feet. As such waiver of compliance with the provisions of Sections 2450.a 2450.b, and 2450.c is unnecessary and is therefore denied. Building 1 does not comply with the requirement that the dwelling must fit within a circle 150 feet in diameter inscribed within the lot lines. Waiver of the inscribed circle requirements is granted in order to allow Building 1 to be constructed subject to the requirement that its location shall be adjusted to comply with the minimum front yard setback requirement.
<u>Zoning Bylaws Section 2460 Height Restrictions.</u>	Section 2460 provides that no building and/or structure shall be erected or altered to exceed 2 1/2 stories in height, or 34 feet, in any Residential District. Compliance cannot be determined based upon the architectural plans provided.	<u>Waiver is denied</u> on the basis that the buildings either comply with the maximum height limit of 34 feet and 2½ stories or could be designed to comply with minimal change in design. Accordingly, the waiver is unnecessary. Preliminary architectural plans were only submitted for one building type, the four-unit building. The submitted building complies based upon the prototypical ground plane indicated on the drawings. Buildings range from one to five units; however, the

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<p><u>Zoning Bylaws Section 3130 Size of Spaces</u></p>	<p>Section 3130 provides that no parking space shall measure less than 9 feet in width by 20 feet in length together with an aisle of at least 24 feet. Where parallel parking is utilized, parallel spaces shall not be less than 8 feet in width and 22 feet in length.</p>	<p>increase or decrease in units should not measurably affect the maximum building height and are anticipated to also comply with the height limitations of Section 2460.</p> <p><u>Limited waiver is granted.</u> For access, circulation, and safety purposes, the Conditions of Approval require that all on-site drives (“Roads”) shall be widened to a minimum width of 26 feet, effectively providing an aisle to access the driveway parking spaces which exceed the required aisle width of 24 feet. Accordingly waiver of the minimum aisle width of 24 feet is unnecessary and is denied. Currently parking is provided in a stacked configuration with the interior garage parking space located behind the exterior driveway parking space. The requirement for direct access to a 24-foot wide aisle is waived in order to permit the parking configuration indicated. Exterior driveway parking spaces appear to comply with these minimum dimensions of 9 feet by 20 feet. Interior garage spaces either comply or could be designed to comply. The plan appears to comply with the minimum parking space dimensions of 9 feet by 20 feet for both driveway and garage parking spaces. Accordingly, waiver is denied and because it is unnecessary. Waiver is granted to allow interior garage parking spaces in a stacked configuration with the interior garage parking space not being “together with an aisle of at least 24 feet.”</p>
<p><u>Zoning Bylaws Section 3156 Parking Lot Plantings.</u></p>	<p>Section 3156 provides that parking lots containing 10 or more parking spaces shall have at least one (1) tree per eight (8) parking spaces.</p>	<p><u>Waiver is denied</u> on the basis that the project complies with the requirements of the Zoning Bylaws and waiver is not required. There is no “parking lot” on-site that exceeds ten (10) parking spaces in size. The largest on-site parking lot is at Station 2+50 left on Road D and it contains nine (9) contiguous parking spaces. Accordingly, the waiver is unnecessary.</p>
<p><u>Zoning Bylaws Section 3157 Bicycle Racks.</u></p>	<p>Section 3157 provides that parking areas of ten or more spaces must have bicycle racks accommodating one bicycle per twenty parking spaces required or fraction thereof.</p>	<p><u>Waiver is denied</u> on the basis that the project complies with the requirements of the Zoning Bylaws and waiver is not required. There is no parking lot on-site that exceeds ten (10) parking spaces and accordingly, the waiver is unnecessary. Nonetheless, as an alternative form of transportation fully required by Smart Growth development, the project should accommodate bicycles. Bicycle racks should be provided at publicly accessible locations on the site including recreation areas and the community garden.</p>
<p><u>Zoning Bylaws 3158.d Parking Lot Perimeter Curbs.</u></p>	<p>Section 3158.d provides that suitable curbing as approved by the Board shall be installed along the exterior perimeters of the parking lot.</p>	<p><u>Limited waiver is granted.</u> Multi space parking areas are limited on the site. Because the site is within critical groundwater resource areas, pavement runoff from multi-space parking areas should be conveyed in a controlled fashion and therefore curbs are necessary and justified. Waiver of perimeter curbs of multi-space parking areas is denied. Due to light usage, driveways for individual units accommodating driveway parking spaces should contain lower contaminant levels. Requirements for curbing of driveways for individual units are waived.</p>
<p><u>Zoning Bylaws 3158.e</u></p>	<p>Section 3158.e provides that interior parking lot</p>	<p><u>Waiver is denied</u> on the basis that the project complies</p>

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<p><u>Interior Parking Lot Islands.</u></p>	<p>islands shall be installed with Cape Cod berms, vertical or sloped granite curbing or Portland Cement concrete curbing as approved by the Board.</p>	<p>with the requirements of the Zoning Bylaws and waiver is not required. Parking lot islands are neither indicated on the drawings nor required and accordingly the waiver is unnecessary.</p>
<p><u>Zoning Bylaws Section 3159.b.</u></p>	<p>Section 3159.b provides that drainage systems shall be designed to accommodate the 2, 10, 25, and 100-year frequency storms, so that the peak rate of runoff under the post-construction conditions shall not exceed the peak rate of runoff under existing conditions. Drainage systems shall also be designed so there will be no increase in offsite flooding for the 2, 10, 25, and 100 year 24-hour frequency storms. Rainfall depths shall be based on the Northeast Regional Climate Center's "Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada", Publication No. RR 93-5 (Cornell University, Ithaca, NY: September 1983 (The Cornell Standard.)</p>	<p><u>Waiver is denied</u> on the basis that preliminary drainage information indicates that the proponent intends to comply with the requirements of the Zoning Bylaws and waiver is not required. Preliminary drainage calculations indicate that the proposed stormwater management system will comply with the provisions of 3159.b.</p>
<p><u>Zoning Bylaws Section 3159.c.</u></p>	<p>Section 3159.c provides that roof drainage must be designed to connect to the drainage system or otherwise be infiltrated on site in drywells to accommodate the 25-year frequency storm.</p>	<p><u>Waiver is denied.</u> Recharging roofwater throughout the site replicates area wide recharge occurring under the predeveloped condition. The project has not addressed compliance to the recharge requirements of either this section or the DEP stormwater management recharge standard to which it is subject.</p>
<p><u>Zoning Bylaws Section 3160 Erosion Control.</u></p>	<p>Section 3160 provides that during and after construction, all soils, mulch, wood chips, etc. shall be confined to the property. The Board or its agent shall have the authority to require the applicant to provide specific erosion controls and placement thereof on site as needed during construction.</p>	<p><u>Waiver is denied.</u> Provision of erosion controls necessary to avoid damage to adjacent properties and resource areas constitutes standard engineering practice, helps to avoid damage to the property of abutters, helps to avoid damage to municipal streets, and will be otherwise be required under the NPDES General Construction Permit and the Order of Conditions.</p>
<p><u>Zoning Bylaws Section 3310 Signs.</u></p>	<p>Section 3310 provides for enforcement of sign requirements. Pursuant to Section 3311 <u>Inspector of Buildings</u>, the Inspector of Buildings is authorized to order the removal of any sign and its supporting structure, which is erected contrary to this Bylaw. Pursuant to Section 3312 <u>Permits and Fees</u>, the Inspector of Buildings is authorized to grant a permit for a sign in compliance with this By-law; except that permits are not required for permitted signs in residential districts.</p>	<p><u>Waiver is denied.</u> The drawings do not indicate signage, and therefore, there is no basis for waiver of sign requirements for the project. Should signs be proposed for the project, review of the proposed signs by the Inspector of Buildings is prudent and reasonable.</p>
<p><u>Zoning Bylaws Section 3321</u></p>	<p>Section 3321 provides that signs in residential districts include signs displaying the street number and/or name of the occupant three (3) sq.-ft., lease, sale or use of a lot or buildings six (6) sq.-ft., contractor's information ten (10) sq.-ft., subdivision public entrance (10) sq.-ft. and other signs.</p>	<p><u>Waiver is denied.</u> With respect to all of the aforesaid sign requirements, the drawings do not indicate signage. Therefore, there is no basis for waiver of sign requirements for the project.</p>
<p><u>Zoning Bylaws 3340. General Provisions.</u></p>	<p>Section 3340 establishes general provisions for signs. Section 3341 provides that signs shall be set back a minimum of ten (10) feet from the edge of the streetline and at least twenty (20) feet from all other property lines. Section 3342</p>	<p><u>Waiver is denied.</u> With respect to all of the aforesaid general provisions of Sections 3341 through 3346, the drawings do not indicate signage. Therefore, there is no basis for waiver of sign requirements for the project.</p>

