



TOWN OF HINGHAM

Board of Appeals

COMPREHENSIVE PERMIT

IN THE MATTER OF:

Applicant: River Stone, LLC
Brian Murphy, Manager
293 Washington Street
Norwell, MA 02061

Owner: Viking Lane LLC & Red Castle LLC

Property: Off Ward Street (Map 124, Lots 70-75 and 26)

Deed Reference: Plymouth County Registry of Deeds, Book 42466, Page 122
and Book 45511, Page 300



SUMMARY OF PROCEEDINGS:

This matter came before the Zoning Board of Appeals (the "Board") on the application of River Stone, LLC (the "Applicant") for a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Sections 20 through 23, as amended. The Applicant's application, as modified (the "Comprehensive Permit Application" or the "Application"), requests the construction of a 32-unit condominium development, including 8 units qualifying as Low or Moderate Income Housing, to be called "River Stone" (the "Project"), on approximately 6.7 acres of land located off Ward Street (the "Property"). The Application included a letter, dated March 16, 2016, from the Massachusetts Housing Finance Agency ("MassHousing"), acting as Subsidizing Agency, granting the Applicant Project Eligibility/Site Approval (the "Project Eligibility Letter") for the proposed project.

Capitalized terms used in this decision and not herein defined shall have the meaning set forth in Massachusetts General Laws Chapter 40B ("Chapter 40B") and 760 CMR 56.00 et seq. ("40B Regulations").

The term "Project Plans" as used in this Comprehensive Permit shall mean the plans, studies, reports and other submissions of the Applicant made in connection with the Comprehensive Permit Application, as more particularly defined in Attachment A.

The term “Approved Plans” as used in Attachment B hereto shall mean the Project Plans, as the same shall be revised in accordance with the Conditions set forth in Attachment B, together with the representations made to the Board by the Applicant in connection with the Comprehensive Permit Application for the Project, all of which were relied on by the Board in its vote to grant the Comprehensive Permit.

Public hearings on the matter were held by the Board over the course of several months. The proceedings commenced on April 27, 2016, and continued to May 11, 2016. By letter dated May 12, 2016, with a copy to the Department of Housing and Community Development (“DHCD”), the Board notified the Applicant pursuant to 760 CMR 56.03(8)(a) that the Board considered that a denial of the permit or the imposition of conditions or requirements would be Consistent with Local Needs in accordance with the applicable 40B Regulations. Thereafter, the procedures of 760 CMR 56.03(8) were followed by the Board, the Applicant, and DHCD, ultimately resulting in an appeal by the Board to the Housing Appeals Committee (“HAC”) and issuance by the HAC of an Interlocutory Decision Regarding Safe Harbor on October 31, 2017. As set forth in the 40B Regulations, the foregoing process resulted in a tolling and then a stay of the hearings of the Application before the Board.

Following issuance of the HAC’s Interlocutory Decision and the resulting conclusion of the stay on October 31, 2017, the Zoning Administrator contacted the Applicant and its representatives to discuss the hearing schedule. During an informal meeting with staff, the Applicant indicated that the plans had been revised in an effort to address some of the concerns presented during the initial hearings. The Applicant agreed to submit the revised plans on November 22, 2017, so that peer review could be completed in advance of the public hearing, which was scheduled to resume on December 19, 2017; however, the revised plans and requested peer review funds were not delivered by the date to which the Applicant committed.

During the public hearing on December 19, 2017, the Board discussed with the Applicant the impact of the delayed submission on the hearing scheduled. At a continued public hearing held on December 21, 2017, the Board received the revised conceptual site layout, which reduced the number of residential units to 32 from the originally proposed 36-units.

Continuances and extensions of the hearing deadline after expiration of the stay were made upon the request of, or agreed to by, the Applicant. The Board continued its review of the Project during subsequent public hearings held on January 11, 2018, January 25, 2018, February 6, 2018, February 13, 2018, February 27, 2018, March 26, 2018, April 9, 2018, and April 25, 2018. During the April 25, 2018 hearing, the Applicant’s representatives confirmed that no additional information would be submitted in order to address issues raised by the Board and its technical consultants, in addition to concerns expressed by other town departments and the public.

As occurred at the re-commencement of the hearing in December, 2017, and through-out the entirety of the hearing, the Applicant and its consultants repeatedly delayed delivery of

information reasonably requested by the Board, even when the Applicant promised to provide such information by a date certain, and in some cases the Applicant failed to deliver to the Board certain information promised at multiple hearings, or declined to provide certain information at all. Therefore, the Board, in granting the comprehensive permit, has appropriately required the submission of supplemental plans and reports for review by appropriate town officials or the Board's peer review consultants, without further review and approval by the Board.

