

OFFICE OF  
BOARD OF APPEALS

# TOWN OF NORWELL

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

## TOWN OF NORWELL BOARD OF APPEALS

PETITION OF Tiffany Hill, Inc.  
CASE NO. 03-37

### **DECISION of the BOARD**



### **PROCEDURE**

1. **Application and Plans:** On or about June 20, 2003, Tiffany Hill, Inc. (Applicant) applied for a Comprehensive Permit, pursuant to General Laws, Chapter 40B (Act), to construct sixty-six (66) condominium units (Original Project). On April 14, 2004, the Applicant reduced the number of units to forty-eight (48) and substantially changed the details of the Project. During the May 12, 2004, Hearing the Applicant again changed many of the details of the Project and reduced to forty-four (44) the number of units. The forty-four (44) unit Project (Revised Project) is shown on the "*Tiffany Hill*" *Comprehensive Permit Plan* consisting of the Site Plan dated October 25, 2003 and revised May 12, 2004, Detail Sheet dated October 25, 2002 and revised May 12, 2004, and Detail Sheet dated March 26, 2004 and revised May 12, 2004 the (Revised Plans). Since the plans and other data for the forty-four (44) unit Project (Revised Project) were not received until May 12, 2004, and the pro forma and required copies of the plans for the Revised

Project were not received until May 18, 2004, it was not, as requested<sup>1</sup> by the Applicant, possible to complete the Hearing process on May 12, 2004

2. **Property Description:** The property is comprised of two parcels of land totaling approximately 18.4 acres, with frontage on Tiffany Road, Norwell (Site). The parcel shown on Assessors Map 074, Lot 014 (Lot 14), contains approximately 9.5 acres and is located in Residential District A, with frontage on Tiffany Road. The parcel shown on Assessors Map 074, Lot 015 (Lot 15), contains approximately 6.28 acres and is located in Residential District A.
3. **Technical Review Consultants:** The Board retained the following consultants to assist in its review of this application:

**Engineer:** Edwards and Kelcey  
529 Main Street, Suite 203  
Boston MA 02129  
Thomas C. Houston, AICP, PE, Associate Vice President

**Financial:** H&H Associates LLP,  
178 Ballville Road  
Bolton MA 01740  
Richard Heaton, Principal

**MHP:** Edith M. Netter & Associates, P.C.  
375 Totten Pond Road, Waltham MA 02451  
Edith M. Netter, Esq.



4. **Town Boards and Departments:** The Board notified all local boards and commissions of this application and considered their comments when making its decision. Comments were received from the Board of Health, Fire Chief, Highway Surveyor, Permanent Drainage Study Committee, Planning Board and Water Department.
5. **File Inventory:** Various Plans, Reports, and correspondence, including but not limited to those listed in **Exhibit A** were submitted during the course of the hearing and made a part of the official record.

---

<sup>1</sup> The Applicant, at the end of the hearing held on May 12, 2004, informed the Board, verbally and by letter, that the Hearings were constructively closed. The Board informed the Applicant, verbally at that time and by letter of May 18, 2004, that the hearings would continue to at least June 9, 2004, to allow abutters to the Site, other interested citizens and the board's consultants to testify and respond to the Revised Project and the plans and data submitted by the Applicant to the Board after the May 12<sup>th</sup> hearing. The Board has consistently requested that the Applicant attend and participate during the continued hearings and the Tiffany Road walk held on June 12, 2004.



6. **Public Hearings, Site Visits, and Work Sessions:** The Board of Appeals ("Board") opened a duly advertised public hearing on July 16, 2003, and continued the hearing to the following dates: September 10, 2003, October 22, 2003 (no evidence taken), November 5, 2003, December 10, 2003, January 21, 2004 (postponed in advance at Board's request due to a members absence and the applicant's continued work on revised plans, necessitated by test borings and material analysis that revised the sub-soil conditions on the Site), March 10, 2004 (postponed because applicant was still working on revised plans, aforesaid), April 14, 2004, May 12, 2004, and June 9, 2004 (the Applicant, his engineers and attorney chose not to appear at the duly scheduled public hearing). Duly posted Site walks of the proposed construction site were held on September 25, 2003, October 23, 2003, and of Tiffany Road on June 12, 2004. Working sessions were held on May 25, 2004, and June 16, 2004. On June 21, 2004, the hearing was closed, the matter was deliberated and this Decision was unanimously adopted.

### **FINDINGS OF FACT**

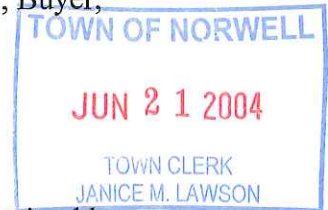


***NOTE:** While the Jurisdictional issue pending resolution in the matter of the Town of Norwell v. Massachusetts Housing Finance Agency and Tiffany Hill, Inc., numbered C.A. No. PLCV2003-00778 in Plymouth Superior Court, may resolve the Application filed by the Applicant, this Board has not considered and has not had any involvement in that litigation or the issue before the Court in the litigation.*

**I. JURISDICTION:** In the event that the above noted litigation is resolved in favor of the Applicant, the Board makes the following findings, based on the evidence presented at the public hearing and in the official record:

- A. 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 Mass. Housing under the Housing Starts Program and/or the New England Fund Program ("NEF") of the Federal Home Loan Bank of Boston ("Bank") and the Town of Norwell ("Town").

- B. The project is "fundable" under the Housing Starts Program and Mass. Housing has issued a project eligibility letter, dated May 22, 2003, to **Tiffany Hill (PE-92)**. See note under findings of fact.
- C. The Applicant has control of the Site based upon the following:
1. Purchase and Sale Agreement, dated November 21, 2002, by Epicure Developers, Inc., Seller, to Tiffany Hill, Inc. Buyer, for Lots 14 and 15, expiring 12/20/03.
  2. Purchase and Sale Agreement, dated November 21, 2002, by Constance E. Hashem, Seller, to Epicure Developers, Inc., Buyer, for Lot 15, expiring 12/20/03.



## **II. STATUTORY MINIMA:**

- A. 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.
- B. The Applicant has stated that:
1. 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
  2. The construction of the 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.

## **III. LOCAL CONDITIONS, PUBLIC HEALTH AND PUBLIC SAFETY:**

- A. **Original Project:** The Project, as originally proposed, consisted of six buildings, limited access from Tiffany Road and three sub-surface sewage disposal systems designed so that each disposal system would serve two buildings. The Site, which slopes generally from North to South toward Tiffany Road, has a very high water table and difficult soil conditions that make storm-water management and sub-surface sewage disposal limiting factors in Site development.
- B. **Private Septic:** There is no public sewer system in Norwell. Sub-surface sewage disposal must be provided on each lot or parcel. On both sides of Tiffany Road, ledge outcroppings can be observed and



soil conditions in the area and on the Site are characterized generally as very difficult and limiting factors in Site development.

- C. **Site Soil Conditions:** During the initial review process by the engineering consultants, it became obvious that additional soil testing on the Site was necessary. After several delays, test pits were excavated and the soil samples analyzed. As a result of the tests, the originally proposed sub-surface sewage disposal facilities, designed and stamped by the Applicant's engineer, were changed and a new system proposed for a smaller Project. On May 12, 2004, the Revised Project for forty-four (44) units was presented to the Board. At the hearing on May 12, 2004, the Applicant's expert hydro-geologist testified that the subsurface sewage disposal system as originally designed for the Project would not work.
- D. **Revised Project:** The Revised Project includes a common leaching system to dispose of the liquid effluent discharged from septic tanks. The system, as proposed by the Applicant, requires construction of a three-tiered wall system, having a total height of approximately eighteen (18) feet, that runs along and parallel to the sideline of Tiffany Road for a distance of some Two Hundred eighty (280) feet.
- E. **Neighborhood:** Tiffany Road is a narrow country road with a very limited and inadequate roadway drainage system. The single-family homes in the area are modest in size and value.
- F. **Scenic Road:** Tiffany Road is designated as a Scenic Road under General Laws, Chapter 40, Section 15C. The Applicant's revised plan will require the removal of all trees and vegetation on the Tiffany Road side of the Site and the construction of a concrete block, three-tiered retaining wall system, approximately eighteen (18) feet in height, running Two Hundred eighty (280) feet along and parallel to Tiffany Road.
- G. **Septic System Wastewater Disposal:** All wastewater from the project will be collected and disposed of in an on-site septic system which must conform to the minimum requirements of *The State Environmental Code, Title 5 (310 CMR 15.000-15.505)*, hereinafter, Title V and be in compliance with the Rules and Regulations of the Norwell Board of Health not specifically waived herein. **The septic system design shown on the Revised Plans does not conform to the minimum requirements of Title V with respect to separation to groundwater, and the elevation of the tops of retaining walls with respect to "breakout."** The Board's consulting engineers have also recommended that a separate reserve area be provided.



H. **Title V Separation to Groundwater:** Title V requires that the separation between the bottom of the leaching trenches and the elevation of high groundwater must be determined by adding the effect of groundwater mounding to the mean annual high groundwater elevation. It was confirmed that the effect of groundwater mounding must be added to the mean annual high groundwater elevation in discussions with Brett Rowe of the Massachusetts Department of Environmental Protection's Southeast Regional Office. The elevation of mounded groundwater is indicated in the *Section Through Center of SAS* shown on Sheet 4 of the *Site Plans* submitted by Outback Engineering, the applicant's design engineer. The leaching trenches are shown with as little as approximately 1 foot of separation between the bottom of the leaching trenches and mounded groundwater.

