



OFFICE OF
BOARD OF APPEALS

TOWN OF NORWELL

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Ralph J. Rivkind
Patrick J. Haraden

DECISION of the BOARD of APPEALS

Comprehensive Permit,

Pursuant to G.L. c. 40B, §§ 21-23,

Simon Hill LLC

ZBA FILE NO. 12-18

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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 for the proposed project 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 for a total 28.7±/- acres. The current 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 Town of Norwell's Residential Zoning District A and within the Aquifer Protection Overlay District under the current Norwell Zoning Bylaws. A portion of the property is also 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 Applicant represents that property is 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. At the Board's request and in order to respond to an issue during the prior proceeding before the Board involving the original project, the Applicant provided a further "Certification Regarding Purchase and Sale Agreement", dated January 29, 2013, as signed by John J. Sullivan, Manager of Simon Hill, LLC, stating that the Purchase and Sale Agreement remains in full force and effect.

B. APPLICATION:

On or about November 19, 2012, the Applicant filed a Notice of Project Change letter, pursuant to M.G.L. c. 40B, § 21-23, (Act), to construct One Hundred twenty-six (126) rental apartment units in lieu of the approximate twenty-eight (28) homeownership townhouse-style condominium units which the Applicant stated it could construct under the prior Comprehensive Permit approved by the Housing Appeals Committee (HAC) [see HAC Decision dated October 13, 2011 affirmed by a Judgment of the Plymouth County Superior Court on March 25, 2013 (Muse, J.)] on the lower portion of the property. The Applicant claimed in its Notice of Project Change that it was only altering the project from the eighty (80) dwelling units to the current One Hundred twenty-six (126) rental units.

On December 6, 2012, the Board of Appeals notified the Applicant that a public hearing would be required. Public notice was properly given with the public hearing opening on January 2, 2013. The Applicant and Board mutually agreed to subsequent extensions leading to the decision filing deadline of October 21, 2013.

C. LATEST PROJECT PLANS:

1. **Concept Plan Drawing:** "Conceptual Site Layout Plan" (PC-1) drawing, dated 8/5/13, prepared by McKenzie Engineering Group, Inc. (unsigned/unstamped), entitled *Comprehensive/ Permit Plans/ known as/ Simon Hill Village/ Assessors Map 13C, Block 37, Lot 6/ Off Prospect Street/ Norwell, Massachusetts*, received 8/15/13
2. **Project Plan Set:** Notice of Project Plan Drawings, dated 10/29/12, as revised 5/23/13, except as indicated below, consisting of:

| | |
|------|--|
| C-1 | Cover Sheet |
| C-2 | General Notes, Legend, & Abbreviations |
| EC-1 | Existing Conditions Plan, rev. 4/23/13 |
| EC-2 | Existing Conditions Plan, rev. 4/23/13 |
| PC-1 | Preliminary Site Layout Plan |
| PC-2 | Preliminary Utility Plan |
| PC-3 | Preliminary Grading and Drainage Plan |
| LS-1 | Preliminary Landscaping Plan |

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3. **Architectural Plans:** Typical 30-Unit and 36-Unit Building Architectural elevations and floor plans, prepared by The MZO Group, dated 6/18/13, also indicating heights of proposed buildings

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

| | |
|------------|----------------------------------|
| Engineers: | John C. Chessia, P.E. |
| | Chessia Consulting Services, LLC |
| | P.O. Box 724 |
| | Norwell, MA 02061 |

John G. Morgan Jr., P.E. PTOE,
Transportation Engineering Manager
Coler & Colantonio Inc.
101 Accord Park Drive
Norwell, MA 02061

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- E. **Town Boards and Departments:** The Board of Appeals ("Board") notified all local boards, commissions and officials of this Notice of Project Change, the hearings that would take place on said aspects of the project which the Applicant elected to change, and considered their comments when making this decision. Comments were received from the Town's Planning Board, Conservation Commission, Board of Health, Fire Chief, Police Chief, Inspector of Buildings/Zoning Enforcement Officer, Historical Commission, Superintendent of Public Schools, Water Department Superintendent and Board of Water Commissioners.
- F. **File Inventory:** Various plans, reports, correspondence, and meeting minutes, 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 on the Notice of Project Change.
- 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:

| | |
|----------|---|
| 11 19 12 | Notice of Project Change letter received from the Applicant |
| 12 06 12 | Board of Appeals response requiring public hearing |
| 01 02 13 | Public Hearing opened |
| 01 30 13 | Continued public hearing and peer review selection |
| 03 11 13 | Continued public hearing: quorum not available due to member illness |
| 03 28 13 | Continued public hearing: Applicant not available |
| 04 17 13 | Continued public hearing: presentations by Applicant's engineer and the Board's peer review consultant |
| 04 24 13 | Continued public hearing: Presentations by the Norwell Fire Chief, the Applicant's traffic consultant, the Board's peer review traffic consultant, the Applicant's school consultant; Board invitation to public to submit proposed draft conditions |
| 05 15 13 | Continued public hearing: discussion of procedural issues relating to NoPC application and its relationship to the prior permit; abutter concerns about visual impacts due to height and density; supplemental presentations by the Applicant's and the Board's traffic consultants; presentation by the Board's peer review consultant; Board invitation to public to submit proposed draft conditions |

| | |
|----------|--|
| 06 05 13 | Continued public hearing: Town board and department responses; discussion of preliminary conditions; Board invitation to public to submit proposed draft conditions |
| 06 14 13 | Work session: review and discussion of draft conditions |
| 06 18 13 | Work session for engineers |
| 06 19 13 | Continued public hearing: presentation by Norwell Police Chief; number of conditions under discussion reduced to approximately ten during the 6/14/13 and 6/18/13 work sessions; preliminary pro forma discussion; presentation by abutter's attorney |
| 06 25 13 | Work Session: looping and other water issue discussions with Water Department Superintendent; review of Applicant's list of ten open items with resolution of about half; further information needed relating to the pro forma |
| 06 26 13 | Continued public hearing: Review of written public comments; discussion of pro forma, building and unit sizes, various conditions |
| 07 09 13 | Continued public hearing: discussion of comparable projects in residential neighborhoods; open items and continued review of conditions |
| 07 23 13 | Work session: discussion of options to reduce building heights, including flat-roof styles; discussion of waivers |
| 07 24 13 | Continued public hearing: letter from Norwell Planning Board suggesting possible building and massing changes to reduce impervious surface and general construction costs; Applicant agrees to look at reconfiguring units and reducing building number to increase open space and reduce impacts on abutters; extension of time to file decision to be granted to 10/1/13 in order to schedule a work session to review new "concept" plan to be prepared |
| 08 15 13 | Work Session: review of concept plan, dated 8/5/13, reducing building number to three with no reduction in units; pool and club house moved and open space increased; some discussion of landscaping buffer; applicant refuses to consider reduction in number of units |
| 09 10 13 | Continued public hearing: discussion of concept plan and continuing review of conditions, including landscaping buffer, building heights in relation to existing or project grade levels; vote to close written testimony in two weeks with an additional week allowed for written rebuttals with final deadline of 10/2/13 |
| 09 25 13 | Submission deadline for written comments to Board |
| 10 02 13 | Submission deadline for written rebuttals to Board |
| 10 16 13 | Continued public hearing to deliberate and vote the final decision |
| 10 21 13 | Decision filing deadline |

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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 Sale Agreement dated May 28, 2008. This Decision is rendered based on the existence of an alleged agreement and certification by the Applicant that it is still in full force and effect, most particularly the sales price contained therein (\$2,500,000) which is allegedly still the purchase price for the property.
4. **Changes Substantial:** In accordance with the Board's letter to the Applicant dated December 6, 2012, the proposed changes described in the Applicant's Notice of Project Change were deemed to be "substantial" given the change in housing tenure, increase in dwelling/apartment units from approximately twenty-eight (28) townhouse condominium units to One Hundred twenty-six (126) apartment rental units in four garden style apartment buildings, and the material changes to the design and layout of the project.

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

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- 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 authorizing the Board to impose conditions when issuing 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 consistent with the local and regional need for Affordable Housing in Norwell.
- D. **PROJECT ELIGIBILITY LETTER:** 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 under the Notice of Project Change (NoPC) application, which is the subject of this decision insofar as it was possible due to the change in occupancy and density. However, the Board believes the Town has not received its due benefit from the Project Eligibility process, as the NoPC resulted in a significant increase in the number of units and density of the development proposed, which has also significantly changed from homeownership to rental, subject to a very different level of scrutiny under DHCD regulations and administered by a separate section of the department. The original Project Eligibility Letter issued by MassHousing on June 30, 2008, stated that the Applicant would need to obtain a new Project Eligibility Letter to make the changes which were proposed under this Notice of Project Change. However, MassHousing issued a letter on January 30, 2013, following commencement of the public hearings which appeared to indicate that these issues would be addressed prior to issuance of a final Project Eligibility letter.
- E. **PRO FORMA:** During the public hearing process, in accordance with the guidance documents issued by DHCD and/or HAC and also 760 CMR 56.00, the Applicant was asked to provide certain information, including a Pro Forma, which would enable the Board to adequately and appropriately condition the proposed project in a manner that would not render the project uneconomic. The Applicant provided a draft Pro Forma which its representatives repeatedly stated was preliminary in the sense that it was only general estimate of the cost and expense of constructing the project and other factors. As submitted, the proposed project appears to be uneconomic. When asked during the public hearing process about proposed conditions, the Applicant's representatives were unable to state with particularity as to how any proposed conditions were uneconomic and provided no analysis to support any such contentions.
- F. The Applicant still has not demonstrated compliance with many issues raised in the Project Eligibility Letter, dated June 30, 2009, issued by MassHousing.

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 to act upon this application, **VOTED** unanimously at a public hearing duly held on October 16, 2013, upon a motion made by Mr. Rivkind and seconded by Mr. Haraden, to **GRANT/APPROVE** the Project Changes as described in the Applicant's latest submissions following its filing of a Notice of Project Change. The Project Changes granted/approved herein shall alter and/or amend the original Comprehensive Permit decision filed with the Norwell Town Clerk on June 29, 2009, and modified by the decision of the Housing Appeals Committee in its Case No. 2009-07, dated October 13, 2011 as affirmed by a Judgment of the Plymouth County Superior Court in Civil Docket #PLCV2011-01319B, dated March 25, 2013. The Board's approval of the Project Changes is further subject to and conditioned upon the compliance with the Conditions set forth and described herein and the Waivers granted as shown on Exhibit B, attached hereto.