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	<p>limits sign colors. Section 3343 limits the height of signs and their supporting structures to twenty (20) feet in height. Under 3346, signs shall be maintained in a safe and neat condition.</p>	
<p><u>Zoning Bylaws 4200. Flood Plain, Watershed and Wetlands Protection District.</u></p>	<p>Section 4200 establishes requirements for watershed and wetlands protection. Section 4210 defines the Flood Plain, Watershed and Wetlands Protection District by reference to published mapping and defines the district as an overlay districts that is superimposed over any other district established by the Bylaw. Section 4215 requires compliance to existing requirements including Section 2102 of the Massachusetts State Building Code, 310 CMR 10.00 WPA Regulations, 302 CMR 6.00 Inlands Wetlands Restrictions, Title 5, and provisions of the National Flood Insurance Program (NFIP). Section 4220 defines the purposes of the section, including: a) precluding use of the lands subject to seasonal and/or periodic flooding for residential or other purposes in such a manner as to endanger the public health, safety and general welfare, b) protecting the water table and water recharge areas within, and c) to maintain natural flow patterns. Section 4230 enumerates permitted uses that include a) dams and water control devices, b) temporary alteration of water level for emergencies or maintenance, c) appropriate governmental use, d) Conservation of soil and plants and wildlife management, e) outdoor recreation, f) uses and interior improvements of buildings or structures lawfully existing prior to adoption of the Section, g) forestry, grazing, farming, nurseries, and truck gardening and h) accessory uses to any of the above permitted uses. Section 4240 describes applicable Special Permits. Section 4241 defines the District by plan reference. and defines uses permitted by Special Permit from the Board of Appeals to include a) foot bridges and similar, b) golf courses, c) temporary storage of materials or equipment, d) dams, excavation or changes in water courses, e) driveways and roads when alternative means of access are impractical, and f) repair, rebuilding, and certain other changes to existing structures. Section 4242 specifies consideration for the Board of Appeals with respect to the Special Permits of 4241. Section 4243 specifies criteria for approval of special permits. Section 4250 describes prohibited uses including buildings or other structures in the District not permitted above and dumping, filling and excavating that reduces recharge capacity or that would interfere with the natural drainage. Section 4260 requires notification of adjacent communities, and the NFIP State Coordinator of proposed alteration or relocation of a watercourse. Sections 4271 through 4273 pertain to establishment of the District by the Inspector of Buildings.</p>	<p><u>Limited waiver is granted.</u> The Board acknowledges that there is no requirement to obtain waivers from the Special Permit requirements of the district in accordance with 760 DMR 56.05(7) even though the applicant unnecessarily requested waiver of the Special Permit requirements of Section 4240. The provisions of 4240 require a Special Permit for certain uses permitted by right in the underlying Zoning District including construction of a driveway or roadway. Construction of a roadway or driveway within the floodplain is necessary in order to access substantial portions of the site. To the extent that the proposed driveway or roadway would require waiver of such Special Permit requirements, the Board waives such Special Permit requirements as are necessary in order to allow the driveway or roadway including sidewalks, guardrails, walls, and side slopes. Prohibited uses as defined in Section 4250 include construction of buildings, walls, or other structures and any dumping, filling excavating or transferring of any material which will reduce or impair natural water storage or recharge capacity of any land within the District or interfere with the natural flow patterns of any water course within the Flood Plain, Watershed And Wetlands Protection District. Except as necessary for driveway or roadway construction as set forth before, waiver of the provisions of 4250 is denied such that no building or fill to create embankments for stormwater basins shall be allowed within the District. Locating buildings and embankments within the District would be inconsistent with the provisions of the District in that such construction would endanger the public health, safety and general welfare by failing to protect and maintain the water table and water recharge areas in order to preserve present and potential water supplies; to preserve the natural flow pattern of the water courses; and to provide adequate flood storage capacity in order to protect against the hazards of floodwater inundation. Other provisions of Section 4200 are considered necessary to protect the public health safety, and welfare by protecting and maintaining the water table and water recharge areas, potential water supplies; the natural flow pattern of the water courses; and flood storage capacity; and accordingly are not waived including provisions of Sections 4210, 4215, 4220, 4230, 4260, and 4270.</p>
<p>4300 Aquifer Protection</p>	<p>Section 4300 establishes requirements for</p>	<p><u>Limited waiver is granted.</u> The Board acknowledges</p>

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<p><u>District</u></p>	<p>aquifer protection which are necessary to protect water supplies which are critical to the health and well being of the public. Section 4310 designates the Aquifer Protection District as an overlay district to be superimposed over any other district established by the Bylaw. Section 4320 establishes the purpose of the District, which are a) to preserve and maintain the quality of the surface and ground water and enhance ground water recharge. Section 4330 establishes procedures for the Building Inspector to determine district boundaries. Section 4340 establishes permitted uses. Section 4350 describes special permit requirements. Section 4351 describes uses permitted by Special Permit from the Board of Appeals including any use involving secondary usage or storage of toxic or hazardous materials in quantities greater than normal household use. Section 4352 establishes requirements for information to be submitted for uses requiring a special permit under the provisions of this bylaw. Section 4354 specifies criteria for approval of special permits under Section 4300. Section 4360 specifies prohibited uses that include rendering impervious of more than fifteen percent (15%) of the lot, unless a system of groundwater recharge is provided that will not result in degradation of groundwater that can recharge eighty-five percent (85%) of any resulting post-development increase in the volume of stormwater, for up to a one hundred (100) year storm event. Section 4360 also prohibits the removal of soil, loam, sand and gravel within four feet (4') of the historic high groundwater elevation with the following exception of removal of soil for road excavations, building foundations and utility works. Section 4370 specifies design and operations guidelines within the District. Specifically, where the premises are partially outside of the Aquifer Protection District, potential pollution sources such as on-site waste disposal systems shall be located outside the District to the extent feasible. Section 4370 requires that all runoff from impervious surfaces shall be recharged on the site. Section 4380 proscribes procedures for violations. Section 4390 defines terminology.</p>	<p>that there is no requirement to obtain waivers from the special permit requirements of the district in accordance with 760 DMR 56.05(7) even though the applicant unnecessarily requested waiver of the Special Permit requirements of Section 4350. The provisions of 4350 are triggered by a) any use involving secondary usage or storage of toxic or hazardous materials in quantities greater than normally associated with usual household use. In any instance, the proposed residential use would not trigger such requirements. To the extent that the proposed on-site wastewater treatment plant would require waiver of such Special Permit requirements, the Board waives such Special Permit requirements as is necessary in order to allow operation of the proposed on-site wastewater treatment plant. The provisions of Section 4360 Prohibited Uses are considered necessary to preserve and maintain the quality of the surface and ground water so as to preserve present and potential water supplies and to protect such ground water from degradation and accordingly are not waived. The Board does not consider the proposed on-site wastewater treatment plant to comprise "municipal sewage treatment facilities" as set forth in Section 4360.c. The Board finds that rendering impervious more than fifteen percent (15%) of the lot or two thousand five hundred (2,500) square feet of the lot, whichever is greater, must be prohibited unless a system of groundwater recharge of precipitation is provided that will not result in degradation of groundwater. The groundwater recharge system must recharge eighty-five percent (85%) of any resulting post-development increase in the volume of stormwater, for up to a one hundred (100) year storm event. Other provisions of Section 4300 are considered necessary to preserve and maintain the quality of the surface and ground water so as to preserve present and potential water supplies and to protect such ground water from degradation; and accordingly are not waived including provisions of Sections 4310, 4320, 4330, 4340, 4370, 4380, and 4390.</p>
<p><b><u>BOARD OF HEALTH REGULATIONS</u></b></p>	<p>The Applicant seeks waiver of strict compliance with the provisions of Part 2; Sections 3, 6, 7, 8, and 12 of the Norwell Board of Health Regulations.</p>	<p>Wastewater disposal may be regulated by the Norwell Board of Health pursuant to a Septic Works Construction Permit or by the DEP pursuant to a Groundwater Discharge Permit. An on-site septic system must comply full with Board of Health Rules &amp; Regulations and an on-site wastewater treatment plant must comply to the extent applicable with Board of Health Rules &amp; Regulations.</p>
<p><b><u>Part 2 Sanitary Disposal of Sewage</u></b></p>		

