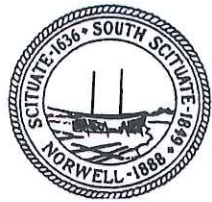


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OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

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

*Members*

Lois S. Barbour, Chair  
Philip Y. Brown, Vice Chair  
David Lee Turner, Clerk

*Associate Members*

Thomas P. Harrison  
Ralph J. Rivkind

**DECISION  
METRO WEST COLLABORATIVE DEVELOPMENT, INC.  
FOR A COMPREHENSIVE PERMIT UNDER  
MASSACHUSETTS GENERAL LAWS  
CHAPTER 40B, ss. 20-23  
ZBA FILE NO 17-10**

The Norwell Zoning Board of Appeals (the "ZBA") hereby submits this decision approving with conditions, the application of Metro West Collaborative Development, Inc. (the "Applicant") for a Comprehensive Permit under G.L. c. 40B and its implementing regulations, 760 CMR 56.00 et seq., the ZBA's own rules for a Comprehensive Permit, and the town's current zoning bylaw and subdivision rules and regulations. As set forth in more detail in this decision, under this approval the Applicant is permitted to build eighteen (18) unit rental community (the "Project") on approximately 2.56 acres of land located at 40 River Street in Norwell, Massachusetts (the "Site"). Control of the site is via a Purchase Option Agreement between the Applicant and the Town dated September 12, 2016.

**PROCEDURAL HISTORY**

The application was submitted to the ZBA on May 8, 2017. The Applicant sought to build an eighteen (18) unit rental development under G.L. c. 40B on property located at the Site, shown on Assessor's Map 30, Lot 59.

Hearings were held on May 31, 2017 (hearing opened), June 14, 2017, June 21, 2017, and July 12, 2017. The public portion of the hearing was closed on July 12, 2017. During the course of hearings, the Board received additional documentary and testimonial evidence from the Applicant and members of the public. A complete list of the record before the Board is attached as Exhibit A and is incorporated as set forth herein. The following plans submitted by the Applicant are hereby designated as the "Development Plans" for the Project.

**Permit Plan Set**, dated 4/13/17, entitled "Site Plan/ #40 River Street/ Assessors Map 58 Lot 64/ Norwell, Massachusetts", signed and sealed by Peter G. Palmieri, P.E., of Merrill Engineers and Land Surveyors, 427 Columbia Road, Hanover, Massachusetts 02339, consisting of the following ten (10) drawings, as revised 7/10/17:

- C1.1 Existing Conditions Plan
- C2.1 Layout Plan
- C3.1 Grading/Utility Plan
- C4.1 Septic Plan Set
- C4.2 Septic Details
- C4.3 Septic Details
- C5.1 Construction Details
- C5.2 Construction Details
- C5.3 Construction Details
- C5.4 Construction Details

**Architectural Plan set** (unsigned concept plans to be revised), entitled "40 River Street/ Norwell, MA", prepared by Resolution Architects of One South Ave, Natick, MA 0170, consisting of the following seven (7) drawings:

- G1.00 Cover
- L1.01 Landscape Plan
- A1.01 Floor Plans
- A1.02 Floor Plans
- A1.03 Building Section
- A1.04 Elevations
- A1.04.a Retaining Wall Study

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A complete File Inventory is attached hereto as Exhibit A and incorporated herein by reference.

### PROJECT DESCRIPTION

The Project is an eighteen (18) unit rental development, located at the former Police Station, restricted to households with occupants age 60 or older. Ten of the units will be affordable as defined by DHCD. Eight of the units will be affordable to households earning not more than median income. The Project will be developed with financing from DHCD's Housing Stabilization Fund. A Comprehensive Permit is necessary for this Project because the current zoning bylaws of Norwell do not allow for developments of the density proposed by the Applicant nor do the local bylaws and subdivision rules and regulations allow for multifamily use of this Site. The proposed Project is located in Residential A District.

### GOVERNING LAW

The law governing this Application is the Low and Moderate Income Housing Act, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations promulgated by the Department of Housing and Community Development ("DHCD") Housing Appeals Committee, 760 CMR 56.00 et seq. (the "Regulations").

The purported purposes of the Act are satisfied if (a) a town has low or moderate income housing in excess of 10% of the housing units reported in the latest decennial census or which is on sites comprising 1.5% or more of the town's total land area zoned for residential, commercial, or industrial use,

or (b) if the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3% of such total area or ten (10) acres, whichever is larger, in one year or any of the thresholds contained in 760 CMR 56.00 are met.

Norwell does not presently meet these criteria. Therefore, the Norwell Board of Appeals, within the scope its discretionary authority and based upon the evidence presented in the course of the public hearing, may at its discretion waive such sections of the Norwell Zoning Bylaw and other local bylaws and regulations that ordinarily govern development in the Town to make the construction of low or moderate income housing financially feasible. Board of Appeals of Hanover v. Housing Appeals Committee, 363 Mass 339 (1973). Under the Act and the Regulations, in deciding this application, the ZBA must balance the regional need for low and moderate income housing against any local concerns relating to the proposed plan. If a comprehensive permit is granted with conditions, those conditions may not render the project uneconomic.

Notwithstanding the foregoing, the ZBA may not compromise federal or state environmental requirements, such as under the Massachusetts Wetlands Protection Act and the regulations promulgated thereunder, or safety and health requirements, including but not limited to those governing wastewater treatment, water quality, and water supply issues and, correlatively, the ZBA may include conditions that protect the environment and assure protection of the water supply.

**JURISDICTIONAL REQUIREMENTS**

Pursuant to the Act and the Regulations, an applicant for a comprehensive permit must fulfill three initial jurisdictional requirements:

- \* The applicant must be a public agency, a nonprofit organization, or a limited dividend organization;
- \* The project must be fundable by a subsidizing agency under a low and moderate income housing subsidy program; and
- \* The applicant must "control the site."

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The ZBA finds that the Applicant has provided sufficient information to establish that it is a nonprofit organization, that the proposed project is fundable under a low and moderate income housing subsidy program (under DHCD's Housing Stabilization Fund), and that it has the legal right to acquire title to the Site. Notwithstanding this conclusion, this Permit is subject to revocation if, at any time hereinafter, the Applicant fails to maintain conformance with any of the three jurisdictional elements noted above.

**SUMMARY OF THE DECISION**

A quorum of the Board of Appeals (Board), consisting of Ralph J. Rivkind, Thomas P. Harrison, Lois S. Barbour, all being members of the Board of Appeals designated to hear and act upon this application, VOTED at a public hearing duly held on July 12, 2017, upon a motion made and seconded, to GRANT the application of Metro West Collaborative Development, Inc. for a Comprehensive Permit to construct eighteen (18) rental units, subject to and upon the Conditions set forth herein, based upon the evidence submitted within the written record and testimony received during the public hearing.

TOWN BOARDS AND DEPARTMENTS: Included within the written record are comments of other Town Boards and Departments solicited by the Board and received in accordance with DHCD

Guidelines. It is the Board's policy to follow recommendations it receives to the greatest extent possible. The concerns and recommendations of each are included below:

**POLICE DEPARTMENT:** In a memorandum, dated June 22, 2017, Chief Ross stated, "At this time, I have no safety concerns regarding this proposed project."