Following the conclusion of peer review, the Board then presented the Applicant with a list of draft conditions and waiver denials during a hearing held on May 3, 2018. The Applicant provided its response to the draft conditions and waiver denials on May 16, 2018, indicating that the Applicant did not agree to a number of the proposed conditions and waiver denials as the Applicant alleged that they would render the Project Uneconomic. Pursuant to the Regulations, the Board then requested that the Applicant submit financial statements for the Project to demonstrate the impact of the proposed conditions and waiver denials. The Board reviewed the Applicant's pro forma submission during subsequent public hearings held on May 30, 2018, June 13, 2018, and June 26, 2018, at which time the Board and its peer review consultant requested clarification and additional information necessary to determine the impact of the proposed conditions and denied waivers on the project. Again, the Applicant declined to provide the information as reasonably requested by the Board.

The Board continued its deliberation following the conclusion of the public hearing on June 26, 2018, and voted unanimously on July 31, 2018, to issue a Comprehensive Permit for the Project subject to the waivers and conditions contained herein.

Public hearings before the Board were held at Town Hall, 210 Central Street, Hingham, MA, before a panel consisting of regular member Joseph M. Fisher, Acting Chairman, and associate members Joseph W. Freeman and Mario Romania, Jr. Mr. Romania was unable to attend a session of the public hearing held on December 19, 2017, but participated in all subsequent proceedings and complied with the provisions of MGL c. 39, s. 23D.

Appearing on behalf of the Applicant throughout the hearings was its Manager, Brian Murphy. The Applicant's development team also included: Bradley C. McKenzie, P.E., McKenzie Engineering Group; Ronald Müller, P.E., Ron Müller & Associates; and Axiom Architects. Attorney Warren Baker, Baker, Braverman & Barbadoro, P.C., provided legal representation for the Applicant.

The plans and other submission material were reviewed by the Board and its technical consultants, including: Traffic Engineer, Jeffrey S. Dirk, P.E., PTOE, FITE, Vanasse & Associates, Inc.; Civil Engineer, Patrick G. Brennan, P.E., Amory Engineers, P.C.; Wetland Scientist, John Zimmer, South River Environmental; Financial Consultant, Robert Stankus, CPA, CFE, CVA, CBIZ; and Special Counsel, Susan C. Murphy, Esq., Dain, Torpy, Le Ray, Wiest & Garner, P.C. A number of Town departments and Local Boards provided information to assist the Board with its review of the Project. Substantial public comment was also submitted for the record by abutters and

other members of the public. Throughout its deliberations, the Board has been mindful of the statements of the Applicant and their representatives, and the comments of the general public, all as made at the public hearings and as submitted in the public record.

PROJECT DESCRIPTION:

The Property, located off Ward Street, includes multiple parcels of land with a combined area of 6.7 acres located off Ward Street. At present the Project site primarily consists of areas of open and wooded space that are bisected by Viking Lane, a partially constructed subdivision road. An existing single-family dwelling is also located on a portion of the Property.

Onsite elevations vary from approximately 86 ft. in the southwestern portion of the Property near Ward Street to approximately 58 ft. in the eastern portion of the Property adjacent to a wetland resource area. Wetland resource areas, which include a vernal pool and bordering vegetated wetlands, affect approximately 0.36 acres of the property.

The Property is bound by residential properties to the north; Ward Street and residential properties to the south; residential properties and low-lying wetland areas to the east; and Ward Street and residential properties to the west. Surrounding residential properties consist primarily of one to two-story, wood-framed, single-family dwellings.

The Project Plans as revised depict a townhouse-style development with a total of 32 dwelling units. The units would be dispersed among 12 separate buildings, which include from 1 to 4 units each. An attached two-car garage is included with each dwelling unit. The existing dwelling on the Property would be razed in connection with the Project.

Two of the proposed buildings and portions of an expanded stormwater management facility will be located within the 50' buffer to the onsite bordering vegetated wetlands. These improvements as well as portions of both a third building and Road C are located within the 100' buffer to the onsite vernal pool.

A wastewater collection system will convey flows to a shared wastewater treatment system. The only recreational space for the Project is sited over the Soil Absorption System.