I. **Title V Soil Conditions and Requirements:** Title V requires that the soil absorption systems located in soils having percolation rates of less than or equal to 2 minutes per inch be designed with a 5-foot separation between the bottom of the washed stone in the leaching system and the design groundwater elevation. Soils within the footprint of the soil absorption system are variable having percolation rates ranging from less than 2 minutes per inch to 17 minutes per inch. Specifically Test Pits 3 and 16 both have recorded percolation rates of less than 2 minutes per inch. Groundwater contamination arising from rapid transmission of effluent can occur in variable soils because the most rapidly permeable soils within the soil absorption system serve as the conduit for transmission of effluent. Accordingly, a minimum 5-foot vertical separation is required between the bottom of the leaching trenches and the design groundwater elevation.

J. **Title V and Septic Design Deficiencies:** The design elevation of the bottom of the leaching trenches must be fixed at elevation 79 or higher. The design of the leaching trenches shown on the Revised Plans is elevation 75, which is in error as it only provides approximately 1-foot of separation to the design groundwater elevation. Accordingly, the current leaching field design must be raised by 4 additional feet to provide the required 5-foot vertical separation to groundwater. This would necessitate construction of an additional 4-foot high retaining wall.

K. **Title V – Further Deficiencies:** For systems constructed in fill, Title V requires a 15-foot horizontal separation between the peastone at the top of the leaching trenches and the downgradient slope and it further requires that the sideslopes of the downgradient slope be no steeper than 3 to 1 (horizontal to vertical). The applicant proposes to provide





retaining walls with impervious barriers in lieu of providing the required 3 to 1 slopes. However Title V requires "The elevation of the top of the retaining wall shall be no lower than the "breakout" elevation which is the elevation of the top of the two inch layer of 1/8 to 1/2 aggregate cover layer (310 CMR 15.255(2)(f)). For the current septic system plan, the minimum top of wall would be approximately elevation 78. The current septic system design utilizes three tiered retaining walls to create the impervious barrier. The top of the upper wall is set at elevation 78.5, which conforms to the requirements of (310 CMR 15.255(2)(f)). However the top of the middle wall is set at elevation 73.5 and the top of the lower wall is set at elevation 68.5, which does not conform to the minimum elevation requirements of (310 CMR 15.255(2)(f)). As set forth above, the height of the leaching facility must be raised by 4 additional feet to provide the required separation to groundwater. This could involve construction of a fourth wall. In that instance, the elevations of the tops of 3 of the 4 walls are likely not to meet the minimum elevation requirements of (310 CMR 15.255(2)(f)).

- L. **Title V Reserve Area:** Title V allows the reserve area to be located between the active trenches. This practice has evolved from the common failure pattern of trenches where matting forms at the interface between in-situ soils and the washed stone within the trenches, i.e. matting forms at the interface between soils of different permeability. The current design would require construction of the leaching trenches within a deep mound of "Title V sand." As both the washed stone and the Title V sand are highly permeable, our engineers advise that matting would not form around the trenches, but rather at the interface between the Title V sand and the in-situ soils at the base of the embankment. Removing this matting would require removal of the leaching system, excavation of the Title V sand embankment, and structural support of the retaining walls or demolition and replacement of the retaining walls. The repair would then require placement of a new Title V sand embankment, and reconstruction of the whole leaching system. This process would take an extended period during which all wastewater would have to be trucked to a treatment facility. Based upon the above, our consulting engineers have advised that the septic system design should be revised to provide a separate reserve area.

- M. **Tiered-Wall Septic Scheme:** The septic system as shown on the Revised Plans requires construction of a tiered system of retaining walls having a total height of 18 feet a total length of 280 feet and a total width of 190 feet. It would be impractical to adequately screen such a prominent structure. The retaining wall system should properly



be categorized as a "structure"; however, the wall system on the Revised Plans does not conform to the minimum front yard setback and side yard setback requirements of the *Zoning Bylaw*. The wall system is required to be setback 75 feet from the centerline of Tiffany Road, whereas the actual setback provided is approximately 33 feet. The visual dominance of the 18 foot high and 280 by 190 foot retaining wall system will be a blight upon and unacceptable to the surrounding rural residential neighborhood. We anticipate that the proposed wall system would adversely affect the property values of residences in the immediate vicinity of the wall system. The retaining wall height creates a safety hazard and falling danger to neighborhood children and others. While the design would be required to incorporate non-climbable fencing at the top, fencing may not be sufficient because the wall will be unattended and unsupervised.

- N. **Groundwater Mounding and Breakout:** The Revised Plans include a "Section Thru Center of SAS" on sheet 4, which shows that groundwater mounding from the septic effluent will increase existing groundwater elevation by approximately 1.75 feet at a distance of 70 feet from leaching trenches. The elevation of groundwater will also be raised by approximately 1.75 feet at the east property line of the adjacent n/f Leonard D. Taylor, III residence, which is also located 70 feet from the leaching trenches. This increase in groundwater level could and it is reasonably expected to damage existing improvements, including the residence's existing leaching fields, and it is reasonably expected to impact future replacement of the leaching field for that residence. The Town of Norwell Permanent Drainage Study Committee also expressed concern about breakout of effluent at and into the open trench area at the headwall at the corner of the Taylor property. Reducing the number of bedrooms from 72 to 38 will reduce the design flow and reduce potential damage to adjacent properties from groundwater mounding.

- O. **Site Impact:** By reducing the number of bedrooms from 72 to 38 the footprint of the soil absorption system can be substantially reduced. The primary and reserve areas can be sited at different elevations so site disturbance is reduced. By reducing the number of bedrooms to 38, the total design flow remains below 5,000 gpd so a leaching field can be used which decreases the required design elevation of the leaching facility by approximately 1 foot (310 CMR 15.252(1)). The reduced size of the soil absorption system and the separation of the primary and reserve areas allows the replacement of the retaining wall system with an earth slope. Earth slopes constructed at 3 to 1 could be planted with native trees and shrubs. There has been great concern about the safety and aesthetic issues caused by construction of the proposed system of





tiered retaining walls. There are also concerns about the blighting effects of such a system of walls. As set forth above, these concerns are enhanced because the height of the leaching field must be raised by four (4) additional feet to provide separation to groundwater. This would necessitate construction of an additional wall. The total height of the tiered system of walls would be at least twenty (20) feet above Tiffany Road. The reduction of the number of bedrooms to thirty-eight (38) will reduce the cost of the system and eliminate the proposed tiered wall system.

**P. Storm-water Management:** The Site also presents profound problems in managing Storm-water and groundwater runoff and discharge from the Site onto Tiffany Road and across Tiffany Road onto private property on the southerly side of Tiffany Road. The proposal to manage such water discharge includes a closed drainage system serving the site and an on-site detention basin, which attenuates the peak rate and discharges all runoff to the existing storm-drain system in Tiffany Road. The Tiffany Road storm-drain system that cannot handle existing requirements is not capable of handling the proposed discharge from the Site. The Applicant is not authorized to discharge from the Site into the Tiffany Road system.

**Q. Site Detention Basin:** The majority of the existing site drainage is reliant upon a large aboveground detention basin that is cut into the hillside, up-gradient of the proposed septic leaching facility. The arrangement of both the storm-water and septic design depicted in profile view on the Detail Sheet is shown in relation to the depth to groundwater. The deepest portion of the detention basin will be excavated approximately 6.5 feet below the high groundwater elevation. The detention basin profile indicates that the bottom and downhill berm has been designed with an impervious liner on the down-gradient sides. In essence, this system will act as a permanent dewatering system wicking down groundwater from the hillside and discharging it to the Tiffany Road storm-drain system as superficial base-flow.



**R. DEP Storm-water Management Policy Deficiencies:** Such a permanent large-scale drawdown of groundwater contravenes the DEP Storm-water Management Policy requiring balancing of pre and post development recharge rates. Outback Engineering raised the possibility of reclassifying the on-site soils to a "D" soil, which would typically not require recharge. However, the DEP Policy of not requiring recharge assumes that little recharge currently occurs with a "D" type soil. Groundwater is by definition surface water that has been recharged. Permanently drawing down groundwater and discharging it

off site inherently contravenes the DEP policy regardless of the soil classification.

- S. **Off-site Storm-water Impacts:** In addition to the base-flow, the basin and downstream pipe system will be required to accommodate surface runoff from storm events. However, the groundwater base-flow has not been incorporated into the applicant's drainage calculations, resulting in actual peak discharge rates from the Project during storm events that will be measurably higher than shown in the drainage calculations. All project flows must be segregated from the groundwater base flows. The open basin should be replaced with an underground structural facility.
- T. **NRCS Soils Group:** The design team indicates that through their field examination of the *in-situ* soils properties, the project has incorrectly been assigned a Hydrologic Soils Group designation as a C-soil by the National Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS). By reassigning the project area as a D-soil site, the proponents assert that no additional recharge to groundwater is required under post-developed conditions. However, the applicant's hydro-geologist testified that up to 20 inches of rainfall enters the soil on an annual basis and 4 inches becomes available to the groundwater. The project soil should and must remain characterized as a C soil and the appropriate groundwater recharge volume, as required in accordance with DEP Storm-water Management Standards, should and must be applied.
- U. **Off-site Storm-drain System Deficiencies and Development Impact:** Outback Engineering testified that the capacity of the Tiffany Road storm-drain system is deficient. The Permanent Drainage Study Committee also concluded that this system is deficient in their May 25, 2004 Memorandum. Neighbors provided pictures of excess ponded water covering Tiffany Road and potentially rendering it impassible during heavier rain events typically occurring several times per year. Under the proposed project, storm-water runoff from the first Three Hundred (300) feet of the on-Site driveway and from the half-acre septic system area will flow onto Tiffany Road without any storm-water detention to attenuate the increase in the peak rate of flow. This increase in the peak rate of discharge from the project Site and the existing capacity deficiencies combine to increase flooding of the street and adjacent properties. Additionally, there is no provision for removal of sediment or other contaminants from the storm-water runoff generated from the first Three Hundred (300) feet of the onsite driveway and from the surface of the half-acre septic system prior to





discharge to the Tiffany Road drain system. This condition would contravene DEP storm-water management policies.