**WATER DEPARTMENT:** In a memorandum dated July 7, 2017, Water Superintendent John McInnis reported the Board of Water Commissioners "has no reservations supplying the proposed facility with Town Water" as "No automated irrigation system has been depicted on the plan [provided] nor is one planned for the site". The BOWC would like clarification about how domestic water use will be metered and will also want to comment further once more detailed plans become available.

**CONSERVATION COMMISSION:** In a memorandum, dated June 23, 2017, Conservation Agent Hemingway confirmed the June 20, 2017, vote of the Conservation Commission, stating "the Commission has no concerns to report at this time". The Conservation Commission will have to approve a Notice of Intent.

**SMART GROWTH CRITERIA:** The location of the proposed development meets Smart Growth standards of development in that it constitutes replacement of the vacant former Police Department headquarters.

**FIRE DEPARTMENT:** A memorandum, dated 7/10/17, was received from the Fire Chief, discussing issues relating to Fire/EMS emergency access, as well as sprinklering and fire alarm requirements. The Fire Chief supports this project.

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**A. GENERAL CONDITIONS OF APPROVAL**

1. If any of the hereinafter stated conditions of this Decision require submission of plans or documents or materials by the Applicant to the Board or any other Town board, department, agency, officer, or employee and/or to any consultants or attorneys retained by any of the foregoing, for review or approval, as the case may be, such submissions shall be not be deemed to be accepted and approved without written notice to the Applicant by the Board or its designee.
2. Prior to the commencement of any construction activities or any site development or clearing, the Applicant shall submit to the Building Inspector and the ZBA's designated Peer Review Consultant, and other designated individuals or firms, final comprehensive permit site plans prepared, signed and stamped by a Professional Land Surveyor and final engineering calculations prepared, signed and stamped by a registered Professional Engineer consistent with this Decision and the Development Plans identified above, and including but not limited to earth work and stormwater disposal and related best management practices, plans for wastewater disposal system(s), plans for potable drinking water and fire fighting purposes, a detailed landscape plan (describing the size, species, location and details; plantings thereon should be of a suitable size consistent with Zoning Bylaw requirements for typical site plans) and all other plans and calculations needed for review for consistency with and conformity to this Decision. In addition to the foregoing plans, upon such review and approval, the plans and engineering calculations shall be considered the "Approved Plans". In the event there is a finding that such consistency is absent, the Applicant may submit the matter in question to the ZBA for its review for consistency.
3. Prior to seeking Endorsement, the Plan shall be revised to correct the error on the Revised Plan Set plans for the weir elevation (the calculations and detail specify EL 49.0 the plans specify EL

49.1.) and all conditions of approval, set forth hereunder and in the Findings of Fact Section. The Plan shall also be revised to reflect a final revision date for endorsement.

4. This Decision shall be specifically referenced on the Approved Plans and both this Decision and the Approved Site Plans shall be recorded at the Plymouth County Registry of Deeds. Proof of recording shall be forwarded to the Building Inspector prior to issuance of a building permit.
5. The Applicant shall comply with all local bylaws, rules, and regulations of the Town of Norwell and its boards and commissions in effect as of the date this Project was first submitted to the Board of Appeals unless expressly waived herein or as otherwise addressed in these conditions.
6. The Applicant shall pay all fees of the Town of Norwell imposed generally with respect to construction projects and for the purposes of monitoring compliance of the construction and occupancy of the Project in accordance with this Comprehensive Permit unless otherwise waived in this Decision.
7. The Applicant shall copy the ZBA on all material submissions made by or on behalf of the Applicant for permits or approvals from any federal, state, county, or Town official, board or commission that concerns the design and/or conditions set forth in this Decision, including but not limited to all testing results, official filings and other permits issued for the Project.
8. The Applicant shall comply with the State Building Code and any local published regulations or published schedule of fees of the Building Inspector. The Applicant shall pay all required fees for all such building permits including any fees customarily charged for inspections and permits unless otherwise waived in this Decision. The Applicant shall comply with the (1) Norwell Community Housing Development Agreement Term Sheet, dated May 19, 2016, between Metro West, as the Developer, and Norwell Community Housing Trust, as may be amended, and (2) the Purchase Option Agreement, dated September 2016, as amended May 24, 2017, as may be further amended, in creation of an agreement in lieu of taxes, such as a PILOT program, and payment of any fees set forth therein to the extent allowed by law.
9. The Applicant shall maintain a copy of the Approved Plans and this Decision at the Site during construction.
10. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant and the Applicant's successors and assigns.
11. This Decision permits the construction, use, and occupancy of not more than eighteen (18) dwelling units on the Site. The construction and use of the Site shall be in conformity with the Plans as modified by the Approved Plans, and there shall be no creation of additional housing units or any other structures or infrastructure except that which is shown on the Approved Plan, without further written approval of the ZBA.
12. Prior to the commencement of any clearing of the Site or any construction on the Site whatsoever, the Applicant shall have obtained all necessary permits (federal, state and local) except as expressly waived and approvals (federal, state and local) except as expressly waived for the construction of entire project approved herein.
13. Prior to the commencement of any clearing of the Site or any construction on the Site whatsoever, the Applicant shall replenish the existing Peer Review Consultant's account so that the deposit for peer review approval and construction monitoring to the ZBA's consultant escrow account has a

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balance of \$5,000.00 (or such lesser sum as the Board may approve) to fund the further peer review of the Applicant's additional submissions set forth in this Decision and provide for construction monitoring. Any amounts not expended from the escrow account shall be returned to the Applicant. Said deposit shall not be deemed a cap of such monetary fees for peer review consulting which may exceed the deposit and that the Applicant shall be obligated to replenish to pay for peer review approval and future construction monitoring at the reasonable request of the Board.

14. Water Distribution Standards:

- a. Municipal Water Service: The Building's domestic water supply shall be connected to the municipal water system.
- b. Fire Protection: The Building shall be constructed with a residential sprinkler system as required pursuant to the Massachusetts State Building Code. The Applicant shall provide evidence that such systems shall be designed, constructed in compliance with applicable codes and maintained in a manner approved by the Norwell Fire Chief.
- c. Fire Hydrants: Fire hydrant locations shall be indicated and documentation shall be provided of approval by the Fire Chief as to the number and arrangement of the fire hydrants prior to final plan approval. The hydrant assembly shall be the Norwell standard complying with Fire Department and Water Department requirements.

15. Site Lighting Standards:

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

16. Landscape Standards

- a. Tree Protection Plan: A tree protection plan shall be provided that requires physical marking of limits of clearing and protection of trees to remain by marking at the drip line with snow fence or other physical barrier.
- b. Native Plant Materials: Existing trees and vegetation shall be preserved to the maximum extent practicable. New trees and shrubs native to southeastern Massachusetts shall be installed to provide shade and screening. Additionally, all disturbed areas of the project site shall at a

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minimum, be loamed to a 6-inch depth, and then seeded.

c. Plant Materials Guarantee: That the Applicant shall provide a guarantee for all plant materials extending for one year following the date of submission and approval of the final As-Built Plans.