The principal vehicular access to the Project is provided via Ward Street. Secondary access is proposed through a claimed access easement to Autumn Circle. Four roadways, each with a sidewalk on one side, will provide vehicular and pedestrian access to the buildings within the Project. The Project Plans propose a total of 142 parking spaces, including 14 spaces designated for visitors and the mail kiosk.

Twenty-five percent, or eight of the units, will be made available to households earning less than eighty-percent area median income.

DISCUSSION:

During its review, the Board addressed (a) the status of the Town's compliance with the Statutory Minima and Safe Harbor criteria, and (b) the consistency of the Project with Local Needs, including the design of the Project and the potential impacts of the Project on public and private infrastructure and the surrounding neighborhood and environment. The Board received submissions and heard testimony from the Applicant, residents, Town officials, and its consultants. Much of the information provided concerned issues related to design and density, traffic, wetland resource areas, and the private wastewater system. Throughout the hearing process, the Board made numerous requests for additional information from the Applicant. After presenting the Applicant with its proposed conditions, the Board also requested and received Project financial information. The following is a summary of the issues discussed by the Board throughout the extensive public hearing process.

Statutory Minima

The Project Eligibility Letter confirmed that the Applicant is able to meet the limited dividend status requirement of 760 CMR 31.01(1)(a), the fundability requirement of 760 CMR 31.01(1)(b), and the site control requirement of 760 CMR 31.01(1)(c), thereby allowing the Applicant to file a Comprehensive Permit Application before the Board.

The Board notified the Applicant, both during its hearing on May 11, 2016 and by way of correspondence, dated May 12, 2016, sent on behalf of the Board by its counsel, Kerry Ryan, Esq., Morrissey, Wilson & Zafiroopoulos, LLP (the so-called "Safe Harbor Letter"), that a denial of the Comprehensive Permit or imposition of conditions would be Consistent with Local Needs on the grounds that the *Statutory Minima* as defined at 760 CMR 56.03(1) has been satisfied. The Applicant filed its opposition to the Board's Safe Harbor Letter with the Board and DHCD, by letter of its counsel, dated May 20, 2016. DHCD issued a decision, dated June 16, 2016, finding in favor of the Applicant. On July 6, 2016, the Board filed an appeal with the HAC. The HAC issued an Interlocutory Decision on October 31, 2017 that upheld the decision made by DHCD, at which time the hearing before the Board on the merits of the Application resumed as required by the 40B Regulations.

The Board disagrees with the holding of the Interlocutory Decision. However, pursuant to 760 CMR 56.03(c), any appeal of the HAC's ruling may not be taken until after the Board has completed its hearing and the HAC has rendered a decision on any subsequent appeal. As the continuation of the hearing after issuance of the HAC's ruling in the Interlocutory Decision is mandated by the 40B Regulations and an immediate appeal of the HAC's ruling was prohibited, the Board's granting of this comprehensive permit is without waiver or contradiction of the Town's position regarding compliance with the Statutory Minima, and shall not be construed or interpreted as a waiver of the Town's position regarding its affordable housing stock status under M.G.L. Chapter 40B and the 40B Regulations.

Design Intensity and Density

As noted in the Procedural History, the Applicant reduced the number of residential units within the Project from the originally proposed 36 to 32.

The Property is located in the Residence B zoning district, which requires a minimum lot area of 30,000 SF. The surrounding neighborhood consists primarily of single-family homes largely developed prior to adoption of this standard. As a result, direct residential abutters to the Project have on average approximately 23,000 SF of land area per dwelling. The Project would result in an average density of 9,080 SF per unit, which is significantly less land area per unit than either required by current standards for similar unsubsidized housing or than exists in the existing established neighborhoods.

The manner in which the buildings relate to adjacent streets and adjoining properties is important. Unlike the surrounding neighborhood, the Project Plans locate a number of the proposed units with the rear façade facing the southerly Ward Street frontage. Additionally, the proposed front yard setback resulting from the private rear decks for each of the dwellings in a 3-unit building is just 5.7' where 35' is required in Residence B. Direct abutters on Ward Street exceed this standard with an average front yard setback of 44'. The proposed orientation and proximity of these units to Ward Street is incongruous with the existing development pattern.

The proposed side and rear yard setbacks shown on the Project Plans are likewise inconsistent with adjacent, existing development. In order to protect Local Concerns, including neighborhood development patterns and privacy of abutters, the Board discussed greater setbacks and landscaped buffers.