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CONDITIONS

The proposed project shall be constructed in accordance with the Plans referenced in Paragraph C as limited by the Conditions set forth below. If the Applicant desires to change the details of its Project as approved by the Board herein, it shall promptly notify the Board in writing, describing such change. Within twenty (20) days the Board shall determine and notify the Applicant whether it deems the change substantial or insubstantial. If the change is determined to be insubstantial or if the Board fails to notify the Applicant by the end of such twenty- (20) day period, the Comprehensive Permit shall be deemed modified to incorporate the Change. If the change is determined to be substantial, the Board shall hold a public hearing within thirty (30) days of its determination and issue a decision within forty (40) days of termination of the hearing, all as provided in Mass. Gen. L. c. 40B, §21.

GENERAL CONDITIONS

1. **Definitive Project Plans:** At least ninety (90) days prior to application for a building permit, the Applicant shall submit a revised Comprehensive Permit Plan Set contemporaneously to the Board and the Board's peer review consultant incorporating revisions required to comply with all Conditions of Approval. These conditions encompass design revisions that the Applicant represented to the Board would be made and/or that Board requested during the public hearing process. These revised Comprehensive Permit Plans shall be hereinafter known as the "Definitive Project Plans".

Except as otherwise specified in this Decision, the Definitive Project Plans must substantially conform to the Comprehensive Permit Plans entitled "Comprehensive

Permit Plans Known as Simon Hill Village, dated October 29, 2012, revised through June 19, 2013, and DWG No. PC-1, Conceptual Site Layout Plan, dated August 5, 2013 (concept plan), as prepared by McKenzie Engineering Group and submitted to the Board. The Applicant indicated to the Board that it wanted the Board to approve the concept plan, dated August 5, 2013, showing One Hundred twenty-six (126) units in three (3) buildings, as submitted at the work session on August 15, 2013, in lieu of the One Hundred twenty-six (126) units in four (4) buildings submitted with the Notice of Project Change filing.

2. Further Development: The property, including without limitation, the area beyond the so-called "neck" shall not be further developed, divided, subdivided, or modified nor shall additional garden-style apartment buildings or any other units of any nature or type, outbuildings or bedrooms be added nor shall the exterior of any building be modified, other than as expressly allowed by this Comprehensive Permit, or as permitted in accordance with 760 CMR 56.00. This condition shall be construed as running with the land.
3. Archaeological Resources: If required by state law, the project must be reviewed in compliance with Section 106 of the National Historic Preservation Act of 1966, and reviewed by Massachusetts Historical Commission in compliance with Massachusetts General Laws Chapter 9, sections 26-27C. The Applicant shall timely provide the Board with a copy of any documentation submitted to MHC and any decisions/determinations from MHC with respect to the Applicant's Property.
4. State Building Code Compliance: The Definitive Project Plans shall contain such plans and information required by the most current version of the MA State Building Code ("Code") in effect as of the date of application for the first building permit and thereafter as of the date of application for all successive building permits and such other and further information as may be requested by the Norwell Building Inspector may request in compliance with the said Code as are required to demonstrate that the proposed buildings, structures and improvements shall comply with said Code. The Applicant shall be required to pay the same building permit fees as would apply if the project were developed as a conventional housing project.
5. Continuing Jurisdiction: Following the submission of Definitive Project Plans in accordance herewith, the Plans shall be reviewed by the Board's peer review consultant at the Applicant's sole expense for consistency with this Decision including compliance with unwaived local laws and regulations, state law and regulations and federal law and regulations. In the event of any dispute between the Applicant and the Board's peer review consultant as to the consistency with this Decision, the Board shall determine whether the proposed final plans are consistent with the Board's decision. Nothing herein shall preclude any local official, board or committee from conducting such other and further review of the Definitive Project Plans required by state law or regulations and/or federal law or regulations.
6. Successors: The provisions of this Comprehensive Permit shall be binding upon all successors and assigns of the Applicant, Simon Hill Village, LLC pursuant to 760 CMR 56.05 12 (b).

7. Project to be Private: The project, both during and after construction and occupancy, shall be and shall remain forever privately owned. Further, in the event of a default by the Applicant in the performance of its obligations, the Town shall have 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, 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.

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 or its successors and assigns of its intention to perform any work. The Applicant or its successors and assigns, as the case may be, shall be legally bound and obligated to reimburse the Town for all cost and expense associated with any such work and the collection costs and reasonable counsel fees relating thereto.

8. No Board Certifications or Warranties Stated or Implied: The Board does **not** by issuance of any permits or approvals 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 continuing jurisdiction in the development and construction of the proposed project.
9. The Applicant shall comply with any final project eligibility requirements and/or conditions of approval imposed by the project's subsidizing agency, MassHousing, which issued the original project eligibility letter dated June 30, 2008.
10. 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.

Affordability Requirements

11. The Applicant shall comply with the requirements of the subsidizing agency as to Income Eligibility Requirements, Unit Size and Location, Interspersion of Units, Lot Requirements, Disability Accommodation, Design Guidelines, Timing of Construction of Affordable Units, Marketing Requirements and Restrictions on Affordability.

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12. A copy of any draft and final Regulatory Agreements with the subsidizing agency and any approved Marketing Plans shall be provided to the Board.

Surety

13. The Applicant shall comply with the current state, DHCD or MassHousing guidelines, determinations and/or regulations which require the posting of financial surety pending certification of the project profits.

DESIGN STANDARDS

Site Planning Standards

14. The Project, and all construction, buildings, utilities, roads, drainage, earth removal or relocation of structures and all related appurtenances with respect to the Project, shall comply with all applicable state and federal laws and regulations. The Applicant shall promptly provide the Board with copies of all permitting requests and other correspondence directed to any applicable local, state or federal board, commission, agency or official and of all correspondence, approvals or disapprovals received from any such agency.

15. Internal Roadways & Sidewalks:

- a. As upheld in the final decision of the HAC dated October 13, 2011¹ relative to Internal Road Length, the main on-site drive (Road A) shall not be more than 1,100 linear feet in length cumulatively along the centerline leading from Prospect Street measured along the shortest route beginning at the centerline of Prospect Street and terminating prior to the so-called "Neck" where the property narrows to substandard width. The Board, in its proceedings, carefully considered the Town's 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. Internally, the access driveways shown in the portion of the property leading from Road A and which loop around the proposed Buildings 1, 2, and 3, reconfigured according to the 8/5/13 concept plan with the addition of an eighteen (18') foot fire lane in accordance with Condition 29, are approved subject to the further terms and conditions hereof since said access driveways can be constructed without passing through the so-called "Neck".

¹ The decision of the Committee is final following an appeal by the Applicant to the Superior Court which said appeal affirmed the decision of the Committee.

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- b. Internal Road Width and Design: Final roadway design plans and construction details shall be submitted for review by the Board's peer review consultant as a part of the Applicant's Definitive Project Plans, which shall show a pavement width of not less than 24 feet on Road A and on the drives/ways leading through the development off of Road A. As shown in the 8/5/13 concept plan, the roadway width of the access drive off of Road A to the Waste Water Treatment Plant, to the proposed pool and clubhouse, and the required fire lane set forth in Condition 29 shall be eighteen (18') feet in width. As further agreed with the Applicant, the proposed roadway design and construction shall comply with the vertical and horizontal alignment, compaction and typical roadway cross-section and profile requirements of the current Norwell Planning Board Subdivision Rules and Regulations. The remainder of the Norwell Planning Board Subdivision Rules and Regulations relating to roadways are waived. All proposed roadway and utility construction, grading, and appurtenant work shall be described in complete detail in the Definitive Project Plans to readily enable pre-construction peer review by the Board's peer review consultant/engineer for consistency with the approved plans and the requirements of this decision, proper construction monitoring and post-construction certification by the Board's peer review consultant/engineer.
 - c. A note shall be placed on each pertinent sheet of the Definitive Project Plans stating that the Project is the subject of a Comprehensive Permit under Mass. Gen. L. c. 40B § 22-23, that the roads and ways within the Project shall comply with the approved plans and the requirements of this decision.
 - d. Sidewalks shall be provided as per approved plans and shall conform to the requirements of the state Architectural Access Board (AAB) and federal Americans with Disabilities Act (ADA) requirements.
16. To address traffic, public safety and welfare concerns expressed throughout the course of the public hearing specifically as it relates to pedestrian and bicycle traffic safety from the project entrance to Main Street and from Main Street to the South Street entrance to Norwell High School which will be accessed by residents of the proposed project and/or their school age children and by the children living in and along Prospect and other neighborhood streets, the Applicant shall be required to prepare, at its sole cost and expense, a feasibility study for submission to the Town of Norwell Planning Board which shall include an analysis of the feasibility of the proposed construction of a proposed sidewalk along one side of Prospect Street from the Project's intersection with Prospect Street south to Main Street, along Main Street, and then from Main Street down South Street to the exit to Norwell High School, including an engineered site design and layout of a proposed bituminous and/or concrete sidewalk for the entire distance to benefit residents of the proposed development and their school-aged children who may in the future need to travel as pedestrians or cyclists to the Norwell Public Schools.
17. Building Location Restrictions: Construction of the proposed three-story garden style buildings shall be at the proposed finish floor elevations described in Condition 49 and substantially in such locations as shown on the proposed concept Site Plans

dated 8/5/13 and shall prohibited within a required front yard setback of seventy-five (75) feet from the right-of-way of Prospect Street which the Applicant represented could be met with respect to the proposed Project or within a required setback seventy-five (75) feet from all other lot lines which the Applicant represented during the public hearing could be met with respect to the proposed Project, and all building foundations shall be setback a minimum of twenty (20) feet from the delineated edge of any jurisdictional wetland resource area under Mass. Gen. L. c. 131 Section 40 which said requirement shall continue from the original HAC decision. Nothing herein shall be construed as creating a building envelope in which the Applicant is free in Definitive Project Plans to move the buildings around. Said buildings are to be located substantially as shown on the 8/5/13 concept project plan and so-called "Building 1" thereon shall not be moved in a northerly direction any farther than its proposed location.