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**EXHIBIT B: Waivers for Comprehensive Permit Decision**  
**Simon Hill, LLC, off Prospect Street, Norwell**

**ZBA FILE NO. 08-18**

<u>Section 1 Notification and Identification.</u>	The Section establishes requirements for notification to the Board of Health or its agent.	<u>Waiver is denied.</u> Notification should be provided whether construction of the wastewater system proceeds under DEP or Board of Health authorization.
<u>Section 2 Deep Observation Hole Test.</u>	The Section establishes requirements for a minimum of four deep hole tests.	<u>Limited waiver is granted</u> in the instance that the soil absorption system is authorized by the DEP under a Groundwater Discharge Permit. To the extent that the system is authorized by the Board of Health, the requirement is not waived.
<u>Section 3 High Groundwater Elevation Determination</u>	Section 3 specifies observation of actual high-water table in March or April	<u>Waiver is denied</u> in the event the applicant proposes a conventional system not requiring State Approval. The Board repeatedly requested that groundwater monitoring wells be installed due to the critical nature of high groundwater elevation to the design of on-site stormwater management and on-site wastewater disposal. Groundwater monitoring wells could have been installed during the test pit program at minimal cost, but requests to do so by the Board and the Board's consulting engineer were refused.
<u>Section 4 Percolation Testing.</u>	The Section establishes requirements for a minimum of four percolation tests.	<u>Limited waiver is granted</u> in the instance that the soil absorption system is authorized by the DEP under a Groundwater Discharge Permit. To the extent that the system is authorized by the Board of Health, the requirement is not waived.
<u>Section 5 Deep Percolation/Deep Hole Filings.</u>	The Section establishes requirements for submission of test data within 60 days and for horizontal and vertical control.	<u>Limited waiver is granted</u> in the instance that the soil absorption system is authorized by the DEP under a Groundwater Discharge Permit. To the extent that the system is authorized by the Board of Health, the requirement is not waived.
<u>Section 6 Dewatered Percolation Testing</u>	Section 6 requires a "special permit" from the Board of Health to conduct dewatered percolation tests and includes technical descriptions of procedures to be utilized in performing dewatered percolation tests.	<u>Limited waiver is granted.</u> The provisions from which relief is sought are not specified. To the extent that relief is sought from the administrative requirements of obtaining a Special Permit, waiver is granted. The section also describes technical procedures to be used in performing a dewatered percolation test. The process specified is not burdensome and is necessary for the test results to be valid. Accordingly, waiver is denied with respect to compliance with specified technical procedures.
<u>Section 7 Wetland Setback Distances.</u>	Section 7 requires that the minimum setback distance of a soil absorption system from a wetland shall be 100 feet and that the minimum setback distance of septic tanks and all components of the system shall be 50 feet.	<u>Limited waiver is granted.</u> The soil absorption system complies with these setback distances and therefore waiver is denied because it is unnecessary. To the extent that Section 7 applies to components of the wastewater collection system, compliance is waived to allow sanitary sewer crossings of the wetland in order to convey wastewater across the wetlands to the soil absorption system.
<u>Section 8 Nitrogen Sensitive District.</u>	Section 8 stipulates that for the purposes of septic design, the entire town is considered nitrogen sensitive for new construction.	<u>Waiver is denied.</u> The applicant provides no basis for requested waiver from this requirement and waiver would jeopardize the public health and welfare by jeopardizing groundwater recharge and groundwater quality and adversely affecting water supplies. While the entire town is considered nitrogen sensitive, substantial portions of the site and the soil absorption

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		system itself are located within the Norwell Zone 2 and as such maintaining groundwater recharge and groundwater quality are of increased importance to protecting water supplies.
<u>Section 9 Septic System Constructed in Fill.</u>	The Section establishes inspection requirements for Septic System Constructed in Fill	<u>Limited waiver is granted</u> in the instance that the soil absorption system is authorized by the DEP under a Groundwater Discharge Permit. To the extent that the system is authorized by the Board of Health, the requirement is not waived.
<u>Section 10 Final Inspections.</u>	The Section establishes final inspection requirements for D-Box and sieve analysis.	<u>Limited waiver is granted</u> in the instance that the soil absorption system is authorized by the DEP under a Groundwater Discharge Permit. To the extent that the system is authorized by the Board of Health, the requirement is not waived.
<u>Section 11 Title V Inspection Requirements.</u>		<u>Waivers are denied</u> in the event the applicant proposes a <u>conventional system not requiring State Approval.</u>
<u>Section 12. Mounded Septic Systems.</u>	Section 12 requires that mounded septic systems shall be designed so that the toe of slope or the outside edge of a retaining wall is a minimum of five (5) feet from the property line for each one (1) foot in height required above the existing grade. The additional setback for these mounded systems will be used to control storm water drainage so that pre and post discharge are equal and in the same direction. Section 12 further provides that variance from these provisions is not required if it can be shown by clear and convincing evidence and after a duly noticed public hearing that post stormwater flows will not adversely impact abutters. A final (As-Built) drainage/grading plan is required.	<u>Waiver is denied</u> on the basis that the project appears to comply with the requirements of the Zoning Bylaws and waiver appears to be unnecessary. The submitted site plans do not indicate mounding of the soil absorption system. If the mounding of the soil absorption system is required during final design, the system is located approximately 25 feet from the property line which would allow a mounded system five (5) feet above grade. When comparing predeveloped and postdeveloped conditions, Section 12 provides technically valid mechanism of ensuring that proposed grading will not increase the peak rate of stormwater discharge nor change the direction of surface water runoff. Ensuring no change in the peak rate or direction of runoff is necessary in any instance to minimize damage to abutting properties.
<u>Sections 13 through 27.</u>	The Sections 13 through 27 establish requirements for pumped systems, pressure dosing, septic tank filters and vents, effluent distribution lines, trees in leaching areas, water line setbacks, as-built grading plan, grease trap for commercial establishments, tight tanks and industrial waste holding tanks, old system abandonment, reserve area when subdividing existing lots, renovations, apartments, pump tanks, and new construction when percolation rates are between 30 and 60 minutes per inch.	<u>Limited waiver is granted</u> in the instance that the soil absorption system is authorized by the DEP under a Groundwater Discharge Permit. To the extent that the system is authorized by the Board of Health, the requirement is not waived.
<u>TOWN OF NORWELL BYLAWS AND RULES AND REGULATIONS, ARTICLE XVI-a WETLANDS PROTECTION BYLAW AND REGULATIONS</u>	The Applicant seeks waiver of strict compliance with the "Town of Norwell Bylaws and Rules and Regulations, Article XVI-a Wetlands Protection Bylaw and Regulations" (Article XVI-a) in its entirety.	
<u>Section 2</u>		
<u>Section 2A</u>	Section 2A provides that "Except as permitted by the Norwell Conservation Commission	<u>Waiver is denied.</u> Section 2A requires notice if work is proposed within or within 100 feet of resource areas. As