17. Sustainable Design Standards

a. Energy Efficiency: All Building fixtures and appliances shall comply with Energy Star requirements and all energy efficiency requirements of the State Building Code.

b. Best Practices xeriscape techniques shall be used in design and construction.

c. Water conservation use shall meet the Massachusetts State Plumbing Code for water conservation device usage.

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**B. REGULATORY CONDITIONS.**

1. The total number of dwelling units that may be constructed at the Premises shall be limited to a maximum of eighteen (18) dwelling units, with a maximum of twenty-four (24) bedrooms, as shown on the Development Plans.

2. As a condition of any approval hereunder, ten (10) of the units shall be and shall remain affordable and shall be marketed to eligible households whose annual income may not exceed 80% of area median income (AMI) and eight (8) of the units shall be and shall remain affordable and shall be marketed to eligible households whose annual income will not exceed 80-100% of area median income (AMI), all adjusted for household sized, as determined by the United States Department of Housing and Urban Development (the "Affordable Units"); and, subject to approval by DHCD, the Affordable Units and the remaining units shall be eligible to be included in the Town's Subsidized Housing Inventory (SHI), as maintained by DHCD.

3. The Applicant shall notify the ZBA and the Town Administrator when building permits are issued and cooperate with the preparation of request forms to add the units to the SHI.

4. The Applicant shall notify the ZBA and the Town Administrator when occupancy permits are issued and cooperate with the preparation of request forms to add the units to the SHI permanently.

5. The Affordable Units shall permanently remain affordable, for so long as the Project is not in compliance with the Town's Zoning By-law, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.

6. A springing affordable restriction and regulatory agreement shall be signed with the Town and recorded at the Registry of Deeds as set forth below.

7. The various types of Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the Subsidizing Agency.

8. The Applicant shall execute a Regulatory Agreement that shall be countersigned by the Subsidizing

Agency as required under G.L. c. 40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement.

9. The Applicant shall annually recertify to the Subsidizing Agency, or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an affordable unit. Upon request, the Applicant shall provide the Town with all necessary information to determine whether the required affordability levels are in place.
10. The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Subsidizing Agency, the ZBA and its Town Counsel (the "Town Regulatory Agreement"), which shall be recorded with the Plymouth County Registry of Deeds against the Property prior to issuance of any building permit for the Project.
11. The Town Regulatory Agreement: (i) shall only become effective if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require the Project to remain a rental project so long as the Project does not conform to local zoning; (iii) shall require that one hundred percent (100%) of the apartments in the project shall be rented in perpetuity to low and moderate income households as that term is defined in G.L. Chapter 40B, Sections 20-23; (iv) shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c.40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is imposed hereunder; and (v) shall restrict the number of allowed units and bedrooms as set forth in the Comprehensive Permit and if the Comprehensive Permit is modified in the future, then the Applicant shall request a modification of the Town Regulatory Agreement to conform to the Permit as modified.
12. The Town Regulatory Agreement shall constitute a servitude and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable Units shall remain affordable rental units in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town's Zoning Bylaws or for the longest period allowed by law, whichever period is longer.
13. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto; however, the Town may request and shall be provided by the Applicant with all information that is provided to the Subsidizing Agency and may take any steps allowed under G.L. c.40B and 760 CMR 56.00 in relation to excess profits and enforcement of affordability provisions.
14. When the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by G.L. Chapter 40B, Sections 20-23.
15. Paragraphs 11 to 15, above, shall not be used or construed or otherwise exercised in conflict with the holdings in *ZBA of Appeals of Amesbury v. Housing Appeals Committee*, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. c. 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At such time as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee.

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16. The Project shall be subject to an age-restriction as follows: All of the occupied units at the Project shall be occupied by at least one person who is age sixty (60) or older (the "Qualified Occupant") so long as the provisions of the Housing Laws (defined below) are not violated by such occupancy (the "Age Restriction"). The Age Restriction is intended to be consistent with, and is set forth in order to comply with the Fair Housing Act, 42 USC section 3607(b), as amended, the regulations promulgated thereunder, 24 CFR Subtitle B, Ch. 1, section 100.300 et seq. and G.L. c. 151B, section 4 (the "Housing Laws"). This condition shall be incorporated into the regulatory agreement, monitoring agreement, and other organizational documents. This restriction shall be subject to review and approval by the Board and approved as to form by Town Counsel prior to the issuance of a certificate of occupancy for any dwelling unit. Anything herein to the contrary, in the event that the unit ceases to be occupied by a Qualified Occupant and is occupied by a non-Qualified Occupant, the non-Qualified Occupant may continue to occupy the unit for one year beyond the term of the then existing lease.
17. To the extent allowed under G.L. c. 40B and the regulations promulgated thereunder and other applicable housing laws using best efforts to ensure a local veterans' preference with respect to the affordable units, the Applicant shall provide a preference category for veterans who are Norwell residents in the initial lease up. Thereafter, the local veterans' preference shall continue when tenants are selected to fill vacant units.
18. This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein.
19. The foregoing local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant.
20. The Applicant shall submit to the ZBA a report on marketing activity at the Project during the initial lease-up of the Project demonstrating compliance with the local preference requirement pursuant to the plan approved by the Subsidizing Agency as set forth below.
21. The ZBA acknowledges that the Applicant will provide with the cooperation of the Town evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof.
22. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirements set forth above.
23. If at any time it appears that the Applicant is in violation of the affordable housing restriction with the Town as described above, following a hearing of which the Applicant has been given prior notice, then the ZBA may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.
24. Profits from the Project in excess of those allowed under applicable law and regulations shall be utilized as provided in the regulatory agreement with the Subsidizing Agency and as required and provided for under G.L. c.40B and 760 CMR 56.00.

25. The Applicant shall annually provide the ZBA or its designee with copies of any and all documents and statements provided by the Applicant to the Subsidizing Agency or its designated auditor of the Applicant's costs and revenues for informational purposes;
26. The Town, by and through the ZBA or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
27. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Inspector of Buildings and the ZBA.

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**C. PRE-CONSTRUCTION SUBMISSION REQUIREMENTS & CONDITIONS**

1. Pre-Construction Submissions: Before the Applicant commences any construction activities or clearing on the Site, the Applicant shall have:
  - a. Obtained a written confirmation from the ZBA's Peer Review Consultant and/or other peer review consultants and counsel of the Applicant's fully-engineered stormwater management system, its landscaping plan, architectural floor plans, an erosion control plan consistent with the Board's rules and regulations, and the Approved Plan's conformity with the conditions of this Decision and that the Applicant has obtained all other required local, state and federal approvals to construct the project;
  - b. Obtained any approvals from the Norwell Board of Health and the DEP for any and all permits and approvals regarding disposal of wastewater generated by the Project that are required by applicable laws prior to such commencement;
  - c. Obtained any approvals from the Norwell Conservation Commission, other municipal agencies and/or the DEP regarding management and control of stormwater generated by the Project that are required by applicable law prior to such commencement;
  - d. Obtained any approvals from the Norwell Conservation Commission or the DEP which may be required under any statute, code, or rule and regulation under its jurisdiction not otherwise preempted by G.L. c. 408, §§ 20-23, to the extent not otherwise expressly covered by this Decision, including a final Order of Conditions or Superseding Order of Conditions under the Wetlands Protection Act as to any portion of the Site subject to the Wetlands Protection Act that are required by applicable law prior to such commencement;
  - e. Obtained a National Pollution Discharge Elimination System ("NPDES") stormwater permit issued for the Project;
  - f. Obtained a Certificate of the Secretary of Environmental Affairs of compliance pursuant to 301 CMR 11.08(8)(a);
  - g. Delivered to the ZBA final architectural drawings for the building and units to be constructed as shown in the Architectural Plans, providing a scaled depiction of the front, rear and side elevations, signed by a registered architect.