- V. **Existing Conditions Exacerbated by Site Testing:** During the hearing, residents of Tiffany Road testified that the use of heavy equipment on the Site by the Applicant has caused disturbance of the natural ground cover on and created a rough path up and into the Site. During heavy rains and storm conditions, water runs down the Site over the rough path and floods Tiffany Road. The residence produced and entered into evidence photographs of the flooding conditions.
- W. **Storm-water Impacts on Third Herring Brook and North River drainage basin:** The storm-water runoff from the Site, aforesaid, and any effluent from the sub-surface sewage disposal system that leaves the Site as groundwater will drain towards the Third Herring Brook and the North River and would have a detrimental and public health and safety impact upon both the brook and the river.
- X. **North River Water Quality:** Surface water from the Tiffany Road area flows towards the Third Herring Brook. The Brook discharges directly into the North River, a tidal estuary that has been the subject of intense long-term State and local action to improve water quality and scenic preservation.
- Y. **Scenic River Designation:** The North River is the only designated "Scenic River" in Massachusetts.
- Z. **Water-mains.** The Revised Plans show the proposed buildings being served from a series of dead end water-mains. The length of the dead end water-main system raised concerns about service disruptions particularly when fire flow is required. Accessing a break could be difficult during winter conditions due to site topography. The Board's engineering consultant recommends that a looped system be provided with connections to Tiffany Road at two points for the 44-unit Revised Project. Reducing the proposed dwellings to 24 substantially reduces the length of the required on-site dead end water-main system. The Board's engineering consultant reports that looping the water main may not be necessary given the reduced length and the reduced population associated with 24 dwelling units.
- AA. **Driveways.** *The proposed on-Site driveways for the Revised Project do not, in the opinion of the Fire Chief of the Town of Norwell, meet public safety requirements for emergency vehicle access, turning and parking because of the slope (grade) and width of the roadways and the single access road, because there is only one*



*access road, because of the radius of turns and the design of emergency parking. The Norwell Planning Board has expressed similar concerns and cautions in its report.* The Revised Plans would locate 44 dwelling units on a long dead end driveway system with the most remote dwellings 1,100 feet from the site entrance. There is a significant danger to the health and safety of future residents posed by isolating so many people with only one means of access in case of emergency. Should this single access become blocked, future residents would be isolated from emergency vehicle access. The possibility that the single access could be blocked is enhanced by the length and steep grades of the main site driveway. Local safety standards as set forth in the Planning Board's *Rules & Regulations* limit the length of a subdivision street to 500 feet or 12 dwellings. The Board's consulting engineer recommended that a second site entrance should be provided. However, limiting the number of dwellings to twenty-four (24) substantially reduces the length of the dead end driveway. Accordingly, our consulting engineer advises that a second site entrance would not be required for 24 dwelling units.

**BB. Traffic:** *The Original Project would have increased the total traffic volume on Tiffany Road by 32% in the AM Peak Hour and by 29% in the PM Peak Hour. The Revised Project would have increased the total peak hour traffic volume on Tiffany Road by 2/3rds of those amounts.* The increased traffic will help transform the rural nature of Tiffany Road and will exacerbate existing geometric deficiencies. Accordingly, the Board's consulting engineer recommended evaluation of geometric deficiencies and design of mitigation improvements such as vegetation clearing and minor widening at the five rural intersections on Tiffany Road. Limiting the project to 24 dwelling units will measurably decrease the traffic generated by the project and will thus minimize impacts on Tiffany Road. The Board's consulting engineer advises that off-site traffic mitigation is not required for the 24-unit project.

**CC. Sight Distance:** Adequate intersection sight distance is not provided for passenger vehicles exiting the Site and turning left or right onto Tiffany Road. Limiting the number of dwelling units to 24 will measurably decrease trip generation and will correspondingly minimize disruption to existing through traffic on Tiffany Road.

**DD. Noise:** The project Site borders Route 3, which is a major regional commuter arterial. Due to the speed and volume of traffic, Route 3 is a significant source of noise. The applicant did not provide requested information on background noise levels. However, limiting the number of dwelling units to 24 allows the units to be placed over 500





feet from Route 3, which should effectively shield residents from excessive background noise.

**EE. Design Criteria:** The design criteria to be used, because of the herein described limitations of the Site, based upon the analysis of the Engineering Consultant, shall not exceed two buildings with a total of 24 Units that contain a total of 38 bedrooms.

**FF. Financial Review:** A review of the Revised Project by the Board's Financial Consultant determined that the design criteria, limited to Two Buildings, Twenty-Four Units and 38 Bedrooms set forth in the preceding paragraph, will not make the Revised Project uneconomic in its construction or operation.

## ***VOTE OF THE BOARD***

Based upon the foregoing, a quorum of the Board of Appeals (Board), consisting of Lois S. Barbour, Rosemary T. Durica, and David Lee Turner, being all of the members of the Board of Appeals designated to hear and act upon the application, **VOTED on June 21, 2004, upon a motion duly made and seconded, to GRANT the application for a COMPREHENSIVE PERMIT subject to and upon the Conditions set forth herein.**



## ***CONDITIONS***

1. In reaching this Decision, the Board has endeavored to insure that the conditions herein do not render the project uneconomic and that the conditions are consistent with local needs. If the Applicant should appeal this Decision to the Housing Appeals Committee pursuant to G.L. c.40B, s.20-23, the Board requests that any order to the Board to remove or modify any condition in this Decision be limited to a particular condition or specific conditions and that all other conditions and requirements of this Decision be affirmed.

2. The Revised Project shall be constructed in conformance with the Revised Plans, as limited by the conditions of this Decision and referenced

and defined in paragraph 1 of *Procedures*. Any deviation from these Revised Plans and the conditions set forth in this Decision shall require a modification by the Board of this Comprehensive Permit, as set forth in 760 CMR 31.03.

### **Density**

3. There shall be no more than two buildings, with each building containing not more than twelve (12) dwelling units for a total of twenty-four dwelling units for the overall project of which six (6) shall be "affordable" as defined below. There shall be a total of not more than thirty-eight (38) bedrooms, as the term "bedroom" is defined in the State Environmental Code 310 C.M.R. 15.002.
4. Any construction that increases the number of bedrooms within individual units shall be subject to approval by the Condominium Association to ensure compliance with this condition.
5. The total number of bedrooms permitted shall be restricted in Unit Deeds and in the Master Deed.
6. The buildings shall be situated in the approximate location of Buildings 1 and 2 shown on the Revised Plans in order to limit the length of the dead end driveway, the length of the dead end watermain, the extent of earthwork and site disturbance and the total quantity of storm-water runoff.

### **Affordable Housing**

7. The Affordable Units are those dwelling units that are made available for purchase and occupancy by households whose aggregate income is no greater than 80% of the area median income ("Median Income") as published by the Department of Housing and Urban Development for the Boston Primary Metropolitan Statistical Area ("Qualified Purchasers").
8. The Affordable Units shall be interspersed throughout all buildings in the Revised Project and shall be indistinguishable as to size and exterior facades from the market-rate units. As for interior finishes of and appliances in the Affordable Units, the Applicant shall provide outline specifications to the Board for its review and approval.
9. A lottery agent acceptable to the Board shall, by means of a lottery, select the purchasers of the Affordable Units.





10. Prior to conducting the lottery, the Applicant shall submit a proposed lottery plan to the Board for its review and approval.

11. Preference in the lottery for purchase of four (4) of the six (6) Affordable Units shall be given to either (a) Norwell residents; (b) the children or parents of Norwell residents; or c) employees of the Town of Norwell.

12. The Applicant shall pay all Lottery Agent costs.

13. If any lottery winner has a physical disability, the Applicant shall modify the Affordable Unit for that winner to reasonably accommodate the winner's physical disability and to comply with the ADA.

14. Prior to the grant of a building permit, the Applicant shall submit a draft Regulatory and Monitoring Agreements to the Board and its counsel for review and approval. Such documents shall contain, at a minimum the following terms:

(a) No less than twenty-five (25%) percent of the units shall be affordable to households earning not more than eighty (80%) percent of Median Income in perpetuity or for the maximum term allowed by law, but in no case less than ninety-nine (99) years;

(b) The monitoring agent for this project shall be the Citizens Housing and Planning Association (CHAPA) and such other agency as may be approved by the Board.

(c) The Affordable Units shall be identified in the Regulatory Agreement.

(d) The maximum sales price of the Affordable Units (including condominium fees, insurance, and taxes) shall be no more than "that which can be afforded" (as set forth in the Mass Housing guidelines) by households earning seventy percent (70%) of Median Income.

(e) The Applicant's profits shall be limited to no more than twenty percent (20%) of total development costs.

15. The Affordable Units shall be constructed on a schedule that provides for the construction of at least one affordable unit for every three market-rate units.

16. Subject to approval by MassHousing, this decision and the Regulatory Agreement shall be senior to all mortgage loans. In the event MassHousing approval is not forthcoming, the Regulatory Agreement



shall provide for a minimum of a ninety-day municipal right of refusal in the event of foreclosure.