As noted in the Project Description, the onsite topography varies significantly. The proposed plan calls for dramatic alteration of this natural topography, necessitating the removal of large amounts of ledge and installation a number of retaining walls. One proposed wall in particular is proposed to be approximately 20' in height within 6' of the side of Unit 23 and 1' of the rear deck of Unit 24 as shown on the Project Plans. The Board and its consulting engineer noted design and safety concerns associated with the wall, as well as impact on light and air for the adjacent unit.

Access, Internal Traffic, Pedestrian, and Parking Impacts

The Board also discussed at length access, traffic circulation and safety internal to the Project.

At the time of issuance of the Project Eligibility Letter, the Project Plan did not propose secondary access to Autumn Circle through a purported easement. However, both the Board's traffic engineer and public safety officials confirmed the need for secondary access to the site. The Applicant then modified the Project Plans to address the need for secondary access by adding a connection to Autumn Circle over private property off-site and not under the control of the Applicant. Abutters to the Project informed the Board that they dispute the Applicant's

rights as a matter of title to create this secondary access, raising serious issues of the Applicant's control of site access and ability to provide necessary secondary access to the Project. A lawsuit brought by the owners of the land where the Applicant has alleged easement rights is currently pending before the Massachusetts Land Court. The Board also gave particular attention to the width of the internal roadways. The Project Plans propose roadways that are 20-feet in width. The Board's Traffic Engineer advised the Board that for safe circulation within the site, particularly the ability of emergency vehicles to navigate the site, the roadways should be increased in width to 24-feet based on applicable roadway design standards established by the Institute of Transportation Engineers, American Association of State Highway and Transportation Officials, and the Massachusetts Highway Department. The Board's Traffic Engineer noted that the fire truck turning analyses demonstrate that portions of the fire truck design vehicle would traverse both sidewalks and driveways when circulating through the site, creating a public safety concern.

Sidewalks, 5-feet in width, are provided on one side of each internal roadway. Since the Project creates the potential for cut-through traffic between Ward and High Street and the proposed sidewalks are located directly adjacent to the traveled-way, the Police Chief recommended that vertical granite curbing be installed to protect pedestrians from vehicles.

The Project includes a total of 142 onsite parking spaces, including 14 spaces designated for visitors and the mail kiosk. None of the visitor parking spaces will be located in the immediate vicinity of the proposed school bus stop at the primary access driveway on Ward Street. The proposed 20- roadway width is insufficient to accommodate vehicles that may be temporarily parked on Road C while parents or caregivers await the school bus. This presents an additional concern related to maneuvering of emergency vehicles into the site from the primary access on Ward Street.

In order to accommodate maneuvering requirements of emergency vehicles, in addition to occasional on-street parking, particularly in the vicinity of the proposed school bus stop for the Project, and parking maneuvers to and from the proposed visitor parking areas, the Board discussed imposition of a number of onsite traffic-related conditions, which were based on recommendations made the Board's traffic engineer.

Public Health Impacts

The Project falls under the jurisdiction of the Hingham Board of Health pursuant to Title 5, 310 CMR 15.000, of the State Environmental Code ("Title 5") and the Hingham Board of Health Supplementary Rules and Regulations for the Disposal of Sanitary Sewage ("BOH Rules"). The Applicant provided only minimal information regarding the system claiming that the system would comply with Title 5, and requested inappropriate blanket waivers of all of the local BOH Rules.

However, the Hingham Board of Health ("BOH") offered substantial input on the Application to the Board. The BOH expressed particular concern with the Applicant's requested waiver from

Section VI.8 of the Supplementary Rules and Regulations, which provides that no septic system may be designed to discharge more than 110 gallons of design flow per day per 12,500 square feet of lot area. Section VI.8 is the only regulatory construct the Town has to protect against the recognized risk to human health from the introduction of excessive nitrogen into drinking water sources. These risks include death related to methemoglobinemia (blue baby syndrome) Sudden Infant Death Syndrome, and has been linked to fetal and birth defects and miscarriages. The only protection for residents against excessive groundwater contamination is to limit its introduction since treatment processes at either the private well or community water supply source cannot filter excessive nitrogen.