- h. If a SWPPP is required, then at least one month prior to the commencement of construction a SWPPP, consistent with EPA requirements shall be submitted for review and approval by the Board's Peer Review Consultant.
  - i. Obtained written approval from NHESP regarding the habitat area on site to determine if there are any specific requirements regarding the Habitat to be incorporated into the final plans, which said requirements shall be incorporated into the revised site development plans.
2. Before the Applicant commences any construction activities or clearing on the Site, the Applicant shall have delivered to the ZBA with copies to the Building Inspector, Planning Board, Board of Health, Conservation Commission, Highway Department Surveyor/Director, Fire Chief, and Police Chief, a complete Construction Management Plan (CMP), which shall address the following topics and items:

- Construction Administration
- Hours of construction
- Hours of construction delivery
- Truck routes
- Trash and debris removal.

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- 3. The scope of the ZBA's review of the CMP shall be for completeness and for consistency with generally accepted construction practices and for compliance with all the conditions of this Decision. The ZBA shall issue its decision on the CMP within 30 days after a complete submission from the Applicant.
- 4. Before the Applicant commences any construction activities, the Applicant shall have delivered to the ZBA and the Board's Peer Review Consultant, a standalone Operations and Maintenance Plan that identifies BMP locations, snow storage areas, locations for landscape debris disposal if proposed, etc. and include the Manufacturer's documentation for maintenance requirements for the CDS Unit and subsurface chambers. The frequency of inspection should be based on specified rainfall.
- 5. Preconstruction Documentation & Conference: That prior to construction, the applicant shall provide the Board with the following:
  - a. Emergency contact information including the name, address, email address, cell phone number, and telephone number for the individual responsible for all construction activities on the project site both during and after normal business hours, including nights and holidays.
  - b. Certification that the applicant has fulfilled notification requirements of "Dig Safe," prior to commencement of any on-site work.
  - c. Preconstruction Meeting: At least forty-eight (48) hours prior to any initial site work, a pre-construction meeting shall be held with the Applicant, Applicant's contractor, a representative of the Board of Appeals, its peer review consultant, and representatives of the Town departments having an interest in the project. Said meeting shall be for the purpose of familiarization with the project, the conditions of approval, and the project's construction sequence and timetable.
  - d. The Building shall be built by the Applicant, and its agents or contractors over which it

will exercise supervision and control and the acts of which it will be responsible, in accordance with this Permit and the Regulatory Agreement. During construction, the name and mobile telephone number of the Site manager or clerk of works employed by the Applicant shall be filed with the Building Department, the Board, and the Norwell Police Department, and such name and mobile telephone number shall be kept current.

6. Trees - Prior to the commencement of any construction activities or any site development or clearing, the Applicant shall erect a physical barrier such as a plastic fence to ensure that all trees preserved within forty feet of the property line on all sides shall not be touched during construction and to ensure that there is a protective radius within the drip line around such trees. Within the aforesaid area, if any trees having a caliper of four inches or greater at four feet from the ground are destroyed or injured as a result of construction, the Applicant shall plant new trees in their place of a comparable species with a minimum height of nine feet at a ratio of 2 new trees for each destroyed tree. Such replanting shall be done by a qualified landscape professional.
7. With respect to drainage and erosion control, the Building Inspector and the Highway Surveyor shall review the plans to determine that they are substantially consistent with the preliminary plans and in substantial compliance with the conditions of this permit, and the applicant shall comply with the EPA's NPDES II Permit. Said drainage shall be designed using Best Management Practices (BMP's) and shall conform to the Massachusetts DEP Stormwater Management Guidelines. This will include, but not be limited to, the use of pre-cast concentric concrete catch basins including oil/grit separators to remove sediments and hydrocarbons from the stormwater runoff. The groundwater elevation shall be verified, and a minimum separation of two feet from the bottom of the drainage system and seasonal high groundwater shall be maintained. During construction, the access road entrance shall be stabilized with stone and gravel to a depth of six inches and a length of twenty feet for removal of sediment from construction vehicle tires when leaving the site. Prior to issuance of any certificate of occupancy, the plans for stormwater drainage system serving the land and building for which such certificate of occupancy is being sought shall be subject to inspection by Town Highway Surveyor and the Town Building Inspector. Erosion control shall follow Best Management Practices and shall be maintained throughout the duration of the Project. The Applicant shall establish a maintenance plan for the stormwater system, which shall include but not be limited to scheduled inspections and thresholds for removal of sediments. The maintenance plan shall be reviewed for compliance with BMPs and approved by the Highway Surveyor and the Building Department prior to construction. The Applicant shall pay for the cost of an independent engineering review of the proposed stormwater management plan, if requested by the Town. No sands or gravels or other materials may be removed from the site except those required to be removed to accomplish the conditions shown on the final site plan to be approved by the Board.
8. Prior to the commencement of construction, the Building Inspector shall confirm that he has reviewed all plans as required herein for compliance with the conditions of this permit. The Building Inspector shall do so within 30 days of submission of final plans by the Applicant to the Board.
9. Where these conditions specify the submission of a plan, study, obtaining of a permit or approval or other related analysis, these conditions shall be considered a condition precedent to the requirement that no grading, land disturbance, issuance of any building permit, or construction of any structure or infrastructure shall commence until said plans, study or analysis have been reviewed and have received a final acknowledgment by the Board or the Building Inspector that the plans, study, or analysis are consistent with this Decision.

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10. The Applicant acknowledges that prior to the start of construction, the Applicant must obtain all approvals from any and all other governmental agencies, departments or commissions, including the Norwell Conservation Commission acting as the local approving authority under 310 CMR 10.00, whose approvals are necessary for this Project and such approvals must be consistent with this Decision.
11. The final landscaping plan and architectural plans are subject to approval by the ZBA for consistency with this Decision. No building permit shall issue prior to such approval.
12. The final site plan is to be recorded at the Plymouth County Registry of Deeds and shall be recorded together with this Decision.
13. The Board requires that a note be placed on said final site plan stating that the Plan is the subject of a comprehensive permit under Mass. Gen. L. ch. 40B, sections 20-23.