18. Retaining Wall Location Restrictions: All retaining walls, with the exception of the retaining wall which is being proposed in connection with the stream crossing on Road A between Stations 3+00 and Station 5+00 (No. 3a on sketch plan submitted by the Applicant to highlight retaining wall setbacks) shall be constructed substantially as shown on the Comprehensive Permit Plans entitled "Comprehensive Permit Plans Known as Simon Hill Village, dated October 29, 2012, revised through August 5, 2013, to reflect building footprint modifications, with a minimum setback of at least fifteen (15) feet from all lot lines and at least fifteen (15) feet from the delineated edge of any jurisdictional wetland resource area under Mass. Gen. L. c. 131 Section 40. Retaining walls No. 3a (at the wetland crossing shall be constructed substantially as shown on the aforementioned plan).
19. Easement: An access and maintenance easement shall be provided to the benefit of the Town and approved as to form by Town Counsel, granting the Town of Norwell the right, but not the obligation, to access any portion of the Applicant's Property and to perform emergency and routine maintenance where the applicant or its successors and assigns fail 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 any reasonable legal costs incurred in compelling compliance or recovering sums due to the Town of Norwell.
20. Pathways Project of the Town of Norwell: The Applicant understands and agrees that if the ongoing bike and pedestrian pathways project which is under construction in Norwell should develop an access link to the property, the applicant and/or its successors and assigns agree that a mutually acceptable easement sufficient to accommodate the bike and pedestrian path's existing construction requirements shall be developed and the Applicant agrees to allow this property to be connected to any existing or proposed pathways abutting the property without the necessity of an eminent domain taking or additional monetary compensation.
21. Utilities: All electric, cable and telephone utilities shall be underground, and shall conform to the private utility companies' requirements.

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Resource Protection Standards

22. Existing Resource Areas: In the Definitive Project Plans, the Applicant shall show all "Wetland Resource Areas" defined in Gen. L. c. 131 Section 40 ("WPA") and its implementing regulations, including without limitation all streams, banks, isolated and bordering land subject to flooding (100 year floodplain), bordering vegetated wetlands, based upon a plan to be incorporated by reference showing a current Order of Resource Area Delineation and/or in a current Order of Conditions issued by the Norwell Conservation Commission and/or in a current Superseding Order of Resource Area Delineation or in a Superseding Order of Conditions issued by DEP, as applicable. The Applicant shall be required to identify any and all Vernal Pools on the subject property as a part of its filings with the Norwell Conservation Commission.
23. The proposed project shall comply with all rules, regulations, filing and permit requirements and certifications pertaining to regulations governing the disturbance and/or restoration/replication of wetlands on the site required by the U.S. Army Corps of Engineers, Section 404 of the Clean Water Act and, as applicable, Section 404(b)(1) guidelines that are established by the U.S. EPA. The Project shall comply with all rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Endangered Species Act, G. L. c. 131, § 23, 321 CMR 10.00. The Project shall comply with the Massachusetts Wetlands Protection Act and related regulations, G. L. c. 131, § 40-40A, 310 CMR 10.00.
24. The Applicant shall, prior to the commencement of any work, obtain a final Order of Conditions and/or a final Negative Determination of Applicability from the Norwell Conservation Commission, in its capacity as the local approving authority under the WPA, for all proposed activities and/or work in a wetland resource area or which may by reason of its proximity to state wetland resource areas may impact any state wetland resource areas. A copy of any such Order or Negative Determination shall be recorded at the Plymouth County Registry of Deeds in compliance with applicable law prior to the commencement of any work.
25. Required Buffer Zones: Stormwater Management Facilities: The proposed stormwater management facilities shall be designed and located on the Definitive Project Plans in compliance with the WPA and its regulations.
26. Resource Area Protection: Adverse construction impacts to resource areas shall be avoided 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 be setback 100 feet from WPA wetland resource areas or be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long-term stockpiles over thirty (30) days

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2013 OCT 21 PM 1:25

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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 workman-like 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.
- 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 fully maintained, in working order upon completion of construction. Thereafter, the Applicant or its successors or assigns shall be responsible for maintaining the Property's stormwater management system in compliance with all Federal and State requirements and in accordance with best management practices.

On-site drive ("Road") Design Standards

- 27. On-Site Drive ("Road") Width: Excepting as authorized by Condition 15(b) to this decision and for the fire lane required by Condition 29, the Definitive Project Plans shall show the pavement width of all on-site roads or driveways increased to twenty-four feet (24') (as is consistent with best engineering practice, public safety) 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.
- 28. On-Site Drive ("Road") Geometry: The Definitive Project Plans shall include a proposed roadway with a geometry that is sufficient to accommodate the largest fire department truck.
- 29. Fire Lanes: The Definitive Project Plans shall comply with the recommendations of the Fire Chief in his letter dated October 2, 2013 and also State Fire Code, 527 CMR 10.03(10)(a) to (c) relating to Fire Lanes. The Applicant's Definitive Project Plans shall show the addition of a new 18' foot fire lane connecting the southerly end of the parking area on the westerly side of Building #1 to an appropriate connection point in the parking area on the easterly side of Building #1 to afford fire and emergency vehicle access around Building #1 thereby eliminating a dead end and improving fire and emergency access and circulation. 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.
- 30. Sidewalks: The plans shall be revised so in the Definitive Project Plans sidewalks shall be provided on one side of all on-site roads. The bituminous width of the

sidewalk shall fully comply with any state or federal laws relative to handicapped or disabled safety, including the state AAB or federal ADA.

31. 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).
32. The Applicant and his traffic engineers have represented verbally and in their reports to the Board that there is AASHTO compliant sight distance in both directions at the Project entrance at Prospect Street. The Definitive Project Plans shall show the required AASHTO sight distances at the required set back line from Prospect Street along Prospect Street to demonstrate that there is the minimum AASHTO sight distance in both directions along Prospect Street.

Parking Standards

33. Exterior Parking Spaces: The Definitive Project Plans shall provide at least ~~two~~ ^{Two} Hundred twenty-five (225) exterior parking spaces with a minimum area of nine (9) feet by eighteen (18) feet for all of the proposed apartment units in the proposed project and the required number of handicapped parking spaces designed to comply with the sizing and location requirements of the AAB and ADA standards.
34. 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 ADA and AAB standards.
35. Bicycle Racks: The Definitive Project Plans shall include bicycle racks for each of the buildings in the proposed project as agreed upon by the Applicant.

Grading and Retaining Wall Standards

36. Retaining Walls: The Definitive Project Plans shall be revised to depict that 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 professional Structural Engineer based upon site specific geotechnical investigations and a foundation engineering report as regulated under the Massachusetts State Building Code and comply with the Mass. State Building Code and AASHTO as to railing and guardrails. Retaining wall design shall be based on site specific soil testing under the direct supervision of such professional structural engineer. In accordance with the 8/5/13 concept plan, it is anticipated that the previously proposed northerly retaining wall now in the area of the clubhouse and pool will be rendered unnecessary.

Water System and Fire Protection Standards

37. Municipal Water Service: All dwelling units within each building shall be connected to the municipal water system.

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2013 OCT 21 PM 1:25

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38. 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. Any flow testing reports used to determine adequate sizing of project water mains shall be stamped and signed by the professionals that made them and provided to the Board's peer review consultant for review to determine consistency with this Decision and the Board of Water Commissioners for approval of proposed integration of the system into the town's water distribution system.
39. Fire Protection: All buildings shall be constructed with a residential sprinkler system as required pursuant to the current Massachusetts State Building Code. The Applicant shall provide evidence to the Norwell Inspector of Buildings that such systems shall be designed and constructed in compliance with applicable codes and maintained in a manner approved by the Norwell Fire Chief.
40. Fire Hydrants: Fire hydrant locations shall be indicated and documentation shall be provided of approval by the Fire Chief and Board of Water Commissioners as to the number and arrangement of the fire hydrants prior to the submission of Definitive Project Plans. The hydrant assembly shall be the Norwell standard complying with Fire Department and Water Department requirements.
41. Five-Valve Connections: In accordance with Water Department recommendations, all connections to existing water mains shall be five-way gate valve of full diameter.
42. Water Main Looping: The 2010 DEP Guidelines for Public Water Supply Systems, Chapter 9, Distribution System, Piping and Appurtenance, Section 9.3 dealing with dead-end water systems establishes a guideline which recommends whenever practical that a project include a "looped" water distribution system. Although the HAC struck a prior condition in the original decision of the Board based on its determination that such condition would render the project uneconomic, the current project's economics are materially different in the opinion of the Board based on the preliminary Pro Forma information provided. The requirement that the water system be "looped" internally will substantially and meaningfully improve the quality of water in the proposed development and the health and safety of the residents by offering a redundancy not present in the single water line. The Definitive Project Plans shall include revisions to the water distribution to show a "looped" water distribution system which shall loop the water main system throughout the project in a manner acceptable to the Board of Water Commissioners.

Stormwater Management Standards

43. Stormwater Management Compliance: The Definitive Project Plans shall be revised to show a stormwater management system in full compliance with the DEP Stormwater Management Standards, standard engineering practice, Best Management Practices, and with Bylaws and Rules and Regulations of the Town of Norwell including without limitation the unwaived requirements of Section "7C,

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Drainage Design" of the Norwell Planning Board's "Rules and Regulations Governing the Subdivision of Land," and section 3159 of the Zoning Bylaw.

44. 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. Testing: Exfiltration shall be based on permeability tests, if applicable, to comply with the DEP regulations and guidelines.
- c. Roof Water Recharge: Wherever soils so permit, a roof water recharge system shall be provided for each building and shown on the Definitive Project Plans. Leaching structures shall be located a minimum of two-feet above groundwater and in areas where suitable soil can be documented by soil evaluations witnessed by an agent of the Town and/or its peer review consultant at the expense of the applicant, its successors and assigns, as with conventional developments.
- d. 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. The design of the construction phase controls shall demonstrate no impact from site runoff during construction.
- e. Operation and Maintenance Plans: A preconstruction Operation and Maintenance Plan for the specific Best Management Practices (BMPs) employed in the design shall be provided at the same time as the Definitive Project Plans that is consistent with DEP guidance and incorporates elements such as a stabilized rock construction entrance, temporary settling basins, stabilized stockpile areas, inlet protection, and stabilization notes and details. In addition, a post-construction Operation and Maintenance Plan consistent with good engineering practice and DEP guidelines shall be provided dealing with post-construction issues affecting the stormwater management system.