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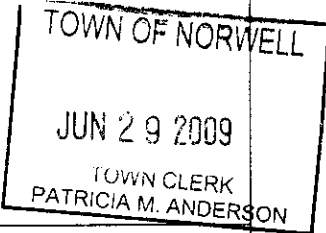


	<p>(“Conservation Commission”) or as otherwise provided in this Bylaw, no person shall remove, fill, dredge, alter or build upon or within one hundred (100’) feet of any bank, fresh water wetland, including without limitation, isolated vegetated wetlands, flat, marsh, meadow, bog, swamp, creek, river, stream, pond or lake, any land under said waters, any land subject to flooding or inundation by groundwater, surface water or tidal action other than in the course of maintaining, repairing or replacing, but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sanitary sewer, storm drainage, public roadway, telephone, telegraph, and other telecommunication services, without filing written Notice of this intention to so remove, fill, dredge, alter or build upon or within one hundred (100’) feet of said wetland resources and without receiving and complying with an Order of Conditions and provided all appeal periods have elapsed.” With the proposed project, work is proposed within 100 feet of Resource Areas at various locations on the site.</p>	<p>notice is otherwise required under the “Massachusetts Wetlands Protection Act” (WPA), Section A does not impose additional requirements except with respect to notice for “isolated vegetated wetlands.” The submission does not provide a sufficient level of detail to evaluate project impacts to resource areas including said “isolated vegetated wetlands.” The only way to ensure that impacts to “isolated vegetated wetlands” are properly evaluated is to preserve the ability of the Conservation Commission to evaluate impacts on “isolated vegetated wetlands” upon submission of more detailed plans.</p>
<p><u>Section 2B</u></p>	<p>Section 2B provides that “Except as authorized by the Norwell Conservation Commission, no activity or alteration shall be permitted within a fifty (50’) foot buffer strip (“buffer strip”) between any wetland resource area, bordering vegetated wetland, and/or isolated vegetated wetland and any proposed site disturbance. Prohibited activities shall include, but are not limited to, the following: (1) new construction of any buildings, sheds, and/or driveways of any nature and type (excepting water dependent structures expressly approved by the Commission); (2) alteration, reconstruction or relocation of existing buildings, sheds and/or driveways of any nature or type; and (3) activities which involve or result in the removal, filling or altering of land within the buffer strip.”</p>	<p><u>Limited waiver is granted</u> as set forth in the Conditions of Approval. Alteration of land within the 50-foot buffer zone is proposed at several locations throughout the site. The Board recognizes that alteration of this 50-foot buffer zone will be required to construct roadway and utility crossings and for other improvements as set forth in the Conditions of Approval. A minimum buffer zone of 25’ is hereby granted to the extent required to construct the proposed buildings and infrastructure in accordance with all other terms and conditions of this permit. The extent of 25-foot buffers zone alteration allowed by these Conditions of Approval is intended to strike a reasonable balance between strict compliance with the provisions of Section 2B and satisfying the need for Affordable Housing in Norwell.</p>
<p><u>Section 6.</u></p>	<p>Section 6 authorizes the Conservation Commission to deny permission for any removal, dredging, filling, or altering of subject lands within the Town if, in its judgment, such denial is necessary for the protection of public or private water supply, groundwater, flood control, storm damage prevention, and the prevention of pollution or any of the wetland values protected hereunder.</p>	<p><u>Limited waiver is granted</u> as set forth in the Conditions of Approval. Alteration of subject lands is proposed at several locations throughout the site. The Board recognizes that alteration of subject lands will be required. Accordingly, limited waiver is granted to allow buildings and site improvements to be constructed subject to the limitations imposed by the Conditions of Approval and a valid Order of Conditions issued by the Norwell Conservation Commission or Superseding Order of Conditions issued by the DEP.</p>
<p><u>Section 9.</u></p>	<p>Authorizes the Conservation Commission to establish filing fees to defray costs incurred in conducting hearings under the Wetlands Protection Bylaw and to adopt rules and regulations regarding the establishment and collection of such fees.</p>	<p><u>Waiver is denied.</u> As notice is otherwise required under the WPA, Article XVI-a does not impose additional requirements except with respect to notice for “isolated vegetated wetlands.” The submission does not provide a sufficient level of detail to evaluate project impacts to resource areas including said “isolated vegetated</p>

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	collection of such fees.	wetlands," notice is required under Article XVI-a. Conservation Commission fees are needed to offset actual expenses incurred by the Conservation Commission in processing the required filing.
<u>Section 10</u>	Section 10 provides for reimbursement of consulting fees for review of business, commercial, industrial, subdivisions, and other projects.	<u>Waiver is denied.</u> Waiver is denied. Consulting fees are needed to offset actual expenses to the Town incurred in reviewing an application by local boards, commissions, agencies and authorities having jurisdiction.
<u>Section 12.</u>	Section 12 provides that the "Commission shall have the authority to enforce this Bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission to the Board of Selectmen, the town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law. Any person who violates any provision of this Bylaw, regulations or permits issued thereunder, shall be punished by a fine set by the Conservation Commission. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the Bylaw, regulations or permit violated shall constitute a separate offense. In addition to the procedure of enforcement as described above, the provision of this Bylaw may also be enforced by the Commission or its agent, by non-criminal complaint pursuant to the provisions of M.G.L. Chapter 40, Section 21D. The penalty for violation of any provision of this Bylaw shall be \$100.00 for the first offense; \$200.00 for the second offense; \$300.00 for the third offense and each subsequent offense."	<u>Waiver is denied.</u> The ability to enforce provisions of an Order of Conditions is necessary to ensure protection of wetland resources and monetary fines are a valuable enforcement tool.
<u>Section 13.</u>	Section 13 provides that the "Conservation Commission may require the posting of a bond with or without surety, running to the municipality, and sufficient as to form and surety in the opinion of the Commission's Counsel, to secure faithful and satisfactory performance of work required by any Order of Conditions, in such sum and upon such conditions as the Conservation Commission may require. Other evidence of financial responsibility which is satisfactory to the Conservation Commission may be accepted in lieu of bonding. Notwithstanding the above, the amount of such bond shall not exceed the estimated cost of the work required or the restoration of affected lands and properties if the work is not preformed as required, whichever is greater. Forfeiture of any such bond or other security shall be recoverable in an action in any court of competent jurisdiction."	<u>Waiver is Denied.</u> The ability to require provision of security to ensure that requirements of an Order of Conditions are satisfactorily completed is necessary to ensure protection of wetland resources.
<u>Other Sections of Article XVI-a</u>	Sections 3, 4, 5, 7, 8, 9, 11, 14, and 15 of Article XVI-a are largely procedural and administrative in nature.	<u>Waiver is denied.</u> As notice is otherwise required under the WPA, Article XVI-a does not impose additional requirements except with respect to notice for "isolated