**D. SITE DEVELOPMENT CONSTRUCTION CONDITIONS**

1. Prior to the commencement of any construction activities or any site development or clearing, the Applicant shall meet with the Building Department, Police Chief or his representative, Fire Chief or his representative, the ZBA's Consulting Engineer, and the Chair of the ZBA or his representative at a mutually convenient time and place during normal business hours to review the CMP, and to coordinate the Building Department's periodic inspections of the Project (the "Pre-Construction Meeting"). This meeting shall be open to the public.
2. At least two weeks prior to the commencement of any construction activities or site development or clearing, the Applicant shall submit to the ZBA, with a copy to the Police Chief, the Fire Chief, and the Building Inspector a Construction Schedule, indicating the anticipated start and end points for each significant phase of development (site grubbing, clearing, and fill; construction of roadways and related infrastructure, excavation and blasting for foundations, framing and interior construction, etc.). The Construction Schedule shall also include the anticipated daily vehicle trips per phase, and the anticipated hours of the day during which heavy equipment and construction vehicles are expected to enter and exit the Site.
3. The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the Project. Subject to compliance with safety standards, municipal representatives shall be permitted access to the Site to observe and inspect the Site and construction progress until such time as the Project has been completed.
4. The Applicant shall submit to the ZBA a construction and permitting schedule prior to the commencement of any construction activities or any Site development or clearing, and semi-annually thereafter to assist in project status update and review.
5. The Building Inspector or appointed agents may conduct periodic inspections during the construction of the Project, to ensure compliance with the terms of this Decision and the state building code, and for consistency with generally-accepted construction and engineering practices for the installation of roadways, stormwater management facilities, utilities, and other common development infrastructure. Inspections during the construction phase shall be conducted at the expense of the Applicant.

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6. The Applicant shall forward final architectural plans to the Building Inspector at least forty-five (45) days prior to applying for building permits for consistency with the preliminary architectural plans approved by the Board. A copy of the final architectural plans shall be filed at the same time with the Board. All construction shall be inspected by the Building Inspector and shall be in compliance with all Massachusetts State Building Code requirements.
7. The Applicant shall be responsible to ensure that nuisance conditions do not exist in and around the Site during the construction operations. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents, the library, and church in the general area.
8. The Applicant shall be responsible to provide a plan to the Norwell Highway Surveyor prior to the commencement of construction, detailing measures to clean and/or sweep streets affected by construction debris tracked from vehicles exiting or entering the site.
9. Construction equipment shall not be parked or stored adjacent to any drainage areas or the wetland buffer area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage and wetland areas. No parking of vehicles or storage of equipment or off-loading of equipment shall occur on River Street.
10. Dust - Methods of controlling dust shall meet all air pollutant standards as set forth by Federal and State regulatory agencies.
11. Noise - The Applicant shall implement measures to ensure that noise from project construction activities does not exceed acceptable levels, as set forth by Federal and State regulatory agencies.
12. Traffic - The Applicant shall implement necessary traffic safety controls to ensure a safe and convenient vehicular access in and around the Site. Any traffic problems that occur as a result of Site operations and construction shall be mitigated immediately at the expense of the Applicant.
13. Roads - The Applicant is responsible for the sweeping, removal of snow, and sanding of the internal roadways and driveways permitting access to residents, emergency vehicles, and others during construction and until thereafter. The final coat of pavement on the internal roadways shall be installed after the base course has endured a full winter season. The Applicant shall promptly clean any debris or dirt deposited on Norwell or state controlled streets and roads.
14. The Applicant and his successors in interest shall be liable and responsible for the operation and maintenance of the stormwater drainage systems for the approved Project in a good and orderly manner after construction of the drainage facilities in accordance with the requirements of the Town of Norwell and as set forth in an "Operation and Maintenance Plan," including, but not limited to the sweeping of the roadway twice a year and more often as necessary, especially during construction.
15. Catch Basins - During construction, the Applicant shall clean the catch basins shown on the approved plan at least four times per year, including in late Fall and early Spring. During construction, the catch basins shall be fitted with a sediment trap of siltation fabric under the catch basin rim plus hay bales around the rim to prevent sediment from entering the drainage system. During construction, catch basins shall be inspected every 7 days and within 24 hours of any storm with more than ½ inch of precipitation and cleaned of all accumulated sediment and debris. After construction, catch basins shall be inspected at least twice per year and cleaned of all accumulated sediment and debris twice per year, during the fall and again in early spring.

16. Drainage System - During construction, the Applicant shall inspect the drainage stormceptor(s) shown on the approved plan at least four times per year and within 24 hours after each ½ inch storm event. After construction is completed, the Applicant shall have the drainage system inspected four times during the first year, to determine the rate at which the unit reaches 15% capacity. After the first year, a maintenance schedule shall be developed based upon the determination previously reached regarding the point at which the unit reaches 15% capacity, with a minimum of two inspections per year. Accumulated sediment and debris shall be removed at least twice per year, once in the fall and once in the spring. Removal of sediment and hydrocarbons shall be completed using a vacuum truck. Disposal of accumulated sediment and hydrocarbons shall be performed in accordance with all applicable local, state, and federal guidelines and regulations.
17. Drainage Basins - The Basins shown on the Approved Plan shall be inspected at least twice a year to ensure that the Basins are operating as designed. If accumulated sediment or debris is observed within basin galleys, such shall be removed forthwith.
18. Prior to issuance of a building permit, the Applicant shall grant an easement to the Town, approved as to form by the Board's legal counsel, permitting the Town to perform emergency and routine drainage maintenance where the Applicant fails to conform to this condition, and the Applicant and its successors in interest shall agree as a condition of approval to reimburse the Town the full cost of same.
19. Burial - Burial of any stumps or solid debris onsite is expressly prohibited. Localized burial of stones and/or boulders is prohibited to prevent the creation of voids from soil settlement over time. Soil material to be used as backfill for pipes, roads, and/or structures (i.e., detention basins) shall be tested at the expense of the Applicant or its designee, by a firm reasonably acceptable to the Board's Peer Review Consultant at least seventy-two (72) hours prior to its arrival.
20. Utilities - Including but not necessarily limited to electric, cable, and telephone shall be located underground. A final utility plan approved by the applicable public utilities shall be submitted to the Building Inspector and the ZBA's Peer Review Consultant prior to the issuance of any building permits.
21. Stabilization Requirements - No disturbed areas shall be left in an open, unstabilized condition longer than thirty (30) days or as may be governed by the NPDES permit. Temporary stabilization shall be accomplished by hay bales, hay coverings, or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas in accordance with the landscaping plans reviewed during the course of the public hearing by the ZBA's Consulting Engineer.
22. Construction Work Delay: If work activity on the total project Site ceases for a period of more than one month, appropriate notification must be given to the Inspector of Buildings prior to restarting work.

**E. AS-BUILT PLANS**

1. No building permit for any structure shown on the Approved Plan shall be issued until after an interim as-built plan for the roadway has been provided to the Board and confirmed by the Board, through its Peer Review Consultant, to be located as shown on the approved plan. The interim as-built plan for the roadway shall be certified and signed by a Professional Land Surveyor and be accompanied by a separate affidavit signed by the PLS certifying under oath that the roadway has

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been properly surveyed and confirmed to be in the proper location.