45. Mounding Limitations: Consistent with the decision of the Committee, the Applicant shall perform a hydrogeological study and post-construction monitoring compliant with any DEP requirements and guidelines to determine the impacts of groundwater mounding caused by the infiltration of stormwater in compliance with DEP requirements any impact to abutting residential property. In no event shall the Applicant be permitted to create any condition on any abutting property which is

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2013 OCT 21 PM 1:25

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illegal or which will adversely impact any structures, improvements or uses on said abutting properties. A copy of any studies and monitoring results received or conducted by the Applicant and/or its consultants shall be provided to the Board's peer review consultant/engineer and to the Board.

Wastewater Standards

46. 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 Project Plans in compliance a DEP Groundwater Discharge Permit or a Norwell Board of Health Septic Works Construction Permit, as applicable. 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 Massachusetts and Federal drinking water standards and monitoring requirements.
47. Mounding Limitations: Consistent with decision of the Committee, the Applicant shall perform a hydrogeological study and post-construction monitoring compliant with any DEP requirements and guidelines to determine the impacts of groundwater mounding caused by the Soil Absorption System (SAS) and to address in compliance with DEP requirements any impact to abutting residential property. In no event shall the Applicant be permitted to create any condition on any abutting property which is illegal or which will adversely impact any structures, improvements or uses on said abutting properties. A copy of any studies and monitoring results received or conducted by the Applicant and/or its consultants shall be provided to the Board's peer review consultant/engineer, the Board of Health, and to the Board.
48. Sound and Odor Limitations: The Applicant's treatment plant shall be equipped with sound dampening and odor control measures and components necessary to prevent any off-site migration of sound or odors associated with the operation of the treatment plant.

Architectural Unit and Building Standards

49. Building Requirements: The development shall consist of not more than three (3) apartment buildings located consistent with footprints shown on the submitted "Conceptual Site Layout Plan (PC-1)", dated August 5, 2013, prepared by McKenzie Engineering Group, Inc., entitled "Comprehensive/ Permit Plans/ known as/ Simon Hill Village/ (Assessors Map 13C, Block 37, Lot 6)/ Off Prospect Street/ Norwell, Massachusetts". Such three buildings shall be sited at elevations in relative locations shown on plan revisions entitled "Comprehensive Permit Plans Known as Simon Hill Village, dated October 29, 2012, revised through May 23, 2013.

The building footprints shall not exceed dimensions of seventy-five feet (75') wide by Two Hundred twenty feet (220') long. The maximum building height shall be thirty-six feet (36') from the proposed finished floor elevation grade with a typical architectural design shown on the MZO Simon Hill Typical Building Plan elevations dated May 23, 2013 which is 133.70'. The Applicant and its architect will work with

the design to reduce the impact of the mass and scale of the buildings while minimizing the building height to the extent practical. The building materials shall consist of vinyl, Hardie, Lifespan, or similar siding and trim and asphalt shingle, EPDM or similar roofing materials.

50. The Applicant has represented that the architectural elevation plans and internal unit plans are preliminary plans taken from another project and are not the actual buildings which the Applicant intends to construct but are generally representative of the style and type of garden-style apartments that it intends to charge its architect with designing as a part of the Definitive Project Plans. Material changes in building or unit architecture, style or materials shall not be permitted without the written approval of the Board. If, between the date this decision is filed with the Office of the Town Clerk and the completion of the Project, the Applicant desires to change any details, 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.
51. All dumpster areas shall be fenced and located away from abutting properties as reviewed and approved by the Board's consulting/peer review engineer and/or Building Inspector and depicted on the Definitive Project Plans.
52. Location of Snow Storage Areas shall be reviewed and approved by the Board's consulting/peer review engineer and/or Building Inspector and depicted on the Definitive Project Plans.
53. Location of Heating and Air Conditioning Units. The location of all heating and air conditioning units designed to serve the units in the buildings shall be located centrally within the site and/or in a location on the proposed buildings in a manner so as to screen and buffer said units from abutting properties.
54. Decks and Patios. There shall be no grilling or cooking of any type allowed on any patio or deck areas appurtenant to any unit in any building excepting as permitted by the MA State Building Code and/or MA Fire Codes and regulations.
55. Use of the Community Building and Pool. The use of the community building and pool shown on the plans shall be restricted to use by residents of the units and their guests and shall not be open to the public. The applicant shall demonstrate that prior to construction of the pool, plans designed by a Mass. Registered Professional Engineer or Registered Architect were approved in writing by the Norwell Board of Health acting in its local approval authority capacity under state law and regulations. The plans shall meet the requirements of:
 - a. 105 CMR 435 of the Mass. Sanitary Code, Minimum Standards for Swimming Pools
 - b. MGL Chapter 140, Section 206, regarding Public Safety Pool Enclosures.
 - c. Such Semi-Private Pool will require an annual inspection and permit by the Norwell Board of Health.

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Bedroom Limitation Standards

56. Bedrooms: The Applicant represents that the One Hundred twenty-six (126) apartment units shall be constructed and maintained with a mixture of one- (1), two- (2), and three- (3) bedroom rental units in each apartment building. Individual Interior Apartment Plans, signed and sealed by a Registered Architect, shall identify room usage within each apartment unit in each such building and such drawings shall be included as a part of any Definitive Project Plans.

Site Lighting Standards

57. Minimum Illumination Levels: The site lighting system shall provide a minimum of 0.5 foot-candles of illumination on all pavement.
58. Light Trespass: The site lighting system shall use fixtures and shielding features that minimize light trespass to 0.25 foot-candles at the property line.
59. Point Sources: The lighting fixtures shall not provide unshielded point sources of light that are visible off the property.
60. Dark Sky: The lighting system shall be designed using lower lighting levels consistent with safety and lighting fixtures that avoid upward projection of light and comply with Dark Sky principles.

Landscape Standards

61. Landscaping and Tree Protection Plan: A landscaping and tree protection plan shall be provided as a part of the Definitive Project Plans which said plans shall be consistent with the design review guide issued by DHCD and/or MassHousing applicable to low and moderate income rental housing projects.
62. Work within the Prospect Street right-of-way is subject to authorization by the Norwell Highway Department and by the Planning Board under the MA Scenic Road laws, as applicable.
63. Plant Material Guarantees and Maintenance: The plans shall require provision of a guarantee for all plant materials extending for one year following the date of submission and approval of final As-Built Plans for each such building. Nothing herein shall relieve the Applicant and its successors and assigns from maintaining the dense vegetated buffer which is required by this decision from being maintained in good condition consistent with the requirements of this section.
64. Native Plant Materials: Existing trees and vegetation shall be preserved to the maximum extent practicable. New trees and shrubs installed to provide shade and screening shall be native to southeastern Massachusetts. Additionally, all disturbed areas of the project site shall be loamed to a minimum of 6-inches in depth and then seeded.

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65. Landscape Buffer: The Definitive Project Plans shall be revised to provide at minimum a twenty foot (20') wide, dense vegetated buffer zone designed by a registered landscape architect, licensed in the Commonwealth of Massachusetts, to be supplemented by a six-foot (6') high fence located at the top of the grade parallel to the property line of all abutting residential properties as shown on the submitted Preliminary Landscaping Plan Drawing No. LS-1, dated October 29, 2012, as revised through 5/23/13, and as otherwise conditioned in this decision. Such dense buffer shall consist of a double staggered row of a mix of Norway spruce or comparable evergreen trees with a minimum height of fifteen (15) to eighteen (18) feet, spaced at a maximum of fifteen (15) to eighteen (18) feet on center [or thirty (30) to thirty-six (36) feet on center within each row] and will include an intermix of deciduous trees with a minimum caliper of 2 1/2 - 3 inches and full-spread branches. 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.

66. In addition to requirements contained in Condition 65, abutter fencing and natural screening shall be provided for the following properties abutting the proposed project in order to lessen the impact of the proposed Project on abutters off of Prospect Street. During the course of the public hearing, the Applicant stated its willingness and agreement to work with abutters to provide dense natural screening and/or vinyl fencing as well as to address further individual property owners' concerns. In this regard, the following additional items are required for the specific abutters:

- a. 58 Prospect Street (Paul and Helen McGloin): To address on-coming traffic and turning traffic headlights, the Applicant shall provide at a minimum such dense evergreen plantings [minimum of six feet (6') in height] in the area of the wastewater treatment plant located in the vicinity of this property location and such other screening and fencing along the common property line as may be necessary to address the abutter's privacy concerns.
- b. 74 Prospect Street (Robert McMackin): To address this abutter's specifically stated preference for natural screening in lieu of fencing, the Applicant shall provide dense privacy screening along the common boundary line consistent with plant materials and design detailed in Condition 65.
- c. 84 Prospect Street (Francis Molla): The Applicant shall provide at a minimum such dense plantings and fencing and natural screening at the northern common boundary line of the project abutting that property as may be necessary to address privacy concerns and consistent with plant materials and design detailed in Condition 65.
- d. 88 Prospect Street (Marie Molla): The Applicant shall provide at a minimum such dense plantings and fencing and natural screening at the northeasterly common boundary line of the project abutting that property as may be necessary to address privacy concerns and consistent with plant materials and design detailed in Condition 65.

TOWN OF NORWELL
TOWN CLERK

2013 OCT 21 PM 1:26

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67. Landscaped areas to be irrigated shall be by means of private irrigation wells, the location and design of which shall be approved by the Board's consulting/peer review engineer and/or Building Inspector and depicted on the Definitive Project Plans.

Sustainable Design Standards

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

Construction Standards

71. 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. Said fencing or barrier shall be maintained in good condition during construction and until the proposed project is complete.

PLAN SUBMISSIONS

Definitive Site Development Plan Set Submission

72. Definitive Project Plan Set: At least ninety (90) days prior to application for a building permit, the Applicant shall provide to the Board and its peer review consultant for review and a determination of consistency with this decision, six (6) complete sets of full-sized Definitive Project Plans, that include both contract documents and specifications (Definitive Project 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 format. The Definitive Project Plans shall incorporate all revisions required to comply with all conditions of approval including without limitation the Design Standards set forth herein. The Definitive Project 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 Project 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 acting under state law, and all departments of the Town of Norwell, and shall show all proposed site improvements, including the following:

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2013 OCT 21 PM 1:26

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2013 OCT 21 PM 1:26

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- 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.
- b. Wastewater: Final design of the on-site wastewater collection and treatment system including sewer profiles, as approved by the DEP and/or Board of Health, acting as that permitting authority.
- 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 Fire Chief of the Town of Norwell, Norwell Inspector of Buildings (if applicable), and 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 in accordance with the requirements of the subsidizing agency, MassHousing.
- 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 (see above requirements at Condition 44).