After completing an evaluation of both private drinking water wells and potential public drinking water sources in the surrounding area, the BOH emphasized to the Board the need to mitigate increases in nitrogen in the groundwater resulting from the Project. In response to challenges by the Applicant to the BOH's concerns, the BOH assembled and reviewed relevant scientific data, prepared maps and calculations, and submitted to the Board a number of written memoranda. The BOH provided the Board with material facts to support its opposition to the grant of certain waivers from the Hingham Supplementary Rules and Regulations for the Disposal of Sanitary Sewage. These facts, which relate both to private wells and potentially productive public water supply aquifers in the surrounding area, include the following:

Numerous properties surrounding the Project site depend on private wells for their potable water supply. These include 10 residential properties. In addition, the adjacent Jehovah's Witness Church at 90 Ward Street is served by a private well for both domestic and community purposes. The BOH indicated that this particular well is classified as a "Transient Non-Community Water System" under 301 CMR 22.02(1). The BOH deems the Project to be within an "Area Dependent on Private Wells," as described in Title 5, that would warrant protection from unacceptable levels of nitrogen being introduced into the groundwater.

The BOH also considered the public health impacts of the Project on a "Potentially Productive Aquifer" located beneath the extensive wetlands on the opposite side of Ward Street from the Project. This Aquifer is identified as a "high to medium yield" on state GIS mapping. Since the local water supply system has approximated its registered withdrawal limit in recent years, including withdrawals of 97% and 99% of the registered limit in 2014 and 2015 respectively, new and potentially productive sources of water are critical to the Town. In an effort to find new sources of water to serve its customer base, the Aquarion Water Company recently identified two Candidate Groundwater Exploration Sites within this aquifer on land opposite the Project site. The BOH believes that absent adequate protection from nitrogen contamination, the Project would have an irreversible negative affect on the ability of these potential public drinking water sources to serve the Town's needs.

The BOH noted that its approach to limiting nitrogen loading through a square footage/bedroom regulatory construct, which includes partial relief from the local standard, would still allow the Applicant to build a sizeable residential project on the Premises, while protecting the public water supply. The Board discussed alternative nitrogen treatment options

that would similarly provide protection for both existing private drinking water wells and potential public drinking water sources.

During its discussion on the Applicant's waiver request from Section VI.8, Board members noted that the BOH has consistently enforced the requirement on other developments within the Town and there is no effort to hold affordable projects to a different or higher standard. Based on the documentation provided by the BOH, the Board found that a partial waiver of Section VI.8 of the BOH local regulations could be granted. The Board resolved to uphold health and safety standards that address Local Concerns and are Consistent with Local Needs through the imposition of conditions that would mitigate any potential nitrogen-related impacts resulting from the Project.

Wetland Impacts

The Project falls under the jurisdiction of the Hingham Conservation Commission pursuant to the Wetlands Protection Act and related regulations, G.L. c. 131, § 40-40A, 310 CMR 10.00 (collectively, the "Wetlands Act") and the Hingham Wetlands Protection By-Law and local regulations. In reviewing the consistency of the Project with Local Needs, the Board consider issues arising under the Hingham Wetlands Protection By-Law and local regulations.

Portions of the proposed construction, including more than 4 units and the majority of the development's onsite stormwater management facility, are located within 100' of a wetland resource area. The deck for Unit 12 in particular would extend to within approximately 6' of the onsite bordering vegetated wetland, specifically from wetland flag A4. This area was also positively identified as a vernal pool by the Board's consulting Wetland Scientist after confirmation that it meets both the physical and biological criteria established both under the Hingham Wetlands By-Law and the Massachusetts Natural Heritage and Endangered Species Program.

In a number of submissions to the Board, both the Conservation Officer and the Board's consulting Wetland Scientist expressed concern that the proposed buffer area between the Project and the onsite vernal pool and bordering vegetated wetland system would be inadequate to both preserve the health of the habitat and ecosystem and to reduce the potential for pollutants to reach these resources. In order to mitigate these impacts to some degree, the Board found that additional buffers and plantings are appropriate conditions to protect the health and safety of the environment and the residents of the Project and the Town.

Offsite Traffic Impacts

A 2016 Traffic Impact and Access Study (TIAS) submitted in support of the Project, and reviewed by the Town's peer review traffic engineer, evaluated expected impacts on transportation infrastructure on Ward Street and the roadway network proximate to the Property.

The Project, as originally contemplated at 36 units, is projected to generate 210 vehicle trips on a weekday daily basis. The TIAS evaluated expected trip distribution from the Project, finding that 75% of the site traffic will be oriented to/from the north on Ward Street. This distribution raises particular concern as the intersection of French/Ward/High Streets is located to the immediate north of the Project site and presently experiences both safety and operating issues that would be intensified by the Project. The Applicant has agreed to facilitate completion of a Road Safety Audit in order to identify both short and long term measures that will improve safety at the intersection and mitigate in part Project-related impacts.