2. No building permit for any structure shown on the Approved Plan shall be issued until after an interim as-built plan for the drainage basin has been provided. The interim as-built plan for the basin shall be certified and signed by a Professional Land Surveyor and be accompanied by a separate affidavit signed by the PLS certifying under oath that the drainage basin has been properly surveyed and confirmed to have been constructed in the proper location and in accordance with the design specifications shown on the approved plan.
3. Prior to the occupancy or use of the dwelling, the Applicant shall submit to the ZBA an "As-Built Plan" in paper and CAD format, showing all pavement, buildings, stormwater management structures, and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. All plans shall be signed by a registered land surveyor and civil engineer, certifying that the Project as built conforms and complies with the conditions of this Comprehensive Permit.

#### **F. CONSTRUCTION PHASE**

1. During construction, the Applicant and his agents and employees shall conform to all local, state and federal laws regarding noise, vibration, dust and use of Town roads and utilities. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence on any day Monday through Friday before 7:30 AM or on Saturday before 8:30 AM. All exterior construction activities shall cease by 6:00 PM on all days. No construction or activity whatsoever shall take place on Sundays or legal holidays except for the limited purpose of providing emergency health or safety measures. All construction shall follow Best Management Practices for erosion and sediment control.
2. Construction of all dwelling units, utilities, roads, drainage structures, and all related appurtenances shall be in accordance with all applicable zoning bylaws and all other local, state and federal regulations except as waived by this Decision. All dwelling units shall contain an automatic fire suppression system, which shall be constructed in accordance with the State Building Code.
3. The Project shall comply with all rules, regulations and permit requirements of the DEP with respect to stormwater management, stormwater disposal, wastewater disposal, best management practices and any and all regulations, if applicable, of the Norwell Board of Health that are not herein specifically waived herein.
4. All utilities within the Project boundaries shall be underground.
5. All area and roadway lighting shall be shielded or refracted as necessary in such a manner as to minimize light spill over to neighboring properties.
6. All on-site storage of hazardous materials and hazardous wastes shall be on an impervious surface, with containment and access control, and all on-site vehicle fueling shall be conducted with industry recognized containment and access control.
7. Prior to digging on any public land, the Applicant shall deliver written notice to the Chief of Police at least 48 hours prior to digging, and, if requested by the Chief, shall arrange for a police detail, and shall comply with any and all other reasonable safety related requests made by the



Chief, subject to appeal to the Board. In addition, at least 48 hours prior to digging on any public land, the Applicant shall deliver written notice to the Norwell Board of Selectmen, Norwell Board of Water Commissioners, the Norwell Highway Department, the gas company, and the electric company, and comply with all "dig safe" requirements.

8. Surety and Covenants - As security for the completion of the infrastructure related to the Project as shown on the Approved Plan, including, but not limited to, the binder coal of the roadway, sidewalks, parking areas and common areas, recreational areas, sewage disposal system, drainage facilities, utilities, landscaping, and any other specific infrastructure shown on the plan (the "Infrastructure"), the release of occupancy permits for all housing units shall be subject to the following restrictions:
  - a. No occupancy permit for a unit shall be issued, and no rental of any unit shall be permitted, until: (1) the base and binder course for the driveway and parking areas shown on the Approved Plan associated with said building has been installed; and (2) all infrastructure described herein and as shown on the Plan has been constructed or installed so as to adequately serve said building.
  - b. No occupancy permit for a unit shall be issued until the Approved Plan has been recorded with the Registry of Deeds. This Comprehensive Permit shall be referenced on the Approved Plan prior to recording.
9. The Applicant and its successors and assigns shall comply with the regulatory/affordable housing restrictions, deed rider, monitoring agreements, and all other conditions applicable to the Project approved by this Decision.
10. 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.
11. Right of Entry: The Applicant shall grant the Town of Norwell, its agents, and third parties engaged by the Town right of entry onto the lot for the purposes of observing construction and ensuring that the conditions and requirements of this permit are met.
12. Construction Monitoring: The Board's project monitor shall monitor construction of the project on behalf of the Board:
  - a. The Consultant shall have the right to approve changes from the plans and other materials approved under this Decision if the change is not material.
  - b. The Applicant shall schedule and sequence construction to accommodate observation of each construction task by the Board's consultant as set forth below.
  - c. During construction phase, stormwater detention and retention basins shall be constructed, stabilized and vegetated prior to initiating construction of any other improvements.
  - d. The Board's Peer Review 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.

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- e. No succeeding construction operation shall be initiated until the prior operation has been observed.
- f. This condition shall not relieve the applicant of any monitoring or other requirements as may be imposed by the Norwell Conservation Commission or its Agent or those of other Town boards or departments that fall outside of the jurisdiction or authority of the Board under this Comprehensive Permit.
13. **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.
14. **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.
15. **Workmanlike Execution:** The Applicant shall ensure that all construction activities on the project Site are conducted by skilled and licensed personnel in a workman-like manner.
16. **Maintenance of Traffic:** River Street shall not be blocked or restricted by construction activities or equipment.
17. **Resource Area Protection:** Construction impacts of resource areas by utilizing Best Management Practices including the following:
- a. **Equipment Storage and Maintenance:** No construction equipment shall be parked or stored within one hundred feet (100') of any drainage channel, drainage inlet, or wetland area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and wetland buffer areas.
- b. **Stockpiles:** Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long-term stockpiles over thirty (30) days shall be shaped, stabilized, and circled by siltation fence or hay bales and shall be stabilized by temporary seeding or netting.
- c. **Dewatering:** Excavation dewatering shall be performed in a 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. **Maintenance:** All catch basins and detention basins shall be maintained in proper working condition during construction and upon completion of construction. Thereafter, the

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applicant shall be responsible for maintaining the Property's stormwater management system in compliance with all Federal, State, and local requirements and in accordance with best management practices.

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18. Earth Removal And Stockpiles: Prior to any earth removal, the Applicant shall demonstrate to the satisfaction of the Board that the project Site is in compliance with all earth removal requirements of the Town of Norwell By-Laws and Rules and Regulations. All stockpiles shall be established in locations consistent with the requirements of the Norwell Conservation Commission and the Board's Rules.
19. Review: Any soil or earth material brought onto the project Site or excavated on the project Site and proposed for reuse on-site shall be subject to review by the Board's Peer Review Consultant.
20. Truck Traffic: Construction access and truck routes shall comply with requirements of the Norwell Police Department.
21. Fencing: Temporary construction fencing shall be provided for work areas where required by the Board's Peer Review Consultant or the Inspector of Buildings.
22. Hazardous Materials: There shall be no use or storage of hazardous materials in amounts greater than associated with normal to household use during construction.
23. Best Management Practices: The Applicant shall demonstrate that accepted Best Management Practices (BMPs) are to be utilized in all phases of construction.