73. A Conservation Restriction pursuant to G.L. 184, §31 in a form reasonably acceptable to Town Counsel and substantially in compliance with the approved MA EOEEA shall be recorded at the Plymouth County Registry of Deeds prior to the receipt of the final occupancy permits for any of the units in the last building in the proposed project currently shown in the development plans. Said restriction shall clearly identifying the land areas noted on the Definitive Project 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.

Final Architectural Plan Submission

74. Final Architectural Plans: The Definitive Project Plans, consistent with the practice of the Town with respect to conventional development, shall include six (6) complete sets of full-sized Architectural Plans, including contract documents and specifications, (Final Architectural Plans) for all proposed buildings, and three (3) complete sets (11 x 17) of reduced copies, as well as an electronic copy on disk in AutoCAD 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 herein 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.
75. 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.

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Peer Review Escrow

76. Consistent with the practice of the Town with respect to conventional development of the nature and type generally shown herein, 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

77. Compliance: Prior to construction which shall include clearing of vegetation, earthwork, or other land disturbance ("prior to construction"), the Definitive Project Plans shall be approved by the Board's peer review engineer for consistency with this decision, state and federal law and regulatory compliance, and any unwaived requirements of local rules and regulations. In the event of any dispute as to whether the Definitive Project Plans comply herewith shall be submitted to the Board, subject to such other and further appeal to the Housing Appeals Committee, consistent with the final decision of the Committee dated October 13, 2011.
78. Prior to the construction, the Applicant shall obtain the necessary permits and approvals and provide evidence of recordation to the Board, the Board's peer review

engineer and the Norwell Building Inspector, including without limitation, the following:

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TOWN CLERK

2013 OCT 21 PM 1:26

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- a. MassHousing: Final Site 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.
 - b. 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.
 - c. A Final Order of Conditions or Determination of Non-Applicability.
 - d. A Groundwater Discharge Permit from the Massachusetts Department of Environmental Protection.
 - e. A NPDES Construction General Permit (CGP).
79. Intersection Sight Distance Triangles: Prior to construction and consistent with the prior Conditions, the Applicant shall demonstrate that requisite 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 and showing the minimum required Adequate Intersection Sight Distance (ISD) 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, as amended, which identifies the 85th percentile speed as 43 miles per hour northbound and 44 miles per hour southbound as indicated in the January 2013 Traffic Impact and Access Study by Vanasse Associates, Inc. and supplemental comments, dated 4/17/13, and as subsequently peer reviewed.
80. Construction Phasing, Scheduling, and Sequencing: Prior to construction, detailed "Construction Phasing Plan" and "Construction Schedule," and "Construction Sequencing" information shall be submitted for review and approval by the Board's peer review engineer at the cost and expense of the Applicant.
81. Prior to construction, the applicant shall provide the Board's peer review engineer/construction monitor and the Inspector of Buildings 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.

82. **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 (if available), its consulting peer review engineer/project monitor, and representatives of the Town departments having an interest in the plan and construction. Said meeting shall be for the purpose of familiarization with the project, the conditions of approval, and the project's construction sequence and timetable and is intended to be consistent with the practice of the Town with respect to conventional developments.

83. **Construction Work Delay:** Consistent with the practice of the Town with respect to conventional development, 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. The Applicant shall also notify the Board's construction monitor of any anticipated work stoppages and restarts.

During Construction

84. **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 as determined by the Board's peer review engineer and is consistent with the practice of the Town with respect to conventional development. 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.

85. **Right of Entry:** The applicant shall grant the Town of Norwell, its agents, and/or other third parties as may be engaged by the Town right of entry onto the project property for the purposes of observing construction and ensuring that the conditions and requirements of this permit are met.

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2013 OCT 21 PM 1:26

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86. Construction Monitoring: As is consistent with the practice of the Town with respect to conventional developments and consistent with the Board's rules and regulations relating to Comprehensive Permits, the Board's engineering consultant/peer review consultant shall monitor, at the Applicant's expense, construction of the site improvement aspects of 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. If the peer review consultant is unavailable, a suitable substitute will be designated.
 - c. For each construction phase, stormwater detention and retention basins shall be constructed, stabilized and vegetated prior to discharge of any stormwater into the basin.
 - 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 upon which the succeeding operation depends 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.
87. 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.
88. 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.

89. Workmanlike Execution: The applicant shall ensure that all construction activities on the project site are conducted or supervised by skilled and licensed personnel in a workman-like manner.
90. Maintenance of Traffic: Prospect Street shall not be blocked or restricted by construction activities or equipment without the approval of the Norwell Police Department.
91. 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.
92. Fencing: Temporary construction fencing shall be provided for work areas where required by the Board's engineering consultant or the Inspector of Buildings.
93. Hazardous Materials: There shall be no use or storage of hazardous materials in amounts greater than associated with normal to household use during construction.
94. Best Management Practices: The applicant shall demonstrate that accepted Best Management Practices (BMPs) are to be utilized in all phases of construction.
95. Noise, Vibration, Dust, And Sedimentation: Construction noise and vibration and construction dust and sedimentation shall be minimized to the maximum extent practicable.
96. 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.
97. 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 each phase of construction activity.
 - b. Erosion controls shall be increased, supplemented, modified, adjusted, and maintained as required to effectively control sediment and erosion and minimize damage to wetlands and developed properties.
 - c. Prior to full site stabilization, Prospect Street shall be swept on a schedule determined by the Norwell Highway Surveyor in order to remove sediment and debris.

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- 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

98. Requirements to Issue Building Permits: In accordance with the practice of the Town with respect to conventional developments, 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 to a building 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 building in which the units are located. The Board's peer review consultant shall have the right approve a deviation from this practice if in his opinion safe and convenient access to portion of the site can be preserved.
 - 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 84.
 - e. Payment of all outstanding fees and payment of a reasonable escrow amount will be a precondition to the issuance of all Building Permits.

Certificates of Occupancy

99. Required Improvements: In accordance with the practice of the Town with respect to conventional developments, prior to issuance of any Certificate of Occupancy, all site improvements relating to each particular building shall be complete.
100. As-Built Plans – Interior: In accordance with the practice of the Town with respect to conventional developments, 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.

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Final "As Built" Plans & Guarantees

101. As-Built Survey – General: In accordance with the practice of the Town with respect to conventional developments, 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.
102. 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

103. 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 Project Plans as approved by the Board's engineer and are consistent with this decision and the decision of the Committee dated October 13, 2011.

Decision Filing, Appeals, and Recording

104. Activation: The changes to the Comprehensive Permit shall be deemed final after expiration of all applicable appeal periods and after all appeals, if any, have been decided and the applicant has recorded this decision at the Plymouth Registry of Deeds and provided the Board, the Board's peer review consultant/engineer 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 Definitive Project Plan Set shall also be filed with the Plymouth Registry of Deeds after review and approval by the Board and/or its peer review consultant.
105. 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.

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106. Expiration: The applicant shall commence construction within three (3) 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.

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Lois S. Barbour

Lois S. Barbour

10/21/13

Date

Ralph J. Rivkind

Ralph J. Rivkind

10/20/13

Date

Patrick J. Haraden

Patrick J. Haraden

10/21/13

Date

Date Filed with Office of the Town Clerk

Reserved for Date Stamp of
Town Clerk

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SIMON HILL, LLC – 40B Notice of Project Change
EXHIBIT A: File Inventory for Comprehensive Permit Decision
Public Hearing opened January 2, 2013
Public Hearing closed to written comments: September 25, 2013
Public Hearing closed to rebuttal comments: October 2, 2013

ZBA FILE NO. 12-18

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 of the written record.

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ZBA PUBLIC NOTICE, MINUTES, AND RECORDINGS

| Document Date | Document Description | ZBA Rec. |
|---------------|--|----------|
| 12/10/12 | Public Notice: advertisement for <i>The Norwell Mariner</i> | |
| 01/02/13 | Recording of 1/2/13 opening of public hearing | |
| 01/02/13 | Approved Meeting Minutes, filed with the Town Clerk on 2/4/13 | |
| 01/30/13 | Recording of 1/30/13 continued public hearing | |
| 01/30/13 | Approved Meeting Minutes, filed with the Town Clerk on 3/29/13 | |
| 03/11/13 | Approved Meeting Minutes, filed with the Town Clerk on 3/29/13 | |
| 03/12/13 | Disclosure of Appearance of Conflict of Interest: Patrick J. Haraden | |
| 03/28/13 | Approved Meeting Minutes, filed with the Town Clerk on 6/6/13 | |
| 04/17/13 | Recording of 4/17/13 continued public hearing | |
| 04/17/13 | Approved Meeting Minutes, filed with the Town Clerk on 6/6/13 | |
| 04/24/13 | Recording of 4/24/13 continued public hearing | |
| 04/24/13 | Approved Meeting Minutes, filed with the Town Clerk on 6/6/13 | |
| 05/15/13 | Recording of 5/15/13 continued public hearing | |
| 05/15/13 | Approved Meeting Minutes, filed with the Town Clerk on 6/20/13 | |
| 06/05/13 | Recording of 6/5/13 continued public hearing | |
| 06/05/13 | Approved Meeting Minutes, filed with the Town Clerk on 6/20/13 | |
| 06/14/13 | Recording of informal work session | |
| 06/19/13 | Recording of 6/19/13 continued public hearing | |
| 06/19/13 | Approved Meeting Minutes, filed with the Town Clerk on 6/27/13 | |
| 06/25/13 | Recording of 6/25/13 informal work session | |
| 06/26/13 | Recordings of 6/26/13 continued public hearing | |
| 06/26/13 | Approved Meeting Minutes, filed with the Town Clerk on 7/11/13 | |
| 07/09/13 | Recording of 7/09/13 continued public hearing | |
| 07/09/13 | Approved Meeting Minutes, filed with the Town Clerk on 7/25/13 | |
| 07/23/13 | Recording of 7/23/13 informal work session | |
| 07/24/13 | Recordings of 7/26/13 continued public hearing | |
| 07/24/13 | Approved Meeting Minutes, filed with the Town Clerk on 9/11/13 | |
| 08/15/13 | Recording of 8/15/13 informal work session | |
| 08/15/13 | Email summary of 8/15/13 informal work session from L.S.Barbour | |
| 09/10/13 | Recording of 9/10/13 continued public hearing | |
| 09/10/13 | Approved Meeting Minutes, filed with the Town Clerk on 10/17/13 | |
| 10/16/13 | Recording of 10/16/13 continued public hearing | |
| 10/16/13 | Unapproved Draft Meeting Minutes | |