The TIAS also included vehicle speed data for Ward Street collected in March and April 2016. During the extended hearing process, the Hingham Police Department provided the Board with updated data, which indicate that the vehicle travel speeds on Ward Street in 2018 are significantly higher than those measured by the Applicant in 2016. The higher approach speeds on Ward Street affected the required minimum sight distance for safe operation at the Applicant's initially proposed access drive on the Property's northerly Ward Street frontage, which was in the same approximate location as the existing partially constructed subdivision roadway known as Viking Lane. In order to attain required minimum sight distance and ensure that sight lines for motorists exiting the Project to Ward Street would be contained entirely within land under the control of the Applicant or within the Town-owned layout along Ward Street, the Applicant relocated the primary access. As revised, primary access would be created from the Property's southerly frontage on Ward Street, approximately 650-feet from the originally proposed location. The remnants of Viking Lane would be removed from the Property.

Subsequent to submission of the Application and 2016 TIAS, the Applicant modified the Project Plans to include secondary access to the site from Autumn Circle by way of an "access road" through a purported access easement or right of way, which extends over a public drainage easement and through portions of abutting property. Abutters to the Project dispute the Applicant's rights as a matter of title to create this secondary access through the Autumn Circle access road. At the time of issuance of this Comprehensive Permit, the Land Court allowed in part the abutters motion for preliminary injunctive relief, ordering that the Applicant be enjoined and restrained from entering on or altering the way. The Project Plans continue to propose secondary access by way of the Autumn Circle access road. As matters related to title and site control fall outside the Board's jurisdiction, members resolved to review the Project Plans as proposed, but additionally to require a secondary means of access to the Project in the event that the Courts or Subsidizing Agent determine that the Applicant does not have rights in the way.

In connection with this proposed secondary access with a connection over private property to Autumn Circle, as discussed above, the Project Plans also propose to reconfigure the existing Autumn Circle cul-de-sac into a modern roundabout in order to provide some form of traffic control and calming. However, the roundabout design as provided by the Applicant does not include sufficient detail to demonstrate the adequacy of the roundabout to accommodate

emergency response vehicles. Additionally, the proposed roundabout appears to inhibit access to abutting residential properties that front on the existing cul-de-sac. Concerns remain related to travel speeds and increased traffic, including traffic generated by the Project and potential cut-through traffic between Ward Street and High Street, that will be using Autumn Circle.

In order to mitigate impacts on traffic operations, safety, and/or pedestrian access in the study area, which includes Ward Street, the High/French/Ward Street intersection, and Autumn Circle, the Board discussed imposition of a number of offsite traffic-related conditions, which were based on recommendations made by both the Applicant's and the Board's traffic engineers.

FINDINGS AND DECISION:

Upon a motion made by Joseph W. Freeman and seconded by Mario Romania, Jr., the Board voted unanimously as follows:

That the Zoning Board of Appeals, after extensive public hearings and evaluation of the testimony and documents submitted by the Applicant, neighbors, Town Officials and peer review consultants, vote to make the following findings and to grant the Comprehensive Permit for the Project shown on the Project Plans described in Attachment A subject to the Comprehensive Permit Conditions as described in Attachment B, and to grant certain Comprehensive Permit Waivers and to deny certain Comprehensive Permit waivers, respectively, as expressly set forth in Attachment C, which findings and Attachments are expressly incorporated into this vote by reference and are each deemed by the Board to be an integral part of this Comprehensive Permit. The findings are as follows:

(1) The Board undertook its review of the Comprehensive Permit Application and is rendering this decision in a manner consistent with the following (collectively referred to herein as "Chapter 40B"): (a) Massachusetts General Law Chapter 40B, Sections 20 through 23 ("MGL 40B"); (b) the regulations promulgated thereunder at 760 CMR 56.00 et seq. (the "40B Regulations"); (c) the "Chapter 40B Handbook for Zoning Boards of Appeal" published March 2017 (the "40B Handbook"), and (d) the case law interpreting all of the foregoing.