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	in nature.	vegetated wetlands.” The submission does not provide a sufficient level of detail to evaluate project impacts to resource areas including said “isolated vegetated wetlands,” and accordingly notice is required under Article XVI-a. Sections 3, 4, 5, 7, 8, 9, 11, 14, and 15 to the extent applicable establish procedural and administrative requirements for the required filing.
<u><b>NORWELL CONSERVATION COMMISSION RULES AND REGULATIONS FOR TOWN OF NORWELL WETLANDS BYLAW ARTICLE XVI-a.</b></u>		
<u>All provisions.</u>	The Rules and Regulations set forth the purpose of the Rules and Regulations which is to define and clarify the process by which activities affecting areas subject to protection under the Bylaw are to be regulated and provide administrative requirements and procedural requirements. The regulations define and clarify that process by establishing standard definitions and uniform procedures by which the Conservation Commission may carry out its responsibilities. The Rules and Regulations establish technical requirements for flagging wetlands, establish submission requirements, The Rules and Regulations also establish requirements for identifying violations, providing notice of violations, issuing enforcement orders, and reporting violations.	<u>Waiver is denied.</u> The Rules and Regulations establish administrative and procedural requirements and specify technical requirements for wetland flagging. These requirements contribute to the protection of wetland resources by establishing uniform submittal requirements, ensuring technical adequacy, and administering violation procedures.
		
<u><b>NORWELL WETLANDS BYLAW REGULATIONS FOR ADMINISTERING ARTICLE XVI-a OF THE NORWELL GENERAL BYLAWS</b></u>		
<u>1.00 Authority.</u>	Section 1.00 cites authority for the regulations as “Norwell Wetlands Bylaw, Article XVI-a, of the Norwell General Bylaws.”	
<u>2.00 Purpose – Protected Interests.</u>	Section 2.00 lists the interests protected by the regulations which include interests protected under the “Massachusetts Wetlands Protection Act.” Additionally, the regulations protect groundwater, aesthetics, private water supply, and erosion control.	<u>Waiver is denied.</u> Protection of groundwater, private water supply, and erosion control are of critical concern to the Town particularly given the location of the project partially within the Norwell Zone 2.
<u>3.0 Jurisdiction – Resource Areas and Buffer Zones.</u>	Section 3.00 lists the resource areas subject to regulation which include resource areas protected under the “Massachusetts Wetlands Protection Act.” Additionally, the regulations protect the following resource areas not protected under the WPA including (1) Isolated freshwater or coastal wetland and (4) Land subject to flooding or inundation by groundwater or surface water, including but not limited to freshwater wetlands, beaches, wet meadows,	<u>Limited waiver is granted.</u> Given the location of the site partially within a Norwell Zone 2, protection of Isolated Wetlands are important to recharge and groundwater quality. While alteration of buffer zones is approved under the Conditions of Approval, regulation of work within buffer zones is not waived for buffer zones associated with Isolated Wetlands and Vernal Pools (both Certified by Natural Heritage and Endangered Species Program or not certified) is important in terms of the Zone 2 and in terms of rare species as vernal

	<p>swamps, bogs, vernal pools (both Certified by Natural Heritage and Endangered Species Program or not certified), reservoirs or isolated wetlands. In addition to areas protected under the WPA, Section 3.00 defines regulated buffer zones to include (1) Land within 100 feet of an isolated freshwater or coastal wetland and (4) Land within 100 feet of land subject to flooding or inundation by groundwater or surface water, including but not limited to freshwater wetlands, beaches, wet meadows, swamps, bogs, vernal pools (both Certified by Natural Heritage and Endangered Species Program or not certified), reservoirs or isolated wetlands. Section 3.00 defines regulated buffer zones to include (2) Land within 50 feet of a Bordering Vegetated Wetland or Isolated Vegetated Wetland (hereinafter referred to as the "Buffer Strip" "or "No Build Zone") and (3) Land within 100 feet of a vernal pool (hereinafter referred to as the "Vernal Pool Protection Zone").</p>	<p>pools may exist on-site. Waiver of the provision of Section 3.00 is granted to allow alteration of land within 50 feet of a Bordering Vegetated Wetland or Isolated Vegetated Wetland (hereinafter referred to as the "Buffer Strip" "or "No Build Zone") and (3) Land within 100 feet of a vernal pool (hereinafter referred to as the "Vernal Pool Protection Zone"), but only to the extent permitted in the Conditions of Approval.</p>
<p><u>Section 4.00 Regulated Activities.</u></p>	<p>Section 4.00 provides that activities subject to regulation include the following: (1) Any activity proposed or undertaken within a Resource Area or Buffer Zone to a Resource Area described in Section 3.00 et seq. and (2) Any activity deemed by the Conservation Commission as likely to have a significant or cumulative detrimental effect upon resource areas as defined herein.</p>	<p><u>Waiver is denied.</u> Work is allowed within Resource Areas and Buffer Zones only to the extent permitted under the Conditions of Approval; however, regulation of work within these areas by the Conservation Commission is not waived.</p>
<p><u>Section 5.00 Burden of Proof.</u></p>	<p>Section 5.00 provides that the applicant has the burden of proof by a preponderance of credible evidence that the work proposed will not have a significant or cumulative detrimental effect upon Resource Areas or interests protected herein. Section 5.00 also provides that no project determined to have a significant or cumulative detrimental effect upon Resource Areas or interests protected shall be allowed.</p>	<p><u>Waiver is denied.</u> Requiring the applicant to demonstrate that work proposed will not have a significant or cumulative detrimental effect upon Resource Areas is critical to protection of resource areas.</p>
<p><u>Section 6.00 Applications.</u></p>	<p>Section 6.00 provides that activities within a Resource Area or Buffer Zone under the jurisdiction of the Conservation Commission require permit issuance prior to any disturbance of the area. Section 6.1.0 establishes submittal requirements and procedures for processing a Request for Determination of Applicability (RDA). Section 6.2.0 provides procedures to be used to obtain Conservation Commission approval of a resource area delineation. Section 6.3.0 provides requirements for submission of a Notice of Intent. Section 6.4.0 provides that applications must be complete prior to opening a hearing. Section 6.5.0 provides requirements for approval of a Norwell Wetlands Permit and the basis for denial of a project. Section 6.6.0 provides that the Commission may reopen a hearing to review whether the Wetland Permit protects the Resource areas. Section 6.7.0 provides procedures for minor project changes.</p>	<p><u>Waiver is denied.</u> Section 6.00 provides that work in locations under the jurisdiction of the Conservation Commission require permit issuance prior to any disturbance of the area which is critical to protection of resource areas. Sections 6.1.0 through 6.8.0 establish reasonable administrative and procedural requirements with respect to Requests for Determination of Applicability, Conservation Commission approval of resource area delineation, submission of a Notice of Intent, completeness prior to opening a hearing, requirements for approval of a Norwell Wetlands Permit, the basis for denial of a project, reopening of a hearing to review whether the Wetland Permit protects the Resource areas, minor project changes, and extensions of time to complete work.</p>