### **Condominium**

17. The beneficial interest in the condominium of the affordable units shall be in proportion to the initial offering price of the affordable units to the market-rate units.

18. The Condominium Association ("Association") shall ensure that:

- (a) Fire lanes and parking areas are kept clear at all times;
- (b) There are inspections of the storm water and wastewater systems conducted in the early spring and fall and a report to the Board with copies to the Board of Health, Conservation Agent, the Storm-water Management Plan supervisor and/or other local agency at interest;
- (c) Exterior building lights shall be designed and installed so as to shine downward only. All street lighting and lighting fixtures shall be located as shown on the approved Plan and shall be designed and installed so as to shine downward only;
- (d) No road salt or deicing chemicals are used for roadways, parking areas or sidewalks within the Revised Project and no chemical fertilizers, herbicides or pesticides are used for plant or lawn maintenance, unless specifically approved in writing by the Board. The Association shall, on an annual basis, certify in writing, to the Board of Health and the Water Department that the Association and the unit owners are in compliance with this condition.

19. The condominium documents shall provide that:

- (a) The unit owners' association shall be responsible for the operation and maintenance of all common areas and improvements, landscaping, mowing, watering and irrigation, snow and ice removal, and trash collection.
- (b) All votes shall be one unit/one vote except where the condominium statute requires percentage interest votes.
- (c) There shall be no amendments to provisions relating to the Affordable Units without the Board's approval.
- (d) Conditions set forth in this Decision that relate to the condominium governance must be set forth in the documents
- (e) Upon turnover of the Association by the Declarant to the non-Declarant unit owners, at least 25% of the trustees of the





Association shall be owners of Affordable Units, if owners of the affordable units desire to serve as trustees.

(f) The Master Deed shall reference the deed rider and the regulatory agreement.

(g) All Affordable Units shall be owner-occupied.

(h) The Master Deed shall provide that in the event of condemnation or casualty, any proceeds in excess of the replacement cost of the Affordable Unit(s) as set forth in the Deed Rider shall be given to the Town of Norwell or its designee for affordable housing purposes.

(i) There shall be no garbage disposal units.

### **Architectural**

20. The Applicant shall construct all of the units, including the Affordable Units, with all architectural features described in the Application and the approved Final plans shall reflect this requirement.

### **Pre-Construction and Construction**

21. Prior to issuance of any *Foundation Permit* or *Building Permit*, the applicant shall furnish copies of all required federal, state and other local permits including an USEPA *NPDES* construction permit, a Norwell Board of Health *Septic System Permit*, and a Mass Highway *Indirect Access Permit*.



22. The Mass Highway Indirect Access Permit is a 'state action' pursuant to the Massachusetts Environmental Policy Act (MGL Ch 30, S 61-62H) regulations. The project triggers the impervious threshold limit of 11.03(1)(b)(2) requiring an ENF filing and other MEPA review if required by the Secretary. Prior to issuance of any *Foundation Permit* or *Building Permit*, the applicant shall furnish a Certificate from the Secretary of Environmental Affairs that no further MEPA review is required.

23. Prior to any ground disturbance, the Applicant shall provide to the Board for review and approval by its consulting engineer, six (6) complete sets of full-sized final construction plans (contract documents and specifications) and three (3) complete sets (11 x 17) of reduced final plans, as well as an electronic copy on disc in ACAD R2000, DXF or other approved format. All final plans shall be stamped by a Professional Engineer and/or Registered Landscape Architect and/or by a Registered Land Surveyor, licensed by the Commonwealth of Massachusetts, as

appropriate and as required by the Board. Such plans shall be consistent with local requirements not waived elsewhere in this permit, and with state and federal codes to include but not be limited to the following: Site plans shall include, landscaping and plantings plan, utility plans, grading and drainage, wastewater and storm-water systems, an existing conditions plan, site layout, detail sheets, and lighting plan, a complete set of architectural elevations and floor plans.

24. Prior to construction, the applicant shall submit and obtain approval of a detailed *Construction Phasing and Sequencing Plan that includes a requirement:*

- (a) To conform with applicable laws and regulations regarding noise, vibration, dust and sedimentation.
- (b) That the Site shall be fenced and secured during construction.
- (c) That the Site access shall be regulated by the terms of an *Access and Maintenance of Traffic Plan*.
- (d) That the main site driveway shall be completed to base course, including all associated storm-drain and utility improvements, and the on-site storm-water detention basins shall be completed prior to issuance of the first building permit.

25. Prior to any ground disturbance, the Applicant shall provide to the Board, the following:

- (a) A detailed sedimentation and erosion control plan showing temporary stilling basins, hay bales/silt fences, a crushed stone-tracking pad at the site entrance, and comparable measures.
- (b) A copy of its NPDES Construction Phase Permit.

26. Any soil or earthwork material brought to the Property or excavated at the Property and proposed to be reused for any purpose at the Property shall be subject to approval by the Board's consulting engineer.

27. Prior to any earth removal, the Applicant shall demonstrate to the satisfaction of the Board that the Project is in compliance with all earth removal requirements of the Town By-Laws and Rules and Regulations. All stockpiles shall be established in locations greater than fifty (50) feet from wetlands or storm-water management facilities and approved by the Board or its designee.

28. Any blasting operations shall require proper permits and shall not be undertaken on any weekend or holiday.





29. At least forty-eight (48) hours prior to any initial site work, a pre-construction meeting shall be held with the developer, the developer's contractor, a representative of the Board of Appeals, its consulting engineer, and representatives of the Town departments having an interest in the plan. Said meeting shall be for the purpose of familiarization with the project, the conditions of approval, and the project's construction sequence and timetable.

30. Prior to commencement of construction, the Applicant shall provide to the Board:

- (a) The name, address and business telephone number of the individual responsible for all activities on Site;
- (b) A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Premises have been paid;
- (c) Proof that all required federal, state and local licenses and permits have been obtained;
- (d) Proof that the Applicant has fulfilled notification requirements of "Dig Safe", prior to commencement of any on-site work. If work activity on site ceases for a period of more than one month, appropriate notification must be given prior to restarting work.



31. The Board's consulting engineer shall perform site inspections for determining the Project's compliance with this Decision.

32. There shall be no construction on the Premises before 7:00 a.m. or after 6:00 p.m. or dusk, whichever is earlier, from Monday through Friday and before 8:00 a.m. or after 5:00 p.m. or dusk, whichever is earlier, on Saturday. There will be no construction on the premises on Sundays or the following legal holidays: New Year's Day, President's day, memorial day, July 4<sup>th</sup>, Labor Day, Thanksgiving, Christmas.

33. The Applicant shall keep the site clean during construction. Upon completion of all work on the 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 Board shall be notified in writing of the final disposition of the materials.

34. All construction activities associated with the approved Plan shall be conducted in a workman-like manner. Tiffany Road shall not be blocked or restricted by construction activities or equipment.

35. Construction equipment shall not be parked or stored within twenty-five feet (25') 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.

36. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long term stockpiles over 30 days shall be shaped stabilized and circled by siltation fence or haybales and shall be stabilized by temporary seeding or netting.

37. All areas to be protected from encroachment from construction shall be marked on the ground as shown on the approved construction plans, and all protective barriers shall be maintained by the developer throughout the construction phase of the project.

38. Inlet protection shall be provided for the drainage system until all work has been completed and ground cover and erosion control vegetation is established.

39. Excavation dewatering shall be in a workman-like manner and such water shall be free of suspended solids before being discharged into either a wetland or any storm water drainage system. This condition applies to all forms of dewatering including pumping and trenching. No direct or indirect discharge into the town's drainage system in Tiffany Road or onto Tiffany Road is allowed.

40. Prior to the issuance of a building permit, the Applicant shall establish to the satisfaction of the Building Inspector, that the Board and Legal Counsel have reviewed and approved the:

- (a) Regulatory Agreement and Deed Rider,
- (b) Monitoring Services Agreement,
- (c) Master Deed,
- (d) Condominium Trust,
- (e) Performance Guaranty,
- (f) Storm water Operation and Maintenance Plan,
- (g) Lottery Plan, and
- (h) Location of the affordable units.





### **Underground Fuel Storage Tanks**

41. There shall be no underground fuel storage tanks on the Site.

### **Hazardous Materials**

42. Prior to any ground disturbance, the Applicant shall present a "21E" (hazardous materials) report on the Project to the Board's consulting engineer for review. If the findings of the "21E report" indicate the presence of hazardous materials, all regulatory requirements of 310 CMR 40.000 shall be completed for each construction phase area, prior to general ground disturbance in that construction phase area, so that each such areas shall be clean prior to the commencement of construction in that area.

43. There shall be no use or storage of hazardous materials other than those types and amounts considered as normal in household and residential construction.



### **Driveways**

44. Once paved, the ways shall be kept clear and passable at all times. No equipment shall be parked in such a manner as to render such ways impassable, and no refuse containers, trailers or construction materials of any kind shall be placed or stored thereon.

45. The design of on-Site driveways and parking areas shall conform to the following:

- (a) The maximum grade shall be 8 percent. Grades shall be limited to 6 percent where practicable.
- (b) The applicant shall provide to the Board evidence that the access and horizontal geometry satisfies safety requirements of the Fire Department.
- (c) The width of the driveway pavement shall be 26 feet in accordance with the requirements of the Fire Department.
- (d) Vertical precast concrete curb shall be provided in all locations along driveways and within parking areas.
- (e) Sub-drains shall be provided where high groundwater will be found within two (2) feet of the pavement base.