(2) While there may be a regional need for Low and Moderate Income Housing, the Project must be subject to appropriate conditions as identified in Attachment B, and several of the requested waivers must be denied in whole or in part as described in Attachment C, because:

(a) The Applicant repeatedly delayed, or failed altogether, to make timely submissions of materials consistent with 760 CMR 56.05(2) and in response to reasonable requests of the Board that were consistent with its powers under 760 CMR 56.05, including requests pursuant to the local rules adopted by the Board pursuant to 760 CMR 56.05(1), which requested submissions did not exceed those required by the rules and procedures of Local Boards for review under their respective jurisdictions and which were necessary for the Board to evaluate the consistency of requested waivers with Local Concerns;

(b) To the extent the Board was able to review the Project based on the limited submissions by the Applicant, the record of the hearing demonstrates that the conditions imposed by the Board and the waivers of Local Rules and Regulations denied by the Board are necessary to address Local Concerns including the need to protect the health and safety of the occupants of the Project and the residents of the Town, to protect the natural environment, and to promote better site and building design in relation to the surrounding residential neighborhood;

(c) To the extent the Applicant has alleged that one or more of the conditions and/or denied waiver requests render the Project Uneconomic, and such conditions and/or denied waiver requests are found by a court of final jurisdiction to be Uneconomic, such conditions and denied waiver requests are Consistent with Local Needs as the record of the hearing demonstrates that the imposition of such conditions and of applicable Local Requirements and Regulations is reasonable in view of the regional need for Low and Moderate Income Housing, considered with the number of Low Income Persons in the affected municipality and with Local Concerns, and as the Board has applied the applicable Local Requirements and Regulations in a manner either equal to or more liberal than they are applied to unsubsidized housing; and

(d) As of the date of the filing of this Application, Low or Moderate Income Housing has existed in the Town of Hingham which is in excess of ten percent (10%) of the year-round housing units reported in the latest federal decennial census of the Town, thereby meeting the standards for the Statutory Minima as set forth in the letter to the Applicant, dated May 12, 2016, from Attorney Kerry T. Ryan, that was sent on behalf of the Board.

(3) Without limiting the foregoing findings with respect to all conditions to be imposed by this Comprehensive Permit and the requested waivers denied by the Board, the Board specifically finds:

(a) With respect to conditions requiring submission of more detailed plans and reports and review of those plans and reports by the Zoning Administrator, by other appropriate town officials (such as the building commissioner) or by the Board's peer review engineers, such conditions are appropriate under Chapter 40B as the conditions merely require submission and approval of additional plans concerning issues that were not adequately addressed in the preliminary plans submitted with the Applicant's Comprehensive Permit Application and do not require further hearing and approval by the Board.

(b) Conditions requiring minimum setbacks from Ward Street, from abutting properties, and from retaining walls, and requiring minimum separation between units within the Project, which required setbacks and separations are greater than those proposed by the Applicant, but equal to or less than those required by applicable local zoning regulations, and the denial of the Applicant's requested blanket waivers of local setback requirements, such actions by the Board are Consistent with Local Needs because the record of the hearing demonstrates that the conditions address both the intensity on the site with respect to the height, bulk and placement of the proposed Project, the physical

characteristics of the proposed Project, the density of the site with respect to the lack of adequate setbacks and landscape buffers between the structures in the proposed Project and the existing established neighborhoods, and the adequacy of open areas within the Project site.

(c) Conditions requiring that the width of internal roadways and sidewalks be greater than proposed by the Applicant, and that additional sidewalks be constructed within the site, are Consistent with Local Needs because the record of the hearing, including testimony provided by the Board's professional traffic engineer and the Hingham Fire Department, demonstrates that the Applicant's proposed arrangements for dealing with the traffic circulation within the site are inadequate and do not meet recognized industry standards with the result being that emergency vehicles and pedestrians would be unable to safely navigate the internal roadways as proposed.

(d) Conditions requiring two means of access to the Project, including a condition that an alternative secondary access be provided if it is determined that the Applicant has no legal right to access Autumn Circle over private property, are Consistent with Local Needs because the record of the hearing, including testimony provided by the Board's professional traffic engineer and Hingham's public safety departments, demonstrates that the occupants of the Project cannot be adequately protected without a second means of access, and because a recent decision of the Massachusetts Land Court related to rights to access Autumn Circle that was submitted into the record of the Board's hearing by parties to the pending Land Court case indicates that the Applicant may not have a colorable claim to title in an asserted access easement thereby raising an ownership or control issue which adversely and substantially affects the development of the proposed project such that the Board need not, and cannot responsibly, ignore the reality of the potential impacts on the Project Plans.

(e) Conditions requiring off-site traffic mitigation to address impacts at the French/Ward/High Street intersection and on Autumn Circle, if it remains as the second means of access to the Project, are Consistent with Local Needs because they are necessary to mitigate identified and direct safety impacts that will be caused by the Project due to the traffic that will be generated by the Project on adjacent streets.