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	Section 6.8.0 provides procedures for extension of time to complete work.	
<u>Section 7.00 Definitions.</u>	Section 7.00 is reserved for future use.	
<u>Section 8.00 General Performance Standards.</u>	<p>Section 8.00 provides regulations applicable to activities in the following Resource Areas are necessary and proper to protect the Wetland Interests stated in Section 2.00 of the Regulations. The General Provisions Section provides that all approved projects will be designed and executed so that Stormwater is controlled and there is no direct discharge to a resource area and further provides that stormwater will be controlled using the most current Best Management Practices as defined by the DEP et al. Further the General Provisions require that project design ensures that there will be no adverse effect on abutting properties. Section 8.1.0 provides modified definitions for "pond" and "stream" in addition to those set forth in 310 CMR 10.56, defines protected interests, and establishes performance standards for Land Under Inland Water Bodies and Waterways. Section 8.2.0 provides definitions, protected interests, and performance standards for salt marshes. This resource area is not applicable. Section 8.3.0 provides definitions, defines protected interests, and establishes performance standards for Land Subject to Flooding (both Bordering and Isolated Areas). The term "isolated land subject to flooding" is defined and a 100 foot buffer zone is established for "isolated land subject to flooding." Performance standards include no reduction in the ability of the land to absorb and contain floodwaters, compensating or greater flood storage capacity and no adverse effects on vernal pools whether or not certified. Section 8.3.1 provides a definition of Vernal Pools and provides that the 50 foot "No Build Zone" and a 100 foot "Vernal Pool Protection Zone" apply. The Section also provides an additional performance standard for a Vernal Pool, i.e. minimizing disturbance in the 100-foot Vernal Pool Protection Zone. Section 8.4.0 provides definitions, defines protected interests, and establishes performance standards for Vegetated Wetlands. Wetlands are defined to include both bordering and isolated wetlands. Technical requirements are provided for wetland vegetation, soils, and hydrology. The 50 foot No Build Buffer Zone applies to isolated and bordering vegetated wetlands. Section 8.5.0 defines protected interests and establishes performance standards for Riparian Zone or Riverfront Area. The burden of proof shall be on any applicant to show that a river, stream or creek is not perennial, i.e., that it is intermittent.</p>	<p><u>Limited waiver is granted.</u> A minimum buffer zone of 25' is hereby granted to the extent required to construct the proposed buildings and site improvements in accordance with all other terms and conditions of this permit and a valid Order of Conditions. Requiring that Stormwater is controlled and there is no direct discharge to a resource area and requiring use of Best Management Practices is critical to the protection of resource areas. Requiring that project design cause no adverse effect on abutting properties is critical in this instance given the close proximity of abutting properties to the work area. Requiring protection of "pond" and "stream" as defined better protects these resources. Requirements for salt marshes are not applicable. Given the location of the Norwell Zone 2, requiring adherence to the performance standards requiring no reduction in the ability of the land to absorb and contain floodwaters is critical to protect water supply. Requiring no adverse effects on vernal pools whether or not certified is important given the presence of potential on-site Vernal Pools. Waiver to allow work within a 100 foot "Vernal Pool Protection Zone" is granted only to the extent permitted under the Conditions of Approval. Providing protection for both bordering and isolated wetlands is critical to protection of water supply and to protect the Norwell Zone 2. Technical requirements for wetland vegetation, soils, and hydrology are required for proper delineation of resource areas. Limited waiver to allow work within the 25 foot No Build Buffer Zone of isolated and bordering vegetated wetlands is granted only to the extent permitted in the Order of Conditions and as otherwise allowed by the conditions and waivers of this permit. Standards for protection of Riparian Zone or Riverfront Area are the same as required under the WPA and are therefore not waived.</p>
<u>Section 9.0 Fees.</u>	Section 9.0 provides for fees that are in addition to those required by the WPA including	<u>Waiver is denied.</u> Payment of reasonable application fees and consultant's fees will compensate the

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	application fees and consultant's fees.	Conservation Commission for the actual cost of processing and engaging consultants to review the project application.
<u>Section 10.0 Other Requirements.</u>	Section 10.1 provides requirements for notice. Section 10.2 provides for a Statement of Compliance at project completion. Section 10.3 provides that applicants must record the Norwell Wetlands Permit, Notification of Non-Significance, Extension Permit, and Statement of Compliance within 20 business days of issuance and upon failure to do so empowers the Commission to record them at the Applicant's expense.	<u>Waiver is denied.</u> Section 10.0 provides reasonable administrative and procedural requirements necessary to properly evaluate the application.
<b><u>TOWN OF NORWELL BYLAWS AND RULES AND REGULATIONS ARTICLE XVI REMOVAL OF SOIL, LOAM, SAND, OR GRAVEL;</u></b>	The Applicant seeks waiver of strict compliance with all provisions of the "Town of Norwell Bylaws and Rules and Regulations, Article XVI Removal of Soil, Loam, Sand, or Gravel" in its entirety. The submission does not include completed grading plans, or site earthwork calculations that demonstrate compliance with the following Section 4 requirements:	
<u>Section 4A.</u>	Section 4A provides that no soil, loam, sand or gravel shall be removed from any land within the Town of Norwell without a removal permit issued by the Board of Selectmen. Written application for a permit must be made to the Board of Selectmen upon a form approved by them and the payment of a reasonable filing fee established by them. Required information includes: (e) Contouring of application removal area in 1-foot interval and (f) water table in application for removal area.	<u>Waiver is denied.</u> Section 4A requires submission of critical information required properly evaluate impacts of earth removal on groundwater and water supply which is significant given that the Norwell Zone 2 overlies portions of the site.
<u>Section 4C.</u>	Section 4A provides that the Board of Selectmen may issue a permit for the removal of soil, loam, sand or gravel in those areas of the Town provided that the following information is received from the applicant: (1) that such removal will not adversely affect the water table of the natural or engineered drainage in the Town, (2) that such removal will not create a waste area within the Town, (3) that such removal will not create unreasonable noise, dust, fumes or other effects which are detrimental to the Public Health or Public Welfare; and (4) that such removal will not create an area which is different in topography from surrounding properties.	<u>Waiver is denied.</u> Section 4C proscribes reasonable environmental controls necessary to mitigate project impacts with respect to creation of a waste area, noise, dust, fumes, and adverse grading.
<b><u>TOWN OF NORWELL BYLAWS AND RULES AND REGULATIONS ARTICLE XII PERMANENT DRAINAGE COMMITTEE</u></b>	The Applicant seeks waiver of strict compliance with all provisions of the "Town of Norwell Bylaws and Rules and Regulations, Article XII Permanent Drainage Committee" in its entirety.	
<u>Intent of the Proposed Rules and Regulations</u>		N/A

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<u>Drainage Design Data.</u>	The Drainage Design Data Section establishes requirements provide that the design submitted will be prepared by a registered professional engineer and bear the engineer's signature and seal.	<u>Waiver is denied.</u> Preparation of drainage design by a professional engineer is standard engineering practice and is required by Massachusetts regulation.
<u>Design Analysis.</u>	The Drainage Analysis Section establishes requirements for the content of the drainage analysis including standard forms, plan content, pipe sizes and slopes, elevations, strength and depth of bury, and off-site easement requirements.	<u>Waiver is denied.</u> Content specified is required for proper evaluation of drainage impacts.
<u>Design Storm.</u>	The Section establishes requirements to utilize the ten (10) year frequency storm event as the design storm.	<u>Waiver is denied.</u> The preliminary drainage calculations submitted indicate the applicant's intent to satisfy this requirement and the waiver is unnecessary. Further, the ten (10) year frequency storm event is a common municipal design standard and provides an appropriate drainage system design.
<u>Computation of Runoff.</u>	The Section establishes requirements for coefficients of permeability.	<u>Waiver is denied.</u> The coefficients of permeability provided are consistent with standard engineering practice.
<u>Selection of Drain Size.</u>	The Selection of Drain Size Section establishes requirements for sizing of drain pipes including use of Manning's Formula, "Kutter's" "n" values, minimum culverts size, full flow without surcharge, and use of RCP pipe.	<u>Waiver is denied.</u> The requirements set forth in the Selection of Drain Size Section are required in order to properly size the drainlines.
<u>Slope of Pipe.</u>	The Slope of Pipe Section establishes requirements to provide a minimum self-cleaning velocity of 2.5 feet per second flowing full.	<u>Waiver is denied.</u> Self cleansing velocity is standard engineering practice and is required to ensure ease of maintenance.
<u>Type of Pipe.</u>	The Section establishes requirements for reinforced concrete pipe.	<u>Waiver is denied.</u> Reinforced Concrete Pipe is a common standard.
<u>Inlets.</u>	The Inlets Section establishes requirements provide that inlet capacity must be adequate to pass the design runoff with a surcharge of 0.2 feet maximum and inverts must be set to match crowns with different pipe sizes.	<u>Waiver is denied.</u> Providing proper inlet capacity is required to ensure proper functioning of the drainage system and to prevent flooding.
<u>Catchbasins.</u>	The Section establishes requirements for catchbasins.	<u>Waiver is denied.</u> The required catchbasins are typical of catchbasin used in designs of this nature.
<u>Manholes.</u>	The Section establishes requirements for manholes.	<u>Waiver is denied.</u> The required manholes are typical of manholes used in designs of this nature.
<u>Excavation.</u>	The Section establishes requirements for trench excavation.	<u>Waiver is denied.</u> The trench excavation requirements are typical of trench excavation requirements specified for projects of this nature.
<u>Bedding.</u>	The Section establishes requirements for pipe bedding.	<u>Waiver is denied.</u> The pipe bedding requirements including excavation of unsuitable soil are typical of pipe bedding requirements used in projects of this