(f) A seventy-five (75) foot long leveling area not exceeding two percent (2%) shall be provided for the access driveway at Tiffany Road.

### **Landscaping**

46. Wherever practicable, existing trees and vegetation shall be preserved. New trees and shrubs native to southeastern Massachusetts shall be installed to provide shade and screening. Additionally, all disturbed areas of the Property shall at a minimum, be loamed to a 6-inch depth and then seeded.

47. The landscaping shall provide screening between the buildings located on adjacent parcels and the Site.

48. The landscaping shall provide appropriate natural screening along the length of the project Site at Tiffany Road, subject to final plan approval by the Board.

49. The landscaping shall show an appropriate combination of active and passive recreational facilities.

50. The landscaping shall specify the following:

(a) Shade trees indicated on the Site plans shall be specified as 3 to 3½ inch caliper.

(b) A *Tree Protection Plan* shall be provided for any remaining trees to be preserved along the perimeter of the Site.

(c) Any living trees cut within the limits of Tiffany Road, which is Scenic Road, shall be replaced with shade trees of 3 to 3½ inch caliper of species acceptable to the Board.



### **Wastewater**

51. The septic system plan shall conform to all requirements of the Board of Health except as they may be specifically waived.

52. The applicant shall provide ten additional test pit logs and percolation tests and shall use this soils data in the final design of and approval process for the septic system. The primary and reserve leaching areas should be contiguous. The additional test pits and percolation tests shall be located at the four corners and in the center of the primary area and at the four corners and in the center of the reserve area. Soil classification shall



be supplemented by a laboratory sieve analysis to confirm the field classification.

53. Prior to construction, the applicant shall submit final design drawings that have been revised to fully conform to Title V and to the *Septic System Design Criteria* set forth below. The mounded groundwater elevation used in final design shall be based upon the final hydro-geologic model prepared by D'Amore Associates or other firm acceptable to the Board after incorporation of all review comments from the Board's hydro-geologic peer review consultant, as further described in Condition 57. The applicant shall redesign the on-site septic system to fully conform to Title V, to provide a separate reserve area, to eliminate retaining walls, and to all requirements of the Norwell Board of Health. The redesigned system shall be designed using the following design criteria:

- Septic System Design Criteria
- Design flow = 4,180 gpd based on 38 bedrooms.
- Sideslopes = Earthslopes with the top of slope located 15 feet horizontally from soil absorption system (pea stone), then earthslopes at 3 (horizontal) to 1 (vertical). Earthslopes shall be planted with native trees and shrubs. Retaining walls are prohibited.
- LTAR = 0.53 gpd based upon 17 minutes per inch perc rate in test pit 2 or a lower rate if slower percolation rates are observed in additional tests.
- Separation between the bottom of field or trenches and the design groundwater elevation = 5 foot minimum separation
- Design Groundwater = elevation of mottles or observed groundwater plus calculated mound based upon the detailed model herein set forth
- Reserve Area = Separate and placed closer to Tiffany Hill Road than the primary area. Subject to approval of the Board of Health, the reserve area shall remain undisturbed till needed.
- Grading = Construct the primary and reserve areas at separate elevations.



54. The embankment for the septic system shall be completed to finished grade at least six months prior to installation of the leaching trenches and distribution piping, which months shall include the months of January through May. Construction shall not begin until the applicant's engineer has certified that groundwater has rebounded and stabilized.

55. The leaching system shall provide a 5-foot vertical separation between the bottom of the leaching facility and the elevation of mounded groundwater. Construction of the septic system shall incorporate permanent monitoring wells adjacent to the leaching facility extending to a depth of 10 feet below grade. The applicant's engineer shall monitor the groundwater elevation in these wells monthly from January through May during the first year of occupancy and provide copies of the monitoring reports to the Board of Health. Thereafter, the Norwell Board of Health shall be given a permanent access easement to monitor groundwater. Groundwater elevations violating the (5 foot) separation requirements of Title V shall be sufficient cause to consider the facility as a "Failed System" which must be replaced.

56. Design of the septic system shall eliminate groundwater mounding at all property lines. Permanent monitoring wells shall be installed at locations acceptable to the Board along the west and south property lines. The applicant's engineer shall monitor the groundwater elevation in these wells monthly from January through May during the first year of occupancy and provide copies of the monitoring reports to the Board of Health. Thereafter, the Norwell Board of Health shall be given a permanent access easement to monitor groundwater. Any increase in groundwater elevations at the property line during operation of the septic system shall be sufficient cause to consider the facility as a "Failed System" which must be replaced.



57. In the subsequent phases of the hydro-geological analysis to be completed before final design and construction, the fate of wastewater with respect to property boundaries shall be demonstrated, especially on the west side of the proposed leaching area. The density of exploration in the area of the proposed leaching area shall be increased to a total of at least 10 borings uniformly spaced within the leaching area to demonstrate the uniformity of conditions assumed in the preliminary mounding analysis by D'Amore Associates. In addition, other exploration and modeling shall confirm and quantify any impacts to groundwater at the wastewater disposal system from the storm-water detention basin proposed up-gradient of the leaching facility. Exploration and modeling shall confirm that there are no unknown offsite boundaries to groundwater flow or geological characteristics which will affect the height of the wastewater mound under the leaching area or cause the wastewater to breakout to the land surface. If the hydro-geological exploration, analyses and modeling reveal any problems with function of the wastewater disposal facility as designed, the design shall be modified to accommodate these site limitations in order to function as intended.



58. The Applicant shall fund an engineering peer review of the hydro-geologic modeling effort. Copies of all data and materials shall be submitted to the peer review consultant. The peer review consultant shall concur with the scope and procedures prior to inception of the modeling effort. The peer review consultant shall receive prior notice of all testing.

59. There shall be no garbage disposals in the dwelling units.

### **Storm-water Management**

60. The Applicant shall demonstrate to the satisfaction of the Board through submission of final plans and drainage calculations that the project is in compliance with DEP Storm-water Management Policies and standard engineering practice. The drainage calculations shall use the published USDA-NRCS hydrologic soil classifications without adjustment.

61. The drainage calculations shall provide topographic mapping of the route of the discharge from the closed drainage system to Third Herring Brook.

62. The applicant shall redesign the on-site detention basin to preclude the entrance of groundwater. An underground cast in place tank or other structure may be substituted for an open basin on the basis that the tank provides sufficient space and clearances to allow personnel and mechanical excavating equipment to enter the tank to remove sediment and debris.

63. Any discharge of stormwater from the project site shall not cause or increase surcharging of the Town stormdrain system in Tiffany Road under the 25-year frequency storm event.

64. The on-site storm-drain system serving the first 300 feet of the on-site driveway shall be modified to include storm-water detention. There shall be no increase in the peak rate of storm-water runoff from this driveway and from the surface area above the septic system discharged to Tiffany Road. The storm-drain system shall also be modified to include measures to remove a minimum of 80 percent of the waterborne sediment in accordance with DEP storm-water management policies.

65. A roof water recharge system shall be provided for each building. Leaching pits shall be located in areas where percolation rates of 30 minutes per inch or less can be documented.



66. All catch basins and detention basins shall be maintained to ensure proper working condition during construction and shall be delivered to the Condominium Association (Association) in a fully maintained, working order upon completion of construction. Thereafter, the Applicant or the Association shall be responsible for maintaining the Site's storm-water management system in compliance with federal, state, and local requirements and in accordance with best management practices.

67. An area designated for snow storage shall be shown on the final approved construction plans.

68. The applicant shall adhere to and implement an *Operations And Maintenance Plan*. The plan shall provide as a minimum for annual inspection of all components of the drainage and storm-water management systems by a registered professional engineer who shall file reports with the Board. The plan shall provide for cleaning of all drain structures including catch basins and separators twice per year. The plan shall provide for sweeping all parking lots once per quarter and monthly during winter conditions. Use of pesticides, herbicides, and fertilizers shall be minimized to the extent practicable and shall be applied by experienced and if applicable licensed personnel in accordance with manufacturers recommendations. The plan shall designate persons responsible to contain inadvertent spills. All residents shall be provided with a 24/7 emergency response number to be used in case of inadvertent spills.



69. The Applicant and then the Association shall be responsible for required, up-keep, operation, maintenance, repair, and up grading of the drainage system as specified in the approved *Operation and Maintenance Plan*. In the event that the Town determines that the Association has materially failed in its obligation to maintain the drainage system in accordance with best management practices, the Town shall have the right, upon written notice to the Association, and Association's failure to remedy the maintenance issue within thirty (30) days' notice thereof, to enter upon the Site to perform the required maintenance. The Association shall reimburse to the Town all costs incurred by the Town in connection with its performance of such required maintenance on the Site within thirty (30) days of the Association's receipt of the Town's invoice for such costs.

70. The Applicant or the Association, as the case may be, 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 maintenance where the Applicant or Association fails to conform to the maintenance conditions herein and to charge the responsible party the full cost of such performance by the Town.



## **Water and Fire Protection**

71. The Applicant shall provide certification of approval by the Fire Chief as to the number and arrangement of the fire hydrants and as to the adequacy of turning radii for the Town's emergency vehicles, prior to final plan approval.

72. All buildings shall be constructed with a residential sprinkler system in each dwelling unit, which system shall be designed, constructed and maintained in a manner approved by the Norwell Fire Chief.

73. All fire lanes and emergency parking areas shall be kept clear at all times to ensure access by fire trucks and emergency vehicles, Fire lanes shall be posted as such with signage indicating that any vehicles in such areas shall be towed at the owners' expense.