**G. ADDITIONAL CONDITIONS**

1. If construction authorized by this Comprehensive Permit has not begun within the period provided by 760 CMR 56.00, the permit shall lapse unless extended by the ZBA. The permit shall become final on the date that the written decision is filed in the office of the town clerk if no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of. The Project shall be completed expeditiously.
2. The final site investigation requirements for the on-site septic system will be determined by the Norwell Board of Health, as the local approving authority under Title V for which the Applicant shall submit final detailed plans for the on-site system subject to Board of Health approval.
3. If, between the date this Decision is filed in the office of the Norwell Town Clerk and the completion of the Project, the Applicant desires to change in a material way and/or to a significant the proposed Project as reflected in and approved by this Decision, such changes shall be governed by 760 CMR 56.00 et seq..
5. The Town of Norwell shall be free of any liability arising out of the Board's approval of the site layout plan, and for any act, omission, or negligence caused by the Applicant, its employees, agents, subcontractors, beneficiaries, or trustees with relation to this Project.
6. Proof of recording of the approved Regulatory Agreement shall be provided to the Board prior to the issuance of any building permit. In addition to the foregoing, the Regulatory Agreement shall conform to the requirements of the Subsidizing Agency.

7. All dwelling units shall be connected to the public water system through an onsite water main and have a common private septic system as further herein provided. Prior to the issuance of any building permit, the Applicant shall provide certification from the Water Department to the Building Inspector that proposed utility connection Engineering Plans have been approved.
8. The Applicant has proposed and the Board of Appeals hereby requires, that the following aspects of the development shall be and shall remain forever private, and that the Town of Norwell shall not have, now or ever, any legal responsibility for operation or maintenance of same: all roadways and parking areas; stormwater management facilities; snow plowing; landscaping; subsurface sewerage disposal system, including all pumping, piping and leaching systems; trash removal; and street lighting.
9. The Applicant shall designate areas for snow disposal on the final site plans.
10. All exterior lighting shall be designed to minimize the spillover of light onto adjacent properties.
11. Routine inspections during the construction phase shall be conducted, at the expense of the Applicant, to ensure that construction proceeds consistent with this Decision.
12. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors, and assigns.
13. This Decision shall be recorded with the Plymouth County Registry of Deeds. The Decision shall run with the land and be binding on the Applicant and/or its successors or assigns and shall be recorded senior to any other liens.

**H. APPLICANT'S REQUESTED WAIVERS**

The Applicant has requested waivers from the By-Laws of the Town of Norwell, the Town of Norwell Zoning Bylaws and other local rules and regulations. The Applicant's requested waivers are set forth in its Application and as supplemented during the public hearing process. The ZBA's grant of waivers shall be subject to the terms and conditions imposed by this Decision, and to the extent that any waiver is inconsistent with a term or condition set forth elsewhere in this Decision, such term or condition shall govern. No grant of any waiver shall be deemed to waive compliance with any condition of approval of this Decision. Any waiver granted below shall be construed as a waiver only to the extent necessary to construct the Development Plans. Any waiver not granted below or otherwise included within this Decision shall be deemed denied.

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The following requested waivers are hereby granted:

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**NORWELL WETLANDS PROTECTION BYLAW**

(Article XVI-a)

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Section Number	Title	Requirement, Waiver Requested
Section 1	PURPOSE AND AUTHORITY	Waiver not required (but granted anyway) to put jurisdiction over local rules in the hands of the Zoning Board of Appeals.
Section 2A	BUILDING NEAR WETLANDS	Waiver granted from the No Alteration Zone to the extent shown on the approved plan . Line of wetlands is approximately 79 feet from the current building location.
Section 6, 7, 11	BUFFER ZONE	Waiver granted for the percentage of impervious areas in the Buffer Zone, for work within the No Alteration Zone, and for alteration of a freshwater vegetated wetland (to be replicated) all as shown on the approved plan.
Article XVI-a Norwell Conservation Commission Rules and Regulations	REQUEST FOR BY-LAW DETERMINATION OF APPLICABILITY AND RESOURCE DELINEATION CONFIRMATION; APPLICATION FOR BY-LAW WETLANDS PERMIT; FEES; CONSULTANTS	Waiver granted from Article XVI-a to the extent that a Peer Review Consultant has been selected by the Zoning Board of Appeals to review the Project's compliance with all state and local environmental matters. Peer Review Consultant shall have discretion to employ a subconsultant.

**ZONING BYLAWS OF THE TOWN OF NORWELL**

(Updated through annual spring Town Meeting of May 2017)

Section Number	Title	Waiver Requested and Granted
Section 2320	REGULATIONS OF USES, BUILDINGS AND STRUCTURES	The proposed Project includes a multi-family structure which is not allowed as a matter of right within all zoning districts in the Town of Norwell. Waiver granted from the use regulations to the extent necessary to allow multi-family dwelling.
Section 2360	HEIGHT RESTRICTIONS	The proposed Project exceeds two and one half (2 1/2) stories in height and thirty-four (34) feet, located in Residential District. Waiver granted from height regulation to allow a structure 49 (49) feet and four and one half (4 1/2) stories.
Section 2450	LOT SHAPE; FRONT SETBACK	The proposed Project has a front setback of thirty (30) feet. Waiver granted from the required fifty (50) foot front setback required by the Norwell Zoning By-Laws in the Residential A district.
Section 3155	EGRESS AND ACCESS	The proposed Project has a driveway that is about twenty-two (22) feet in width for two-way traffic for a parking lot of twenty-seven (27) parking spaces. Waiver granted from the minimum width of twenty-four (24) feet for a driveway that is used for two-way traffic.
Section 1500	SITE PLAN APPROVAL	Waiver granted to eliminate the Site Plan Approval requirement.

Only such waivers as are herein specifically granted are approved. Waivers from any and all Town of Norwell rules, regulations, and/or bylaws not specifically listed above are denied.



Ralph J. Rivkind

7/26/17

Date



Lois S. Barbour

7/26/17

Date



Thomas P. Harrison

7/26/17

Date

Reserved for Date Stamp  
of Town Clerk

Date Filed with Office of the Town Clerk

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**EXHIBIT A: File Inventory for Comprehensive Permit Decision  
Metro West – 40 River Street, Norwell**

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

**ORIGINAL APPLICATION:**

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**Original Application Packet** with formal application request under MGL c. 40B, §§ 20-23, stamped by Norwell Town Clerk on May 8, 2017, including the following documentation:

1. Application transmittal letter of 5/8/17, signed by Mark Bobrowski, as attorney for Metro West Collaborative Development, Inc., date-stamped by the Board of Appeals on 5/8/17
2. Certificate of Organization: Watertown Community Housing, Inc., dated 5/18/1990, with printed Business Entity Summary from the Corporations Division of the Secretary of the Commonwealth of Massachusetts, showing name change of the non-profit to Metro West Collaborative Development, Inc., as of 3/14/12
3. Development Team with list of prior developments
4. DHCD Site Eligibility Letter, dated 4/3/17, to Metro West approving proposed eighteen (18) units with twelve (12) one-bedroom and six (6) two-bedroom apartments with funding under the Housing Stabilization Fund (HSF).
5. Notice to the DHCD: Letter from Christopher J. Alphen, Esq., to DHCD confirming filing of the application with the Norwell ZBA
6. Site Control: Order of Taking by the Town of Norwell, dated 9/25/1970; Purchase Option Agreement between the Town of Norwell and Metro West Collaborative Development, Inc., dated 9/12/2016
7. Plans Set with Architectural and Engineering Plans