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		nature.
<u>Pipe Laying.</u>	The Section establishes requirements for pipe laying.	<u>Limited waiver is granted.</u> Waiver is granted to allow use of watertight rubber O-Ring joints in lieu of mortared joints. Other requirements for pipe laying are typical of the requirements specified for installations of this nature and are not waived.
<u>Backfilling.</u>	The Section establishes requirements for backfilling.	<u>Waiver is denied.</u> The backfill requirements are typical of those specified for installations of this nature.
<u>Debris Grates.</u>	The Section establishes requirements for debris grates.	<u>Waiver is denied.</u> The required debris grates are typical of debris grates required in designs of this nature.
<u>Headwalls.</u>	The Section establishes requirements for headwalls.	<u>Waiver is granted</u> to allow use of headwalls or reinforced concrete flared-end sections at the applicant's option.
<u>Scour Protection.</u>	The Scour Protection Section establishes requirements provide for rip rap aprons at pipe discharges where the flowing full velocity exceeds 10-feet per second.	<u>Waiver is denied.</u> Provision of scour protection is standard engineering practice and is required to minimize erosion.
<b><u>TOWN OF NORWELL BYLAWS AND RULES AND REGULATIONS ARTICLE XII, RULES AND REGULATIONS, BOARD OF APPEALS COMPREHENSIVE PERMIT APPLICATIONS</u></b>	The Applicant seeks waiver of strict compliance with all provisions of the "Town of Norwell Bylaws and Rules and Regulations, Article XII, Rules and Regulations of the Board of Appeals, Comprehensive Permit Applications."	<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>TOWN OF NORWELL</p> <p>JUN 29 2009</p> <p>TOWN CLERK PATRICIA M. ANDERSON</p> </div>
<u>Article J. Comprehensive Permits, MGL c. 40B §§ 21-23</u>		
<u>Section 1 Purpose and Context.</u>	Section 1 provides procedures for Comprehensive Permits applications under G.L. c. 40B, §§20 - 23, and its associated Regulations in 760 CMR 56.00 and states that the purpose of the Rules is to facilitate the development of affordable housing.	
<u>Section 2 Definitions</u>	Section 2 defines certain terms.	
<u>Section 3 Minimum Jurisdictional Requirements for Filing an Application.</u>	Section provides that the Applicant shall meet the following minimum jurisdictional requirements of 760 CMR 56.04(1) in order to be eligible to submit a Comprehensive Permit application.	
<u>Section 4 Elements of the Complete Application.</u>	Section 4 provides information and documentation for the application as listed in 760 CMR 56.05(2).	
<u>Section 4(a) Preliminary Site Development Plans.</u>	Section 4(a) provides requirements for preliminary site development plans	<u>Waiver is denied.</u> The specified content or the Preliminary Site Development Plans is necessary for proper site design. Compliance with DEP's Stormwater Management Regulations is required by 760 CMR



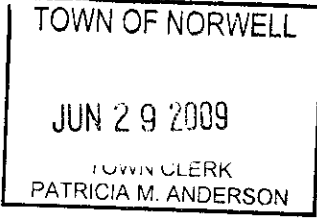
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		56.00. Requiring no net increase in runoff for the two-year through 100-year storm events is necessary for protection of abutting properties and public ways.
<u>Section 4(b) Existing Site Conditions Plan with Narrative Report.</u>	Section 4(b) provides requirements for the existing site conditions plan with narrative report.	<u>Waiver is denied.</u> A report on existing site conditions and a summary of conditions in the surrounding area is necessary for proper project design and to evaluate project impacts.
<u>Section 4(c) Preliminary, Scaled, Architectural Drawings.</u>	Section 4(c) provides requirements for preliminary, scaled, architectural drawings.	<u>Waiver is denied.</u> Preliminary Architectural Drawings are necessary for project review.
<u>Section 4(d) Tabulations of Proposed Buildings.</u>	Section 4(d) provides for tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the ground area and percentage of the tract to be occupied by buildings, by parking, and other paved vehicular areas, wetlands and upland area, and by open areas.	<u>Waiver is denied.</u> A tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the ground area and percentage of the tract to be occupied by buildings, by parking, and other paved vehicular areas, wetlands and upland area, and by open areas is necessary for project review. Proper classification of rooms that may be used as a bedroom is necessary for project review and to property design the on-site wastewater treatment plant.
<u>Section 4(e) Preliminary Subdivision Plan.</u>	Section 4(e) provides for a subdivision where a subdivision of land is involved which is not applicable to the proposed project.	
<u>Section 4(f) Preliminary Utilities Plan.</u>	Section 4(f) provides requirements for a preliminary utilities plan.	<u>Waiver is denied.</u> Preliminary utility design is required for project review.
<u>Section 4(g) Stormwater Management.</u>	Section 4(g) provides stormwater management requirements.	<u>Waiver is denied.</u> Adherence to the Stormwater Management requirements of Article XII, Sections 1 and 2 of the Board of Appeals procedures assures protection of the site and abutting properties and public ways. These regulations do not impose requirements in excess of those set forth in 310 CMR 10.00.
<u>Section 4(h) Waivers.</u>	Section 4(h) provides requirements for enumeration of waivers.	<u>Waiver is denied.</u> Submission of a list of requested exceptions to local requirements and regulations is required for project review.
<u>Section 4(i) Pro Forma.</u>	Section 4(i) provides conditions under which a Pro Forma may be requested.	<u>Waiver is denied.</u> Submission of a Pro Forma detailing the projected costs and revenues of the proposed project in accordance with 760 CMR 56.05(6) is required for project review.
<u>Section 4(j) Other Applications and Submissions.</u>	Section 4(j) provides requirements for other applications and submissions. <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"><p style="text-align: center;">TOWN OF NORWELL</p><p style="text-align: center;">JUN 29 2009</p><p style="text-align: center;">TOWN CLERK PATRICIA M. ANDERSON</p></div>	<u>Waiver is denied.</u> Submission of copies of materials, plans, and applications submitted by the Applicant to any prospect subsidizing agency or source or other authority having jurisdiction in this proposed project, including, but not limited to applications for site approval or project eligibility, groundwater discharge permit, or other permits or approvals necessary to its construction facilitates project review and is a routine administrative practice and is not burdensome.
<u>Section 4(k) Permits, Approvals, and Grants.</u>	Section 4(k) provides for documentation of all approvals, permits, or grants necessary to construct the proposed project.	<u>Waiver is denied.</u> Submission of documentation of approvals, permits, or grants necessary to construct this proposed project facilitates project review and is a