74. The water system shall be looped unless waived by the Water Department.

75. The Applicant shall perform testing in accordance with the Water Department requirements to ensure adequate water supply and pressure for the Project and shall provide documented results to the Fire Chief, Water Department, and Board prior to approval of final plans.

76. The Project shall be serviced by the municipal water system.

## **Fees**

77. The fees for the engineering, including inspection, and legal review listed herein shall be the obligation of the Applicant. Prior to the commencement of work by a particular consultant, the Applicant shall pay the estimated fees for the required work. No ground disturbance shall commence until all past due and estimated future fees are paid.

78. The Applicant shall obtain all necessary permits required by the Town and shall pay all applicable fees.

## **Performance Guarantees**

79. No building shall be occupied until the Site improvements specified in this decision and set forth on the plans of record are constructed and installed so as to adequately serve the Site and the buildings and facilities on the Site. If such Site improvements are not constructed or are not approved, an occupancy permit may be obtained, in the Board's discretion,



if sufficient security to guarantee performance and completion of such improvements, in an amount satisfactory and in a form acceptable to the Board, is provided by the Applicant.

80. Prior to full security release, satisfactory As-Built Plans shall be provided to the Board.

### **Occupancy Permits**

81. No occupancy permit shall be granted until the Applicant's consulting engineer certifies compliance with the approved plans and this Decision.



### **Final Plans & Guarantees**

82. The Applicant shall submit to the Board Final As-Built Plans certified by the applicant's Professional Engineer showing all buildings, parking, driveways, on-site utilities, storm-water, drainage, landscaping, and wastewater systems. The Applicant shall provide two (2) paper copies and an electronic copy in ACAD R200, DXF format or format then acceptable to the Board.

83. Based upon the Professional Engineer's field observations and review of the final As-Built Plans, the applicant's Professional Engineer shall provide a Final Certification under his/her signature and seal, stating that the project construction fully conforms to the approved plans and all conditions or approval, or alternatively to identify all deviations from the approved plans and conditions of approval.

84. The Applicant shall provide a guarantee for all plant materials extending for one year following the date of submission of the Final As-Built Plans.

### **General**

85. If determined necessary by the Board, by March 30 of every year until the project is completed and all of the units have been sold, the Applicant shall cause an auditor selected or approved by the Board, to review the financial records of the project to determine whether the Applicant has conformed to the Limited Dividend requirements of Chapter 40B.



86. The Applicant shall submit copies of all State and local permits to the Board when they are received.

87. The applicant shall document any deeded or prescriptive easement rights that may exist on or for the Site.

88. At the expiration of all applicable appeal periods and after all appeals have been decided and prior to the commencement of construction, the Applicant shall record this decision in the Plymouth Registry of Deeds and shall provide the Board and the Building Department with documentation (book and page) of the filing of this decision or a copy of the decision with all recording information stamped thereon.

89. 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.

90. Upon execution by the members of the Board, the Clerk of the Board is directed to file this decision with the Town Clerk and send a copy of this decision to the Applicant by certified mail.

91. Any person 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.

92. This Permit is conditioned on the Applicant receiving financing in accordance with the Project Eligibility Letter from Mass Housing, issued May 22, 2003. In the event that financing in accordance with that letter is not available, this permit shall lapse. In the event of a lapse, the Applicant may re-apply to the Board for a new or amended Permit.

93. If the Building Inspector determines that Project plans are different from those approved by the Board or its consulting engineer, the Building Inspector shall forward the Plans to the Board for a determination as to whether these changes are substantial or not in accord with this decision. If the Board determines that the changes may be substantial, it shall decide whether or not to allow these changes at a public hearing.

94. If there is any dispute about whether the Project plans are being implemented in accordance with this decision, the disputants shall present



their concerns to the Board for its resolution. The Board shall determine the appropriate forum for the resolution of the dispute.

95. Additional site amenities (such as swimming pools, game courts, garages, sheds, and other amenities, including any paved surfaces) shall constitute changes to the approved site plan and shall require approval by the Board prior to construction. The Board shall determine whether or not the changes may require review at a public hearing.

96. The Board shall retain jurisdiction over the Project to ensure compliance with the terms and conditions of this decision.

97. The Project, both during and after construction and occupancy shall be and shall remain private and the Town shall not have any legal or financial responsibility for the construction, reconstruction, operation, upkeep, maintenance, repair, replacement or construction or reconstruction of any part or portion thereof, including but not limited to the following:

- All Roadways and parking areas
- Storm-water management facilities
- Snowplowing and ice removal
- Landscaping and Site work
- Trash Removal
- Street lighting and utilities
- All building upkeep, maintenance, repair and replacement
- Sub-surface sewage disposal facilities



98. The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of Tiffany Hill, Inc. The provisions and limitations of the Limited Dividend Organization shall apply to the project regardless ownership or encumbrance or the sale, transfer or assignment of the project. The final audit shall include all costs, profits and fees incurred as part of all sales, transfers or assignments.

### **Waivers**

99. 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, the Norwell Board of Health Regulations, and the Norwell Bylaws and Rules and Regulations* to the extent they are necessary to ensure that the Project is constructed in accordance with the final plans as approved by the Board of Appeals.



100. The project shall fully conform to requirements of the Planning Board's *Rules & Regulations* unless otherwise waived.



<b>Local Regulation</b>	<b>Description</b>	<b>Action</b>
Zoning Bylaw § 1230	Complaints and Fines	Section 1230 provides an administrative mechanism for enforcement of violation of the Zoning Bylaw. The requested waiver is denied.
Zoning Bylaw § 1322	Appeals and Variances	Waiver requests will be processed under Ch 40B not the procedural requirements of Ch 40A. This requested waiver is granted.
Zoning Bylaw § 1630	Building Permits to conform to future amendments of zoning bylaw	The requested waiver is granted.
Zoning Bylaw § 1710	Appeal provisions	Appeal procedures are specified in Ch 40B. The requested waiver is granted.
Zoning Bylaw § 2311a	Single one-family dwelling per lot	Limiting construction on the site to one-family detached dwellings with not more than one such dwelling located on any lot would preclude the proposed multifamily development. The requested waiver is granted.
Zoning Bylaw § 2316	Special Permit Procedures	The project is being processed under Ch 40B. The requested waiver to waive all special permit procedures is granted.
Zoning Bylaw § 2410	Minimum requirements	This waiver of Section 2410 inclusive of Sections 2411 and 2412 is denied.
Zoning Bylaw § 2441	Front yard setbacks	The applicant sought relief presumptively to allow construction of the retaining walls within the front yard setback. This waiver is no longer needed as the Board has precluded construction of walls as part of the septic system construction. The requested waiver is unnecessary and is denied.
Zoning Bylaw § 2442	Side and rear yard setbacks	Construction of 24 dwelling units will not require waiver of any side or rear yard setbacks. This waiver is unnecessary and is denied.
Zoning Bylaw § 2450(d)	Dwelling placement within circle	The applicant's memorandum revised on 5/12/04 indicates that each structure will be located within a 180-foot diameter circle and therefore conforms to the Bylaw. A waiver is unnecessary and is denied.
Zoning Bylaw § 2460	Height restriction of 34'	The requested waiver is granted subject to the specific limitation that

<i>Local Regulation</i>	<i>Description</i>	<i>Action</i>
		the building height will not exceed 37 feet.
Zoning Bylaw § 3156	Parking area landscaping	The requested waiver is granted.
Zoning Bylaw § 3157	Bicycle racks	Bicycle racks are an appropriate amenity and the requested waiver is denied.
Zoning Bylaw § 3320	Sign section	There is no reason that signage contravening the requirements of the Bylaw is required to facilitate this residential project. Accordingly and respecting the rural residential character of this segment of Tiffany Road, the requested waiver is denied.
Zoning Bylaw § 3324	Temporary sign permits	Section 3324 simply provides an administrative mechanism to facilitate review the size and layout of temporary signs. The requested waiver is denied.
Zoning Bylaw § 3340	Sign General Provisions Section	There is no reason that signage contravening the requirements of the § 3340 is required to facilitate this residential project particularly with setbacks that relate to safety and maintenance requirements which should be enforced. The requested waiver is denied.
Zoning Bylaw § 2472	Open Space Area	The 24 dwelling unit project approved by the Board would not require relief from the provisions of § 2472 that not less than one-third of the lot area shall be free of structures, paving, storage areas, or other elements which preclude vegetation. The requested waiver is unnecessary and is denied.
Board of Health Part 1.1	Enforcement by Approving Authorities	Based in part upon consideration of the recommendation of the Board of Health, this waiver is granted.
Board of Health Part 1.2	Expert consultant	Based in part upon consideration of the recommendation of the Board of Health, this waiver is granted.
Board of Health Part 1.3	Waivers	Based in part upon consideration of the recommendation of the Board of Health, this waiver is granted, subject to enforcement authorized under 310CMR 15.410.
Board of Health Part 2.1	Notice of 24-hours prior to construction	Based in part upon consideration of the recommendation of the Board of Health, this waiver is denied. Notification of the start of construction should not be burdensome on the applicant.
Board of Health Part 2.2	Deep observation hole tests	Based in part upon consideration of the