CORRESPONDENCE

| Document Date | Document Description | ZBA Rec. |
|---------------|---|----------|
| 06/30/08 | Project Eligibility Letter approval "expressly limited to the development of no more than 84 homeownership units" | |
| 11/19/12 | Notice of Project Change: Letter from Simon Hill LLC, signed by John Sullivan | 11/19/12 |
| 12/06/12 | ZBA to Simon Hill LLC Notice of Project Change response | |
| 12/20/12 | Submission of Plan Copies: Letter from Simon Hill LLC, signed John J. | 12/20/12 |

| | | |
|----------|---|---|
| | Sullivan | |
| 12/21/12 | Notice of Project Change to MassHousing Finance: Letter from BBB, signed by C.R. Agostino; Enclosures: 11/19/12 Notice of Project Change letter; Permit Plan, dated 6/20/12(?); Exhibit A (11/16/12) – CP/Change Comparisons with 5 plan drawings, dated 10/29/12 | 2013 OCT 21 PM 1:27 01/30/13 RECEIVED |
| 01/07/13 | ZBA to JJS information request | |
| 01/16/13 | JJS to ZBA providing plan sets | 01/16/13 |
| 01/29/13 | BBB to ZBA providing supplemental materials | Via email |
| 01/29/13 | BBB to ZBA (Exhibit 1) peer review and filing fees; escrow deposit | Via email |
| 01/29/13 | JJS certification regarding P&S (Exhibit 2) | Via email |
| 01/29/13 | Delineation of plan changes (Exhibit 3) with Exhibit B tabulation | Via email |
| 01/30/13 | Requested Waiver List (Exhibit 4) | Via email |
| 01/30/13 | MHFA to Norwell Board of Selectmen denying consideration of a new PEL for the NoPC development | 02/05/13 |
| 02/13/13 | ZBA document distribution list | |
| 04/17/13 | Response to CCS 3/11/13 Plan Review: Letter from BBB, signed by W. F. Baker | |
| 07/01/13 | ZBA to BBB requesting additional information | |
| 07/08/13 | JJS to ZBA responding to 7/1/13 information request including copy of "Conventional Subdivision Plan, dated May 2008 | Via email |
| 07/11/13 | ZBA to BBB requesting additional information | |
| 07/17/13 | JJS email forwarding response letter to ZBA letter of 7/11/17 and also to proposed conditions revised through 7/8/13; attachments: Exhibit A – retaining wall locations; Exhibit B – retaining wall summary; Exhibit C – list of revised waivers | Via email |
| 07/26/13 | BBB letter to ZBA extending the deadline to file the decision to 10/21/13 | 07/26/13 |
| 07/29/13 | ZBA response letter to BBB | |
| 07/30/13 | Chessia Consulting Services LLC Supplemental Engineering Peer Review Scope of Services proposal | |

DOCUMENTS SUBMITTED BY APPLICANT

| Document Date | Document Description | ZBA Rec. |
|---------------|---|----------|
| 01/29/13 | Student Generation Projections: Connery Associates | 01/30/13 |
| January 2013 | Updated Traffic Impact and Access Study, prepared by Vanasse & Associates, Inc. | 02/21/13 |
| 03/20/13 | Vanasse & Associates, Inc. letter to Norwell Police Department, requesting local accident records for 2010-2012 for three intersections | |
| 04/17/13 | Vanasse & Associates, Inc. response to Coler & Colantonio, Inc. peer review traffic report of March 15, 2013 | |
| N.D. | Extension: Handwritten document prepared by W. F. Baker, attorney for applicant, as delivered to Board of Appeals at its 1/30/13 meeting, date-stamped by Town Clerk on 1/31/13 | 01/30/13 |
| 06/11/13 | Smart Growth Criteria Scorecard from WFB | 06/11/13 |
| 06/19/13 | W. F. Baker, hand-written list of conditions in question | 06/19/13 |
| 06/19/13 | J. J. Sullivan, hand-delivered at public hearing: Condition #43 proposed wording | 06/19/13 |
| 06/19/13 | Preliminary Pro Forma for 126 units, hand-delivered at public hearing by W. F. Baker | 06/19/13 |
| 02/27/07 | RBC Sewage Treatment Plant PowerPoint, prepared by Earth Tech | 06/19/13 |
| 08/04/05 | Amphidrome® O&M Manual, prepared by F.R. Mahony of Rockland, MA | 06/19/13 |
| N.D. | Photo of basin at Wildcat subdivision in Norwell, MA | 06/19/13 |
| N.D. | Vinyl Fence Brochure showing proposed Mt. Vernon and Diagonal Lattice Toppers | 06/19/13 |
| 07/09/13 | Retaining wall information | 07/09/13 |

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|----------|---|----------|
| 07/10/13 | JIS email forwarding revised retaining wall information | 07/10/13 |
| 07/17/13 | JIS email with modified proposed conditions | 07/17/13 |
| 07/17/13 | Revised List of Requested Waivers | 07/17/13 |
| 07/23/13 | Revised Retaining Wall Plan showing area "3b" | 07/23/13 |

APPLICANT'S PLANS/CONSULTANT REPORTS

| Document Date | Document Description | ZBA Rec. |
|---------------|--|--|
| 01/15/13 | Simon Hill LLC letter of 1/16/13 forwarding additional plan sets, signed by John Sullivan | 01/15/13 |
| 01/25/13 | McKenzie Transmittal of drawings, dated 1/23/13: - Preliminary Site Layout Plan (color) - Preliminary Site Layout Plan (Mylar overlay plan) - CP Plan – Preliminary Site Layout Plan | 01/25/13 |
| 02/21/13 | McKenzie Transmittal of Updated Traffic Impact and Access Study, January 2013 (6 copies) | 02/21/13 |
| 02/21/13 | McKenzie Transmittal of drawings, dated 1/29/13: Simon Hill Village Building Elevations (22 copies) | 02/21/13 |
| 02/13/13 | Preliminary Drainage Calculations & Stormwater Management Plan, dated 2/13/13, prepared by McKenzie Engineering Group | 02/25/13 |
| 04/08/13 | McKenzie Transmittal of drawings and peer review response: - NPC Plan Set, rev 4/3/13 (4 copies full-sized) - NPC 6-page Plan Set, rev 4/3/13 (10 copies ½ size) - Architectural Floor Plan (14 copies) - MEG Response to peer review comments letter, dated 4/3/13 - Fire Truck Turning Figure, dated 4/3/13 (14 copies) | 04/08/13 |
| 01/22/13 | Preliminary Site Layout Plan (PC-1) as prepared by McKenzie Engineering Group, dated 10/29/13, 1/22/13 rev. | RECEIVED 2013 OCT 21 PM 1:27 TOWN OF NORWELL TOWN CLERK |
| 02/13/13 | Preliminary Drainage Plan (PC-3) as prepared by McKenzie Engineering Group, dated 2/13/13 | |
| 04/13/13 | McKenzie Engineering Group letter of 4/3/13: 1. Response to Peer Review of Preliminary Drainage Calculations and Stormwater Management Plan from CCS, dated 3/11/13 2. Conservation Commission Comments, dated 3/20/13 | |
| 05/13/13 | Memorandum from F. Giles Ham, P.E. with Norwell Police Department Crash Data | |
| 05/23/13 rev | NPC Plan Set revisions (8 drawings) | 05/30/13 |
| 05/23/13 | Color Orthographic Overlay Plan, dated 5/23/13, prepared by MEG | |
| 05/30/13 | Typical 30-Unit and 36-Unit Building Architectural elevations and floor plans, prepared by The MZO Group, dated 5/28/13 | 05/30/13 |
| 05/23/13 | Fire Truck Turning Figure | 05/30/13 |
| 05/29/13 | MEG response to CCS letter of 5/10/13, Town departments, and public comments | 05/30/13 |
| 06/19/13 | Preliminary Site Layout Plan (PC-1) as prepared by McKenzie Engineering Group, dated 10/29/13, 6/19/13 rev. | 06/19/13 |
| 06/19/13 | Typical 30-Unit and 36-Unit Building Architectural elevations and floor plans, prepared by The MZO Group, dated 6/18/13, indicating heights of proposed buildings | 06/19/13 |
| 08/05/13 | "Conceptual Site Layout Plan" (PC-1) drawing, dated 8/5/13, prepared by McKenzie Engineering Group, Inc. (unsigned/unstamped), entitled <i>Comprehensive/ Permit Plans/ known as/ Simon Hill Village/ Assessors Map 13C, Block 37, Lot 6/ Off Prospect Street/ Norwell, Massachusetts</i> | 08/15/13 |

PEER REVIEW DOCUMENTS

| Document Date | Document Description | ZBA Rec. |
|---------------|--|----------|
| 03/11/13 | Chessia Consulting Services Peer Review, dated 3/11/13 | 03/11/13 |
| 05/10/13 | Chessia Consulting Services Supplemental Peer Review, dated 5/10/13 | 05/10/13 |
| 06/17/13 | Chessia Consulting Services Supplemental Peer Review, dated 6/17/13 | 06/17/13 |
| 03/15/13 | Traffic and Safety Peer Review, prepared by John G. Morgan, Jr., P.E. PTOE of Coler & Colantonio, dated 3/15/13 | 03/19/13 |
| 05/14/13 | Traffic and Safety Peer Review update | 05/14/13 |