	construct the proposed project.	routine administrative practice and is not burdensome.
<u>Section 4(l) Development and Marketing Team.</u>	Section 4(l) provides for a listing of each member of the development and marketing team.	<u>Waiver is denied.</u> Submission of a list of each member of the development and marketing team, including all contractors and subcontractors, to the extent known at the time of Application facilitates project review and is a routine administrative practice and is not burdensome.
<u>Section 4(m) Prior Development Projects.</u>	Section 4(m) provides that the Applicant shall provide a list of all prior development projects completed by the Applicant with a brief description of each.	<u>Waiver is denied.</u> Submission of a list of prior development projects completed by the Applicant with a brief description of each facilitates project review and is a routine administrative practice and is not burdensome.
<u>Section 5 Town Authority and Departmental Review; Application Copies.</u>	Section 5 provides procedures for a Comprehensive Permit application including notice to Local Boards and inviting their review, and establishes requirements for copies to be submitted.	<u>Waiver is denied.</u> Providing notice to Local Boards and inviting their review and establishing requirements for copies to be submitted are a routine administrative practices and are not burdensome.
<u>Section 6. Application Filing Fees.</u>	Section 6 provides for the payment of a reasonable filing fee with the application.	<u>Waiver is denied.</u> Submission of reasonable filing fees is necessary to offset that actual administrative costs incurred in reviewing the application.
<u>Section 7 Technical Review; Escrow; Consultant Selection and Appeal.</u>	Section 7 provides for Technical Review; Escrow; Consultant Selection as follows: (a) establishes requirements for technical review escrow including (1) escrow deposit requirements of \$20,000.00, (2) escrow replenishment, (3) escrow adjustments regarding both the initial escrow deposit and replenishment schedule; (b) proscribes provisions for noncompliance with escrow requirements; (c) establishes provisions for technical review by which the Board may engage outside consultants including engineers, scientists, financial analysts, special counsel, and others to assist the Board in analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, and inspecting a project during construction or implementation; (d) sets forth procedures for technical review consultant selection and payment; (e) sets forth procedures for appeal of the technical review consultant selection; (f) sets forth procedures for escrow accounting; and (g) establishes requirements for refunding unused escrow.	<u>Waiver is denied.</u> The Board allowed submission of an initial review fee of twenty thousand dollars (\$20,000.00.) Submission of reasonable filing fees are necessary to offset the actual administrative costs incurred in reviewing the application. Escrow replenishment and provisions for noncompliance with escrow requirements are necessary to obtain professional services for analyzing the application, monitoring or inspecting a project, and inspecting a project during construction and are not waived. Procedures for technical review consultant selection and payment; appeal of the technical review consultant selection; escrow accounting; and refunding unused escrow are good administrative practices and are not waived.
<u>Section 8 Review of any Conditions claimed by the Applicant to be Uneconomic; Pro Forma and Escrow Requirements.</u>	Section 8 provides that it shall be the Applicant's burden to demonstrate that the waiver of any particular local regulation, bylaw, or ordinance is necessary in order to maintain the project's economic viability and establishes that there shall be a presumption that the waiver of any local bylaw, ordinance, or regulation will adversely affect local concerns. Section 8 further provides for engagement of financial and other experts to assist the Board in determining whether any proposed conditions will render the project uneconomic, as required under G.L. c.	<u>Waiver is denied.</u> Requiring evidence that waiver of a particular local regulation, bylaw, or ordinance is necessary in order to maintain the project's economic viability and allowing the Board to engage experts to help determine if any proposed conditions will render the project uneconomic facilitates project review.

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	40B, §§20 –23.	
<u>Section 9 Public Hearing and Decision.</u>	Section 9 provides scheduling and procedural requirements for (a) holding a public hearing on the Application; (b) rendering a decision based following the public hearing; and (c) filing its decision by the Board with copies to the Applicant and to the Department of Housing and Community Development.	<u>Waiver is denied.</u> Section 9 requires sound administrative practices required to process the application.
<u>Section 10 Changes in the Application.</u>	Section 10 provides procedures to be followed in the instance that any material change in its Application or project plans is proposed that include the following: (a) provision of a new a new Project Eligibility Letter from the subsidizing agency upon; (b) resubmission of any and all information specified in Article J, Section 4, deemed necessary by the Board; and (c) redistribution of any and all plans and supporting information to the local entities identified in Article J, Section 5. Section 10 also provides that if the Applicant submits a revised plan for the Board's consideration, and said plan is the plan that is the subject of the Board's hearing and deliberation, then the Application shall be deemed to be revised, subject to the provisions of Section 10.	<u>Waiver is denied.</u> Section 10 establishes sound administrative practices for review and evaluation of material changes to the application before the Board.  
<u>Section 11 Appeals.</u>	Section provides as follows: (a) if the Board approves the Comprehensive Permit, any person aggrieved may appeal within the time period and to the court provided in G.L. c. 40A, §17 and (b) if the Board denies the Comprehensive Permit or approves the permit with conditions or requirements considered by the Applicant to be unacceptable, the Applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c. 40B, §§21-23, and 760 CMR 56.00, and any revisions thereto.	<u>Waiver is denied.</u> Section 11 restates the appeal process as set forth in M.G.L c 40B, §§21-23 and 760 CMR 56.00.
<u>Section 12 Other Provisions.</u>	Section 12 provides as follows: (a) requirements prior to ground disturbance and commencement of construction; (b) requirements prior to building permit issuance, (c) prohibitions on the assigning or transfer of the Comprehensive Permit; (d) resubmission of revised plans and determination if the change is material; (e) performance guarantees; (f) requirements prior to issuance of Certificates of Occupancy; (g) requirements for interim and final as-built plans and certifications; (h) scheduling of required submissions of interim as-built plans; (i) requirements for final as-built plans; and (j) reservation of the right to appoint a local affordable housing authority or agency for monitoring of affordability requirements.	<u>Waiver is denied.</u> Section 12(a) establishes requirements to be satisfied prior to Ground Disturbance and Commence of Construction which the Board considers necessary. Section 12(b) provides that the Applicant must comply with the Conditions of Approval and the Board's Rules and Regulations prior to Building Permit issuance which is required to ensure compliance with the approval. Section 12(c) provides that the Comprehensive Permit cannot be assigned or transferred without the expressed written approval of the Board that may not be unreasonably withheld. Section 12(d) requires submission of any project modification to the Board of Appeals who shall determine if it is minor in nature or whether a new public hearing is required which is necessary to ensure continued compliance with the Board's Decision. Section 12(e) requires provision of security for project improvements which is necessary to protect the interests and safety of project residents. Section 12(f) precludes issuance of Certificates of Occupancy until all conditions of the Decision are satisfied which is necessary to ensure compliance with the Decision and further that Certificates of occupancy

		<p>shall be issued so that no more than three market-rate units are permitted for every affordable unit so permitted which is necessary to ensure delivery of affordable units. Section 12(g) requires submission of interim and final signed and sealed as-built plans and certifications which are required to ensure compliance with the approved plans. Section 12(h) requires submission of interim as-built plans for foundations prior to Building Permits which in necessary to ensure proper location and for ways following installation of the binder course of pavement which is necessary to ensure proper location prior to top course, prior to issuance of Certificates of Occupancy which is necessary to ensure overall compliance with the Decision and when required by the Board's consulting engineer. Section 12(i) requires submission of final as-built plans which are necessary to ensure compliance with the Decision. Section 12(j) allows the Board to appoint a local affordable housing authority or agency for monitoring of affordability requirements which may be necessary to ensure that affordable housing requirements are actually achieved.</p>
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