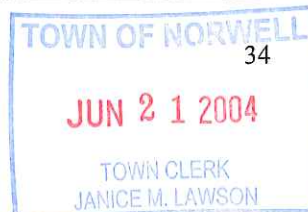




<i>Local Regulation</i>	<i>Description</i>	<i>Action</i>
		recommendation of the Board of Health, this waiver is denied. Additionally, our consulting engineer has specifically requested additional test locations.
Board of Health Part 2.3	High Groundwater Elevation Determination	Based in part upon consideration of the recommendation of the Board of Health, this waiver is granted.
Board of Health Part 2.4	Percolation testing	Based in part upon consideration of the recommendation of the Board of Health, this waiver is denied.
Board of Health Part 2.6	Special Permit for dewatered percolation testing	Based in part upon consideration of the recommendation of the Board of Health, this waiver is granted with respect to dewatered percolation tests.
Board of Health Part 2.8	Nitrogen sensitive	The requested waiver is granted subject to the limitation that the total bedrooms in the project do not exceed 38. The waiver is otherwise denied.
Board of Health Part 2.12	Mounded septic systems: setbacks and drainage requirements	The waiver is granted subject to the limitation that the total bedrooms in the project do not exceed 38. The waiver is otherwise denied.
Board of Health Part 2.13	Pump must be pressure-dosed	Pressure dosing is required under Title V for all systems having design flows in excess of 2,000 gpd. The requested waiver is denied.
Planning Board Rules 1.5	Definition of street	Given the role of the on-site driveway in providing vital access, use of standards for a street is appropriate. Holding the applicant to procedures for a scenic way should not be burdensome and could help preserve the character of Tiffany Road. Based in part upon the recommendation of the Planning Board, the requested waiver is denied.
Planning Board Rules 1.5	Definition of minor street	Requiring the driveway to conform with street standards for a minor street is appropriate given the nature of the 24-unit development. The requested waiver is denied.
Planning Board Rules 1.5	Number of dwellings per lot	Waiving the requirement to allow more than one dwelling unit on a lot is necessary to accommodate the proposed project. The requested waiver is granted.
Planning Board Rules 1.5	Scenic Road requirements	Maintaining the classification of Tiffany Road as a scenic way does not impose burdensome requirements on the applicant and may help to preserve some of the unique character of this



<b>Local Regulation</b>	<b>Description</b>	<b>Action</b>
		rural roadway. The requested waiver is denied.
Planning Board Rules 1.5	Definition of way	While the driveway shall be built to street construction standards for safety and durability, there is no reason to require creation of a "way" in terms of property ownership. The requested waiver is granted.
Planning Board Rules 1.14	Fees	The requested waiver is granted. However, the Board reserves the right under the Ch 40B process to mandate sufficient fees to ensure proper review and construction inspection.
Planning Board Rules 4.3	Areas to be preserved from development	The waiver is granted only to the provisions of paragraph E.
Planning Board Rules 4.4	Roadside planting removal requires permission of Planning Board	The Board grants the requested waiver but it is specifically limited to removal of specific trees shown on a final engineering plan to be approved by the Board.
Planning Board Rules 4.5	Disposal of tree stumps, limbs and brush	Proper and lawful disposal of brush is a safety, aesthetic, and environmental issue. Based in part upon the recommendation of the Planning Board, the requested waiver is denied.
Planning Board Rules 4.6	Location of streets	The driveway shall be constructed in accord with good engineering practice. Based in part upon the recommendation of the Planning Board, the requested waiver is denied.
Planning Board Rules 4.7	Width, alignment, and street grades	The requested waiver is granted except for the pavement width, maximum centerline grade, vertical curves, and leveling area are not waived.
Planning Board Rules 4.8	Dead End Streets	The length of the dead end street may slightly exceed 500 feet to accommodate the construction of 24 dwelling units and is granted.
Planning Board Rules 4.10	Type and dimensions of walls, slopes, fences and standard specifications	Section 4.10 establishes basic standards for safety and the requested waiver is denied.
Planning Board Rules 4.11	Construction of Roadway section	Section 4.11 establishes minimum construction standards consistent with good engineering practice. Based in part upon the recommendation of the Planning Board, the requested waiver is denied.
Planning Board Rules 4.12	Deviation from shoulder improvements	Shoulders are necessary for sight distance and to provide clearance to objects. The requested waiver is denied.
Planning Board Rules 4.13	Granite curbing	Precast concrete curb is acceptable.





<b>Local Regulation</b>	<b>Description</b>	<b>Action</b>
		The requested waiver is granted.
Planning Board Rules 4.14	Inspection of work, including costs and fees	Construction inspection will be provided by the engineer for the Board. The requested waiver is granted.
Planning Board Rules 4.16	Proper staking	The waiver is granted provided that the applicant can demonstrate an alternative means for controlling line and grade.
Planning Board Rules 4.18	Limits of excavation	The 24-unit development can be constructed in conformance with the requirements of 4.18. The requested waiver is unnecessary.
Planning Board Rules 4.19	Gravel removal permit requirements	Gravel removal should not be necessary to develop the 24 unit project, however should removal be needed it is granted as part of the 40B process.
Planning Board Rules 4.20	Drainage design to comply with Permanent Drainage Committee Regulations	The requested waiver is granted subject to the limitation that the total bedrooms on the site are limited to 38.
Planning Board Rules 4.21.2	Water main not to be within 3' of catch basis	The requested waiver is granted.
Planning Board Rules 4.21.4	Dead end water mains shall be looped	The installation of the water system shall meet the requirements of the Board of Water Commissioners and the Fire Department. The Board of Appeal will allow the applicant to review elimination of a looped water main with the Water Commissioners and Fire Department.
Planning Board Rules 4.22	Underground utilities require Planning Board approval	All utilities shall be placed underground. The requested waiver is granted with respect to not requiring Planning Board Review.
Planning Board Rules 4.23	Street light approval by Planning Board	Proper site lighting shall be provided in accordance with the design standards and recommendations of the Planning Board. The requested waiver is granted only with respect to approval of the lighting by the Board of Appeals under the 40B process.
Planning Board Rules 4.24.3	Easements for walkways	Walkways are to be provided for project residents; however, easements are not necessary. The requested waiver is granted solely with respect to not providing a separate easement.
Planning Board Rules 4.25	Dust and debris control approval by Planning Board	Suitable dust and debris control required. . The requested waiver is granted solely with respect to not requiring Planning Board approval.
Planning Board Rules 4.26	Park and Open Spaces	The provisions of 4.26 do not appear to apply to the project and the waiver is



<i>Local Regulation</i>	<i>Description</i>	<i>Action</i>
		granted.
Planning Board Rules 4.29	Street signs	The requested waiver is granted to allow a street sign where the driveway intersects Tiffany Road only but not on the site
Planning Board Rules 4.30	Construction of sidewalks approval by Planning Board	The requested waiver is granted to allow a sidewalk on one side only.
Planning Board Rules 4.31	Trees and Plantings requirements	The caliper and species of trees shall follow 4.31, however, the requested waiver is granted to allow the locations to be approved by the Board of Appeals under 40B.
Planning Board Rules 4.33	Local monument requirements	Monuments and bounds are required along Tiffany Road; however the requested waiver is granted to allow omission of bounds and monuments for the on-site driveway and property perimeter.
Planning Board Rules 5.4	Notice of Start of Construction	The requested waiver is granted.
Planning Board Rules 6	Waive entire section	The provisions of Section 6 shall be adhered to except that granite curb, platting a right-of-way, a turn around, and two sidewalks are waived.
Town of Norwell Bylaws and Rules and Regulations	Article XII Board of Appeals Rules and Regulations, rev. 5/7/03	Article XII was specifically adopted to facilitate processing of projects under Ch 40B. The requested waiver is denied.
Town of Norwell Bylaws and Rules and Regulations	Article XVI Removal of Soil, Loam, Sand or Gravel	Article XVI provides necessary public oversight to ensure safety and to limit damage to the environment. The requested waiver is denied.
Building Department	Waive all local fees for residential construction	Building department fees are necessary to help the town offset the cost of inspectional services. The requested waiver is denied.
Water Department	Waive all local fees required for connection to public water supply	Water Department fees are necessary to help the town offset the actual cost of water service. The requested waiver is denied.

106. Waivers from any and all Town of Norwell rules, regulations and/or bylaws not specifically listed above are denied.





## **EXHIBIT A: File Inventory for Comprehensive Permit Decision**

*TIFFANY HILL, INC., Tiffany Road, Norwell MA*

05/12/04     **Exhibit 24:** Letter of 5/12/04 from the applicant's attorney relative to hearing status

05/18/04     **Exhibit 31:** Letter of 5/18/04 from Town Counsel responding to letter of 5/12/04 from applicant's attorney relative to hearing status

05/14/04     Email from Dick Heaton, Board's Financial Consultant to Lois Barbour noting inconsistencies in septic system design assumptions

06/09/04     Exhibit 33: Supplemental Peer Review for 48 units, prepared by Edwards & Kelcey, dated 4/13/04

### **ABUTTERS and RESIDENTS:**

Various     Letters from numerous abutters and neighbors

10/21/03     Letter of 10/20/03 from Abigail R. Childs, Environmental Scientist

02/18/04     Letter of 2/4/04 from Daniel and Stefanie Wallace to Town Clerk in opposition to the proposed project

02/11/04     Letter of 2/9/04 from Abigail R. Childs, Environmental Scientist, regarding the hydrogeological study

06/09/04     **Exhibit 34:** Photographs of effects of stormwater event on Tiffany Road across from the proposed construction site