**Permit Plan Set**, dated 4/13/17, entitled "Site Plan/ #40 River Street/ Assessors Map 58 Lot 64/ Norwell, Massachusetts", signed and sealed by Peter G. Palmieri, P.E., of Merrill Engineers and Land Surveyors, 427 Columbia Road, Hanover, Massachusetts 02339, consisting of the following ten (10) drawings:

- C1.1 Existing Conditions Plan
- C2.1 Layout Plan
- C3.1 Grading/Utility Plan
- C4.1 Septic Plan Set
- C4.2 Septic Details
- C4.3 Septic Details
- C5.1 Construction Details
- C5.2 Construction Details
- C5.3 Construction Details
- C5.4 Construction Details

**Architectural Plan set** (unsigned concept plans to be revised), entitled "40 River Street/ Norwell, MA", prepared by Resolution Architects of One South Ave, Natick, MA 0170, consisting of the following seven (7) drawings:

- G1.00 Cover
- L1.01 Landscape Plan
- A1.01 Floor Plans

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- A1.02 Floor Plans
- A1.03 Building Section
- A1.04 Elevations
- A1.04.a Retaining Wall Study
- 8. Aerial Photos and Locus Map with Assessors Department printout
- 9. Tabulation of Proposed Building, including number of building stories (4), units (18), and lot size (2.6 acres with 0.95 acre wetlands included)
- 10. Stormwater Management Report and Hydrologic-Hydraulic Analysis
- 11. Letter, dated August 17, 2015, from Massachusetts Historical Commission to Norwell Community Housing Trust, stating “no adverse effect” from PNF review; copy of PNF submittal also included.
- 12. Vehicle Trip Generation Estimates: Letter of 4/27/17 from Peter G. Palmieri, P.E., of Merrill Engineers and Land Surveyors providing traffic information
- 13. List of Exceptions/Waiver Requests
  - a. Zoning By-Law waivers requested
  - b. Norwell Wetlands Protection By-Law waivers requested
- 14. Housing Inventory: DHCD SHI report as of 12/5/2014
- 15. Letter from Norwell Community Trust: Letter of 3/29/17, signed by Peter Shea, as Chair of the Norwell Community Housing Trust, confirming that \$1,200,000 of Town’s Community Preservation Act funds will be made available to the 40 River Street project.

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

- 05 07 17 **Letter of Support**, dated 9/6/16, from Norwell Board of Selectmen to the subsidizing agency for the proposed project
- 05 09 17 **Waiver of Fees request** from Applicant’s attorney via email of 5/9/17
- 05 31 17 **Scope of Services** proposed contract from Chessia Consulting Services (CCS), as signed by the Town Administrator on 7/3/17
- 06 02 17 **Stormwater Management Plan** (104 pages) for the 40 River Street project, dated 4/26/17, signed and sealed by Peter G. Pamieri, P.E.
- 06 05 17 **2016 ATM Warrant Articles 25, 26, and 27** relating to transfer of control of the property at 40 River Street
- 06 05 17 **2016 ATM Presentation** prepared by CHT in support of Article 25
- 06 07 17 **Draft Flyer** detailing proposed senior housing
- 06 07 17 **Financial Data** detailing anticipated project expenditures
- 06 19 17 **Peer Review** initial report (11 pages), dated 6/19/17, from CCS
- 06 21 17 **Peer Review Response** (10 pages), dated 6/21/17, from Merrill on CCS peer review comments of 6/19/17

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- 07 11 17 **Peer Review Supplemental Response** (10 pages), dated 7/11/17, from Merrill on CCS peer review comments of 6/19/17
- 07 11 17 **Stormwater Management Plan** (63 pages) for the 40 River Street project, dated 4/26/17, signed and sealed by Peter G. Pamieri, P.E., as revised 7/10/17
- 07 11 17 **Permit Plan Set**, dated 4/13/17, entitled “Site Plan/ #40 River Street/ Assessors Map 58 Lot 64/ Norwell, Massachusetts”, signed and sealed by Peter G. Palmieri, P.E., of Merrill Engineers and Land Surveyors, 427 Columbia Road, Hanover, Massachusetts 02339, consisting of the following ten (10) drawings, as revised 7/10/17:

C1.1	Existing Conditions Plan
C2.1	Layout Plan
C3.1	Grading/Utility Plan
C4.1	Septic Plan Set
C4.2	Septic Details
C4.3	Septic Details
C5.1	Construction Details
C5.2	Construction Details
C5.3	Construction Details
C5.4	Construction Details

- 07 17 17 Chessia Consulting Services supplemental Plan Peer Review report (12 pages), responding to plan revisions and Merrill’s supplemental comments of 7/11/17, and including recommended conditions

**MEETING MINUTES**

- 05 31 17 Open public hearing
- 06 14 17 Continued public hearing
- 06 21 17 Continued public hearing
- 07 12 17 Vote to close public hearing and approve the project

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**TOWN BOARDS AND DEPARTMENTS**

- 06 22 17 **Chief of Police:**Memorandum, dated 6/22/17, confirms, “At this time . . . no safety concerns”
- 06 23 17 **Conservation Commission:** Letter of 6/23/17 from Conservation confirming support for the project (N.B. NOI application to be filed for jurisdictional wetlands under state law)
- 07 07 17 **Water Department:** Letter of 7/7/17, indicates general approval of the project with issues relating to metering, irrigation (if proposed), and further review of mechanical plans needed for connections.
- 07 10 17 **Fire Chief:** Memorandum of 7/10/17, discussing issues relating to Fire/EMS access and sprinklering/fire alarm requirements

07 12 17 **Council on Aging:** email of 7/12/17 providing relevant data relating to the Town's senior residents and available information on veterans

**PUBLIC COMMENTS**

- 06 26 17 Robert Breen of 263 River Street expressing concerns about living costs for future residents and whether veterans' preference will be allowed and ZBA response
- 06 26 17 William Malloy of 31 Wildcat Lane email blast to local veterans, encouraging contact with the ZBA and DHCD and ZBA response
- 06 27 17 Joseph A. Condrick of 377 Prospect Street email expressing concerns about veterans' preference and ZBA response
- 06 27 17 Peter S. Kulka of 662 Grove Street email expressing concerns about veterans' preference and ZBA response
- 06 27 17 Joint letter in support of veterans' preference for this project, dated 6/27/17, from Norwell's State Representative David F. DeCoste and State Senator Patrick M. O'Connor to DHCD
- 06 30 17 William Malloy of 31 Wildcat Lane email expressing concerns about veterans' preference and ZBA response
- 07 02 17 Robert Breen of 263 River Street email expressing concerns about veterans' preference and ZBA response
- 07 12 17 First Parish of Norwell letter of 7/12/17, signed by Rev. Lise Adams Sherry and Parish Committee Chair Les Taylor, relating to support of the project for senior housing and expressing concern about how veterans' preference will apply

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