TOWN BOARD AND DEPARTMENT DOCUMENTS

| Document Date | Document Description | ZBA Rec. |
|---------------|--|----------|
| 03/06/13 | Norwell Public Schools: Matthew A. Keegan, Superintendent of Schools, dated 3/6/13 | 03/06/13 |
| 03/06/13 | Town of Norwell Highway Department: Paul M. Foulsham, Highway Surveyor/Director | 03/06/13 |
| 03/20/13 | Town of Norwell Conservation Commission: David M. Osborne, Chairman | 03/25/13 |
| 03/27/13 | Town of Norwell Planning Board: Margaret Etzel, Chair | 04/02/13 |
| 04/01/13 | Town of Norwell Historical Commission: Wendy Bawabe, Vice Chair | 04/01/13 |
| 03/11/13 | Town of Norwell Water Department: John R. McInnis, Water Superintendent | 04/17/13 |
| 04/22/13 | Town of Norwell Water Department: John R. McInnis, Water Superintendent | 04/22/13 |
| 04/24/13 | Norwell Fire Department: T. Andrew Reardon, Fire Chief | 04/24/13 |
| 06/03/13 | Town of Norwell Water Department: John R. McInnis, Water Superintendent email providing Mass DEP reference regarding looping of water mains. | 06/03/13 |
| 06/13/13 | Norwell Police Department: Theodore J. Ross, Chief | 06/13/13 |
| 06/19/13 | Norwell Planning Board: Sally I. Turner, Chair | 06/19/13 |
| 06/19/13 | Norwell Fire Chief email to Penny Wilson | 06/19/13 |
| 06/24/13 | Norwell Fire Chief email to ZBA | 06/24/13 |
| 07/01/13 | Town Planner email forwarding Master Plan information relating to affordable housing | 07/01/13 |
| 07/01/13 | Conservation Agent email forwarding comments and Open Space Plan | 07/01/13 |
| 07/09/13 | Building Inspector email to LSB, expressing concern about no "dedicated Fire/Access road to get Emergency vehicles on site at each Bldg." | 07/09/13 |
| 07/24/13 | Conservation Agent: response to waivers and back-up | 07/24/13 |
| 07/24/13 | Planning Board letter of 7/24/13 recommending reconfiguration of project | 07/24/13 |
| 10/02/13 | Norwell Fire Chief: conceptual layout plan 8/15/13 (sic) response | 10/02/13 |

TOWN DOCUMENTS

| Document Date | Document Description | ZBA Rec. |
|---------------|---|----------|
| | Norwell Master Plan - Housing Affordability subsection | 07/01/13 |
| March 2012 | Town of Norwell Housing Production Plan and DHCD 8/3/12 approval letter | 07/01/13 |

PUBLIC COMMENTS

| Document Date | Document Description | ZBA Rec. |
|---------------|--|----------|
| 01/04/13 | Email from Marion Reed, 79 Prospect Street | 01/04/13 |
| 04/21/13 | Letter from Ron and Anne Russo, 63 Simon Hill Road | 04/24/13 |
| 04/24/13 | Letter from Mary L. Cole, 221 Forest Street | 04/24/13 |
| 04/26/13 | Email from Brian Koch, 14 Simon Hill Road | 04/26/13 |
| 05/13/13 | Email from Penny Wilson, 120 Prospect Street | 05/13/13 |

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|----------|--|----------|
| 05/15/13 | Marie Molla, 88 Prospect Street | 05/15/13 |
| 05/28/13 | Meredith and George Atkinson, 51 Simon Hill Road with photos | 06/05/13 |
| 06/03/13 | Douglas Molla, 84 Prospect Street with photos | 06/05/13 |
| 06/04/13 | Paul McGloin, 58 Prospect Street with photos | 06/04/13 |
| 06/05/13 | Thomas M. and Chanel P. Graefe, 69 Simon Hill Road | 06/05/13 |
| 06/12/13 | Stephen and Christine White, 45 Simon Hill Road | 06/12/13 |
| 06/13/13 | Mary Beth McGillicuddy, 110 Prospect Street | 06/13/13 |
| 06/18/13 | Mary Beth McGillicuddy, 110 Prospect Street | 06/18/13 |
| 06/18/13 | Paul McGloin, 58 Prospect Street | 06/18/13 |
| 06/12/13 | Stephen and Christine White, 45 Simon Hill Road | 06/18/13 |
| 06/19/13 | Sheila Platt and Robert McMackin, 22 Cedar Point Road | 06/19/13 |
| 06/20/13 | Lisa DiFrisco, 302 River Street | 06/20/13 |
| 06/20/13 | Adriane Henrichsen, 555 Grove Street | 06/20/13 |
| 06/20/13 | Robert Lamb, 6 Trout Brook Lane | 06/20/13 |
| 06/21/13 | Penny Wilson, 120 Prospect Street (Fire Chief) | 06/21/13 |
| 06/21/13 | Marie Molla, 88 Prospect Street (fire lanes) | 06/21/13 |
| 06/25/13 | Marie Molla, 88 Prospect Street (Board of Health) | 06/25/13 |
| 06/25/13 | Marie Molla, 88 Prospect Street (Norwell fire truck) | 06/25/13 |
| 06/25/13 | Paul McGloin, 58 Prospect Street (fencing) | 06/25/13 |
| 06/25/13 | Marie Molla, 88 Prospect Street (swimming pool) | 06/25/13 |
| 06/25/13 | Marie Molla, 88 Prospect Street (Simon Hill Road – fire hydrant photos) | 06/25/13 |
| 06/25/13 | Marie Molla, 88 Prospect Street (propane) | 06/25/13 |
| 06/25/13 | Marie Molla, 88 Prospect Street (fire chief) | 06/26/13 |
| 06/30/13 | Marie Molla, 88 Prospect Street (OSRD) | 06/30/13 |
| 07/01/13 | Kim DiLoreto, 56 Gerard Road (height, aquifer, traffic, abutters, town character) | 07/01/13 |
| 07/08/13 | Marie Molla, 88 Prospect Street (propane and elevator shafts) | 07/08/13 |
| 07/09/13 | Rebecca Allen, 153 Bowker Street (height, density, development impact on abutters) | 07/09/13 |
| 07/09/13 | Marie Molla, 88 Prospect Street (development comparisons) | 07/09/13 |
| 07/11/13 | Marion Reed, 79 Prospect Street (crane) | 07/12/13 |
| 07/12/13 | Mary Cole, 221 Forest Street (advocacy against 40B) | 07/12/13 |
| N.D. | Patrick and Anne Bulger, 57 Simon Hill Road (photos: views toward site) | 07/23/13 |
| 07/24/13 | Marion Reed, 79 Prospect Street (crane) | 07/24/13 |
| 07/24/13 | Paul McGloin, 58 Prospect Street (Condition #66) | 07/24/13 |
| 09/24/13 | Marie Molla, 88 Prospect Street (conceptual plan comments) | 09/24/13 |

STATE DOCUMENTS CONSULTED (PARTIAL LIST)

| Document Date | Document Description | ZBA Rec. |
|----------------------|---|----------|
| November 2005 | Local 40B Review and Decision Guidelines MHP/Netter | 06/24/13 |
| Eff. January 1, 2006 | DHCD Guidelines for Project Consistency with the Commonwealth's Sustainable Development Principles | 06/6/13 |
| January 2011 | Handbook: Approach to Chapter 40B Design Reviews | 06/18/13 |
| September 2009 | BRP WP 83 Hydrogeologic Evaluation Report Guidance | 06/9/13 |
| May 2013 | Guidelines for the Design, Construction, Operation, and Maintenance of Small Wastewater Treatment Facilities with Land Disposal | 07/17/13 |
| 05/15/13 | Preparation of Cost Certification for 40B Rental Developments | 07/11/13 |

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

ZBA FILE NO. 12-18

| Local Regulation | Description | Board Action |
|---------------------|--|--|
| ZBL Section 2311 | Permitted Residential Use | <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 |
| ZBL Section 2411 | Building (Intensity of Use) | <u>Limited waiver is granted</u> with respect to specific requirements is addressed hereinafter; however, <u>blanket waiver is denied</u> as this section requires compliance with all dimensional requirements. |
| ZBL Section 2433 | Lot width no two points <80' | <u>Waiver is denied</u> ; not applicable |
| ZBL Section 2442 | Side and rear yards | <u>Waiver is partially granted</u> for the Retaining Wall at wetland crossing only. The <u>waiver is otherwise denied</u> on the basis that the plans as submitted comply with the required yard setback requirements of the Zoning Bylaw, except at the aforementioned wetland crossing. |
| ZBL Section 2450 | Lot Shape | <u>Waiver is denied</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 more than 5,000 square feet of land between the required setback line and the Way. The lot 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. No building is to be constructed in an area where a 150' inscribed circle cannot be drawn and 2450.d is, therefore, unnecessary. |
| ZBL Section 2460 | Height | <u>Waiver is granted</u> as buildings are conditioned to allow for a maximum of 36' in height, which is 2' more than the 34' allowed for buildings in residential districts. |
| ZBL Section 3130 | Parking space size | <u>Waiver is granted</u> for parking spaces of 9' x 18' requested versus the 9' x 20' required. |
| ZBL Section 3156 | Parking lot plantings | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3158(d) | Parking Lot Perimeter Curbs | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3158(e) | Interior Parking Lot Islands | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3159(b) | Grading and Drainage Cornell | <u>Waiver is denied</u> . This standard was adopted by the Norwell Planning Board in its 2004 Rules and Regulations, based upon local observations and subdivision issues and is required of all Town projects. Further, this is the recommendation of the Conservation Commission. |
| ZBL Section 3159(c) | Grading and Drainage roofs to infiltrate | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3160 | Erosion Control | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3310 | Signs – Enforcement | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3321 | Permitted signs residential districts | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 3340 | Signs General Provisions | <u>Waiver is denied</u> as it is not required. |
| ZBL Section 4200 | Flood Plain Watershed/Wetlands Protection Overlay District | <u>Waiver is denied</u> as it is not required. |

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| Local Regulation | Description | Board Action |
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| ZBL Section 4300 | Aquifer Protection Overlay | <p><u>Limited waiver is granted</u> to the extent required for maintenance of the project swimming pool but <u>otherwise denied</u>. The Board acknowledges 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 with the possible exception of chemicals required for maintenance of the proposed swimming pool. 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> |