## EXHIBIT A: File Inventory for Comprehensive Permit Decision

TIFFANY HILL, INC., Tiffany Road, Norwell MA

### APPLICATION, PLANS and REPORTS:

- 06/04/03 MassHousing Project Eligibility (Site Approval) Letter for **Tiffany Hill**, PE-92, dated 5/22/03
- 06/20/03 Original Application Packet with Supplemental Information, dated 6/18/03
1. Application
  2. Review Fees Letter, dated 6/18/03
  3. Development Narrative
  4. Jurisdiction Requirements
  5. Project Eligibility Letter
  6. Abutters List
  7. Site Control
  8. Tiffany Hill, Inc. Articles of Organization
  9. Development Team
  10. Preliminary Site & Building Plans and Building Tabulation
  11. Wetland Determination
  12. List of Waivers
  13. Marketing Plans
  14. *Pro forma*
- 07/03/03 **Exhibit 7:** Abutters List
- 07/16/03 **Exhibit 2:** Letter from Leeann Bradley, Wetland Scientist, of Outback Engineering, dated 7/16/03
- 07/16/03 **Exhibit 3:** Articles of Amendment for Tiffany Hill, Inc., as a Limited Dividend Organization, stamped by Corporation Division 7/16/03
- 07/16/03 **Exhibit 9:** Developer's Profile of previous construction experience
- 07/16/03 **Exhibit 10:** Letter of 7/16/03, signed by Bisher Hashem and Constance E. Hashem as parties to the Purchase & Sale Agreement for the property
- 08/26/03 **Exhibit 11:** Supplemental Information (Project Eligibility Application Packet), dated 8/22/03
1. Response to Board of Appeals letter dated 6/26/03
  2. Housing Starts Application
  3. Board of Appeals Project Eligibility Application Comment letter, dated 1/27/03 to Board of Selectmen
  4. Architectural Plans, issued 8/14/03, by BKA Architects, Inc.
  5. Building Unit Tabulation
  6. Affordable Distribution Plan, prepared by Outback Engineering Inc., dated 8/19/03
  7. Outback Engineering, Inc. Response to Board of Appeals letter of 8/8/03, dated 8/18/03





## EXHIBIT A: File Inventory for Comprehensive Permit Decision

TIFFANY HILL, INC., Tiffany Road, Norwell MA

8. Waiver requests
  9. Outback Engineering, Inc. Response to Town official comments, dated 8/19/03
  10. Project Experience
- 
- |          |  |
|----------|--|
| 06/20/03 | <b>Exhibit 4:</b> Existing Conditions Plan, Site Plan for 66 units, and Detail Sheet, prepared by Outback Engineering, Inc., dated 10/25/02                                |
| 03/30/04 | <b>Exhibit 16:</b> Existing Conditions Plan, Site Plan for 48 units, Detail Sheet, dated 10/25/02, prepared by Outback Engineering, Inc., revision date of 3/26/04         |
| 05/17/04 | <b>Exhibit 17:</b> Existing Conditions Plan, Site Plan for 44 units, and Detail Sheet, dated 10/25/02, prepared by Outback Engineering, Inc., revision date of 5/12/04     |
| 07/16/03 | <b>Exhibit 5:</b> Landscape Plans, prepared by Abbelline Inc. (not stamped), dated 6/22/99   |
| 06/20/03 | <b>Exhibit 6:</b> Tiffany Hill, Architectural Plans prepared by BKA Architects, Inc., 142 Crescent Street, Brockton MA 02301, dated 11/14/02                               |
| 08/07/03 | Tiffany Hill, Architectural Plans prepared by BKA Architects, Inc., 142 Crescent Street, Brockton MA 02301, dated 07/16/03 (25 sheets with S-2, Foundations Sheet missing) |
| 08/26/03 | <b>Exhibit 12:</b> Tiffany Hill, Architectural Plans prepared by BKA Architects, Inc., 142 Crescent Street, Brockton MA 02301, dated 08/14/03 (including Sheet S-2)        |
| 08/04/03 | <b>Exhibit 13:</b> Traffic Impact Assessment, report prepared by Abend Associates, dated 7/25/03   |
| 10/22/03 | Edwards & Kelcey Engineering Peer Review of Tiffany Hill, dated 10/22/03   |
| 03/30/04 | <b>Exhibit 14:</b> D'Amore Associates, Inc. report entitled "Field Investigation Report and Mounding Analysis", dated 3/24/04  |
| 04/13/04 | Peer Review by Woodard and Curran, dated 4/12/04   |
| 03/30/04 | <b>Exhibit 15:</b> Preliminary Drainage Calculations, dated 11/24/03, revision of 3/06/04  |
| 05/17/04 | <b>Exhibit 22:</b> Preliminary Drainage Calculations, dated 11/24/03, revision of 5/12/04, received 5/17/04  |
| 07/16/03 | <b>Exhibit 8:</b> Revised Waiver List, prepared by Outback Engineering, Inc., dated 7/16/03  |



## EXHIBIT A: File Inventory for Comprehensive Permit Decision

TIFFANY HILL, INC., Tiffany Road, Norwell MA

- 05/12/04     **Exhibit 18:** Revised Waivers, dated 5/12/04
- 18A: Zoning Bylaw Waivers (2 pages)
  - 18B: Board of Health Waivers (2 pages)
  - 18C: Planning Board Waivers (3 pages)
- 05/20/04     **Exhibit 21:** Revised *pro forma*, dated 5/20/04
- 06/09/04     **Exhibit 35:** Review of the *pro forma*, dated 6/8/04, prepared by H & H Associates
- 06/09/04     **Exhibit 25:** *Pro forma* analysis, dated 4/14/04, prepared by neighborhood attorney, J. Witten, Esq., for permitting twelve units
- 06/08/04     **Exhibit 28:** Draft Septic System conditions prepared by Edwards & Kelcey, dated 6/7/04
- 06/09/04     **Exhibit 26:** Draft Conditions of Approval, dated 4/14/04, prepared by J. Witten, Esq., attorney for neighborhood

### TOWN BOARD AND DEPARTMENT COMMENTS:

- 09/22/03     Water Department comment letter of 9/22/03
- 05/26/04     **Exhibit 29:** Norwell Planning Board comments, dated 5/25/04
- 05/26/04     **Exhibit 36:** Permanent Drainage Study Committee comments, dated 5/25/04
- 06/04/04     **Exhibit 30:** Norwell Fire Chief comments, dated 6/4/04
- 06/09/04     **Exhibit 32:** Board of Health waiver recommendations, dated 6/9/04



### CORRESPONDENCE:

- 06/26/03     **Exhibit A:** Letter to Delphic Associates LLC detailing application deficiencies
- 07/16/03     **Exhibit 1:** Letter of 7/16/03 from Delphic Associates in response to Board of Appeals letter of 6/26/03
- 07/25/03     Letter of 7/22/03 from Delphic forwarding copy of Project Eligibility Letter from MassHousing
- 08/08/03     Letter to Delphic Associates LLC, requesting PEA be submitted formally to Board with supplemental information and escrow
- 08/18/03     Letter of 8/12/03 from Delphic Associates LLC submitting additional plan copies
- 08/26/03     **Exhibit 11:** Letter of 8/22/03 from Delphic Associates responding to the Board letter of 8/8/03
- 09/30/03     Letter of 9/29/03 from applicant's attorney relative to escrow requirements



## EXHIBIT A: File Inventory for Comprehensive Permit Decision

TIFFANY HILL, INC., Tiffany Road, Norwell MA

11/10/03 Letter of 11/10/03 from ZBA to Delphic, requesting Stormwater Management Plan and Hydrogeologic Model

12/08/03 Letter of 12/8/03 from applicant's attorney relative to hydrological study and matrix response to peer review

12/10/03 Letter of 12/10/03 from Delphic regarding escrow

12/12/03 Letter of 12/10/03 from Edwards and Kelcey in response to letter of 12/8/03 from applicant's attorney

12/28/03 Fax of 12/28/03 from Outback Engineering to E&K relative to sample calculations for groundwater mounding "simplified method"

01/02/04 Draft memorandum from Edwards & Kelcey, dated 1/2/04, outlining "Key Site Development Issues"

01/13/04 Letter of 1/12/04 from Town Counsel to applicant's attorney requesting continuation of the hearing due to absence of a sitting member and deficiencies in anticipated progress relative to site engineering

02/04/04 Board letter of 2/4/04 requesting additional escrow of \$7,500.

05/12/04 Letter of 5/12/04, from Outback Engineering, Inc. formally submitting the following information:

- Complete set of Preliminary Comprehensive Permit plans
- Complete set of Drainage Calculations, dated 5/12/04
- 5-page response letter from Outback Engineering, dated 5/12/04
- 2-page specification document from Poly-flex liners (relating to the drainage basin)
- 2-page waiver list of the Board of Health regulations from Outback Engineering, 5/1/04
- 2-page waiver list of the local zoning regulations from Outback Engineering, 5/12/04
- 3-page waiver list of the Subdivision rules and regulations from Outback Engineering, 5/12/04
- 2-page letter from Souhegan Valley Engineering, 5/6/04
- 8-page report from R. C. Shaw Sprinkler Co., 8/20/03
- 4-page response letter from D'Amore Associates, 5/7/04
- 3-page comment letter from Woodard & Curran, 4/12/04
- 10-page comment letter from Edwards & Kelcey, 4/13/04

05/12/04 **Exhibit 19:** D'Amore Associates letter of 5/12/04 to Bisher Hashem relative to peer review reports of 3/24/04

05/12/04 **Exhibit 23:** Letter of 5/12/04 from Outback Engineering responding to Edwards and Kelcey peer review letter of 3/13/04 relative to D'Amore Associates report

05/12/04 Photographs of wall details from Randall Bragdon, P.E.



Lois S. Barbour  
Lois S. Barbour

6/21/04  
Date

Rosemary T. Durica  
Rosemary T. Durica

6/21/04  
5/21/04 Rd.  
Date

David Lee Turner  
David Lee Turner

6/21/04  
Date

Date Filed with Office of the Town Clerk