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| Local Regulation | Description | Board Action |
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| Board of Health Regulations | | |
| Board of Health Regulations Part 2 | Notification and Identification | <u>Waiver is denied.</u> 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 fully with Board of Health Rules & Regulations and an on-site wastewater treatment plant must comply to the extent applicable with Board of Health Rules & Regulations. |
| Board of Health Regulations Part 2 | Deep Observation Hole test | <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 <u>not waived</u> . |
| Board of Health Regulations Part 2 | High groundwater determination | <u>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. However, waiver is <u>denied</u> in the event the applicant proposes a conventional system not requiring State Approval. |
| Board of Health Regulations Part 2 | Percolation testing | <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 <u>not waived</u> . |
| Board of Health Regulations Part 2 | Percolation/deep hole filings | <u>Waiver is denied.</u> |
| Board of Health Regulations Part 2 | Dewatering Percolation testing | <u>Waiver is denied</u> as it is not applicable. |
| Board of Health Regulations Part 2 | Wetland setback distances | <u>Waiver is partially granted</u> only in areas required for pipes crossing wetlands and <u>otherwise denied</u> as it is otherwise not required. |
| Board of Health Regulations Part 2 | Nitrogen Sensitive District | <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 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. |
| Board of Health Regulations Part 2 | 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, requirement is <u>not waived</u> . |

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TOWN CLERK

| Local Regulation | Description | Board Action |
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| Board of Health Regulations Part 2 | Final Inspections | <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 <u>not waived</u> . |
| Board of Health Regulations Part 2 | Mounded Septic Systems | <u>Waiver is denied</u> , as it is not applicable. |
| Board of Health Regulations Part 2 | Blanket request sections 13-27: 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. | <p><u>Waiver of Section 13 is granted.</u></p> <p><u>Waiver of Section 14 is denied</u>, as there would be minimal cost if a pressure dosed system is used and to have an observation port.</p> <p><u>Waiver of Section 15 is granted</u>, as a tank filter may not be compatible with the treatment system</p> <p><u>Waiver of Section 16 is granted</u>, as it is unclear what type of system the DEP will approve.</p> <p><u>Waiver 17 is denied</u>, as it is not applicable.</p> <p><u>Waiver 18 is denied</u> for the 10-foot water line separation requirement and is partially granted only for sewer lines with proper vertical clearance and concrete encasement.</p> <p><u>Waiver of Section 19 is denied</u>. Provision of As Built grading plans are best engineering practice.</p> <p><u>Waiver of Section 20 is not applicable and, therefore, denied.</u></p> <p><u>Waiver of Section 21 is not applicable and, therefore, denied.</u></p> <p><u>Waiver of Section 22 is not applicable and, therefore, denied.</u></p> <p><u>Waiver of Section 23 is not applicable and, therefore, denied.</u></p> <p><u>Waiver of Section 24 is not applicable and, therefore, denied.</u></p> <p><u>Waiver of Section 25 is granted</u> as the use is intended for apartment occupancy and could otherwise increase the flow unnecessarily.</p> <p><u>Waiver of Section 26 is not applicable and, therefore, denied.</u></p> <p><u>Waiver of Section 27 is not applicable and, therefore, denied.</u> Perc rates are faster than 30 min/in.</p> |

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| Local Regulation | Description | Board Action |
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| Norwell Bylaws Rules and Regulations | Article XVI-a Wetlands Protection Bylaw and Regulations | Although specific sections are listed this appears to be a <u>waiver</u> from the Bylaw in general, which <u>is denied</u> . |
| | Section 2A Notice of Work | <u>Waiver is denied</u> . Section 2A requires notice if work is proposed within or within 100 feet of resource areas. As 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. |
| | 2B 50 foot no-disturb buffer | <u>Limited waiver is granted</u> as set forth in these Conditions of Approval and in accordance with the prior litigated Comprehensive Permit filed with the Norwell Town Clerk on 6/29/09. 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 10' 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 10-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. |
| | Section 6 removal, dredging, filling or altering | <u>Limited waiver is granted</u> as set forth in these Conditions of Approval. A limited waiver is granted to allow buildings and site improvements to be constructed subject to the limitations, if any 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. |
| | Section 9 filing fees | <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 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. |

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| Local Regulation | Description | Board Action |
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| | Section 10 Consulting review fees | <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. |
| | Section 12 Enforcement of Bylaw | <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. |
| | Section 13 Bond | <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. |
| | Sections 3, 4, 5, 7, 8, 9, 11, 14, and 15 | <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 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. |
| Conservation Commission Rules and Regulations | Article XVI-a Wetlands Protection Bylaw | <u>Blanket Waiver is denied.</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 is 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. | <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. |
| Regulations for Administration | Article XVI-a Wetlands Protection Bylaw | <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. |
| | Section 2 Purpose | <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. |

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| | Section 3 Jurisdiction | <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 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. |
| | Section 4 Regulated activities | <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. |
| | Section 5 Burden of Proof | <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. |
| | Section 6 Applications | <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. |

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| Local Regulation | Description | Board Action |
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| | Section 8 General Performance Standards | <u>Limited waiver is granted.</u> A minimum buffer zone of 20' is hereby granted, as previously litigated, 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 <u>granted only to the extent permitted in the Order of Conditions and as otherwise allowed</u> by the conditions and waivers of this permit and as previously litigated. Standards for protection of <u>Riparian Zone or Riverfront Area</u> are the same as required under the WPA and are therefore <u>not waived</u> . |
| | Section 9 Fees | <u>Waiver is denied.</u> Payment of reasonable application fees and consultant's fees will compensate the Conservation Commission for the actual cost of processing and engaging consultants to review the project application. |
| | Section 10 Other Requirements | <u>Waiver is denied.</u> Section 10.0 provides reasonable administrative and procedural requirements necessary to properly evaluate the application. |
| Town of Norwell Bylaws and Rules and Regulations | Article XVI Removal of Soil, Loam, Sand or Gravel | <u>Waiver is denied</u> as it is not applicable. |
| | Section 4A | <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. |

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2013 OCT 21 PM 1:28

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| Local Regulation | Description | Board Action |
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| | Section 4C | <u>Waiver is denied.</u> Section 4C prescribes reasonable environmental controls necessary to mitigate project impacts with respect to creation of a waste area, noise, dust, fumes, and adverse grading. |
| Town of Norwell Bylaws and Rules and Regulations | Article XII Permanent Drainage Committee | <u>Waiver is denied.</u> Preparation of drainage design by a professional engineer is standard engineering practice and is required by Massachusetts regulation. The applicant will ultimately be required to perform these calculations for the storm drainage system. |
| | Drainage Design Data | <u>Waiver is denied.</u> Preparation of drainage design by a professional engineer is standard engineering practice and is required by Massachusetts regulation. |
| | Design Analysis | <u>Waiver is denied.</u> Content specified is required for proper evaluation of drainage impacts. |
| | Design Storm | <u>Waiver is denied</u> as this section is not applicable. |
| | Computation of Runoff | <u>Waiver is denied</u> as this is a standard calculation requirement and there should be no additional cost to use the figures in the regulations. |
| | Selection of Drain Size | <u>Waiver is denied.</u> The requirements set forth in the Selection of Drain Size Section are required in order to properly size the drain lines. |
| | Slope of Pipe | <u>Waiver is denied,</u> as this is standard practice; the design should meet this requirement. |
| | Type of Pipe | <u>Waiver is granted,</u> only if the Applicant's engineer-specified JDPE pipe will be used. |
| | Inlets | <u>Waiver is denied.</u> Providing proper inlet capacity is required to ensure proper functioning of the drainage system and to prevent flooding. This is standard design practice. |
| | Catch Basins | <u>Waiver is denied.</u> The required catch basins are typical of catch basins used in designs of this nature. |
| | Manholes | <u>Waiver is denied.</u> The required manholes are typical of manholes used in designs of this nature. |
| | Excavation | <u>Waiver is denied.</u> The trench excavation requirements are typical of trench excavation requirements specified for projects of this nature. |
| | 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 nature. |
| | Pipe Laying | <u>Waiver is granted</u> in order for the Applicant to meet modern construction methods per MA DOT. |
| | Backfilling | <u>Waiver is denied.</u> The backfill requirements are typical of those specified for installations of this nature. |
| | Debris Grates | <u>Waiver is denied.</u> The required debris grates are typical of debris grates required in designs of this nature. |
| | Headwalls | <u>Waiver is granted</u> to allow use of headwalls or reinforced concrete flared-end sections at the applicant's option. |
| | Scour Protection | <u>Waiver is denied.</u> Provision of scour protection is standard engineering practice and is required to minimize erosion. |

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| Town of Norwell Bylaws and Rules and Regulations | Article XII Board of Appeals Comprehensive Permit Application | <u>Waiver is denied</u> , as untimely with the public hearing now closed. |
| Town of Norwell Planning Board Subdivision Rules and Regulations | Section 7C Drainage design | |
| | 7.C.1.a Cornell Standard | <u>Waiver is denied</u> as this is the Town standard, necessitated by local conditions, based upon Planning Board experience with subdivisions and commercial projects. |
| | 7.C.1.d Emergency Overflow Requirements for infiltration systems | <u>Partial waiver is granted</u> to the extent that the approved design provides for overflow conditions, using best management practice. |
| | 7.C.3.1. Side Slopes | <u>Waiver is partially granted</u> for 3:1 slopes in instances where systems would need to be larger or the Applicant can demonstrate unreasonable impact on the build out design. <u>Otherwise, waiver is denied</u> . |
| | 7.C.3.2 No subsurface infiltration systems | <u>Waiver is granted</u> , as it is not inconsistent with other private sites. The Town Highway department does not have the ability to maintain subsurface systems. |
| | 7.C.3.81 Excavation within 24-inches of groundwater | <u>Waiver is granted</u> for open basins to the extent that they would be "wetland basins", where no infiltration and a wetland design is appropriate for the location. |
| | 7.C.4.1. Cover 2.5' required | <u>Partial waiver is granted</u> for 2-feet of cover with appropriate pipe design in the final project plans. |
| | 7.C.4.2 Minimum slope | <u>Partial waiver is granted</u> where a minimum velocity of 2.5 fps flowing full can be demonstrated consistent with the requirements of the Permanent Drainage Committee. <u>Otherwise, waiver is denied</u> , as this minimum flow rate is required to avoid sediment collection in the pipes of the system. |
| | 7.C.4.3 No surcharge within pipes | <u>Waiver is denied</u> , as this is a typical design requirement. |
| | 7.C.4.4 Downstream system | <u>Waiver is denied</u> , as it would likely have a negative impact on neighboring properties. |

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