(f) Conditions requiring compliance with the local wetlands bylaw provisions and regulations governing vernal pools including, without limitation, Section 2C of the Hingham Wetlands Protection Bylaw and Section 19.1(c) of the Hingham Wetlands Regulations, and the denial of blanket waivers of such bylaw provisions and regulations, are Consistent with Local Needs as a vernal pool has been confirmed on the Project Site by the Board's peer review wetlands scientist through identification of a vernal pool species and other recognized indicia of a vernal pool.

(g) Conditions requiring partial compliance with local Board of Health Supplementary Rules and Regulations for the Disposal of Sanitary Sewage, including, without limitation, Section VI(8) thereof, to reduce the risk of nitrogen levels in nearby potable wells, and the denial of blanket waivers of such regulations, are Consistent with Local Needs because the record of the hearing demonstrates that, due to the proximity of several potable wells to the Project site, compliance with state Title 5 standards alone is insufficient where the identified important local health concern, maintaining clean groundwater servicing local private wells, is not adequately protected by compliance with applicable state standards.

(4) While, pursuant to 760 CMR 56.05(6), the Applicant submitted to the Board its pro forma, purportedly revised to reflect the additional cost of meeting the Board's proposed conditions and/or waiver denials, and which purports to demonstrate that certain conditions of the Comprehensive Permit render the Project Uneconomic, the Applicant failed to provide sufficient information in such revised pro forma to substantiate such claims, or to identify how specific conditions or denied waivers adversely affect the economics of the Project, and therefore the Board was unable to make an informed determination as to whether it should consider modifying its originally proposed conditions and/or waiver denials and if so, to determine which conditions or denials would be appropriate to modify, if any.

(5) Waivers requested by the Applicant which constitute "blanket" or "plan" waivers (a) are inconsistent with 760 CMR 56.05(7) as they fail to identify how such waivers are "required to permit the construction and operation of the Project", (b) are strongly discouraged by the 40B Handbook which states that the Board should only approve specific waivers, and (c) fail to address Local Concerns identified in the record of the hearing.

(6) With respect to any condition in our Comprehensive Permit requiring compliance of the Applicant and the Project with specific provisions of Massachusetts General Laws (collectively, "State Acts"), the State Acts are general laws of the Commonwealth and not Local Requirements or Regulations, and therefore, the Board has no authority under Chapter 40B to override the requirements of such State Acts.

For the Zoning Board of Appeals,



Joseph M. Fisher
August 6, 2018

ATTACHMENT A

Comprehensive Permit Project Plans River Stone, Off Ward Street

The Project Plans shall include the Comprehensive Permit Application, dated March 29, 2016, as revised, together with the following:

1. Plans entitled, "Comprehensive Permit Application Plan known as River Stone of Hingham, MA," prepared by McKenzie Engineering Group, dated October 7, 2015, revised through April 25, 2018 (16 Sheets; Sheets C-2 and C-3 further revised through May 1, 2018)
2. Architectural plans entitled "Riverstone Condominiums, Ward Street, Hingham, MA," prepared by Axiom Architects, dated October 6, 2015, including Typical Floor Plans (A1 Drawings, consisting of 3 Sheets), Typical Building Elevations (A2 Drawing), and Building Sections (A5 Drawing)
3. Preliminary Hydrologic Analysis, prepared by McKenzie Engineering Group, dated January 8, 2018, revised through April 25, 2018, supplemented by a revised pre and post development HydroCAD analysis for Design Point 3, received May 16, 2018
4. Proposed Soil Absorption System Sizing, prepared by McKenzie Engineering Group, dated January 23, 2018
5. Proposed Soil Absorption System Vehicle Loading, prepared by McKenzie Engineering Group, dated April 25, 2018, together with a Technical Bulletin from JM Eagle, dated January 2009
6. Correspondence from Peter Dillon, PG, Geoscience, dated April 24, 2018, regarding "Response to Hingham Board of Health letter dated March 6, 2018"
7. Traffic Impact and Access Study, prepared by Ron Mueller Associates, dated April 11, 2016, as modified by various responses to traffic peer review comments, dated January 25, 2018 and April 6, 2018
8. "Potential Vernal Pool Analysis Memo," addressed to the Massachusetts Natural Heritage & Endangered Species Program, from Brad Holmes of Environmental Consulting & Restoration, LLC, dated June 12, 2018
9. Project Financial Information for MassHousing-Financed and NewEngland Fund ("NEF") Homeownership Projects, received May 30, 2018
10. All other submittals made by, or on behalf of, the Applicant, including without limitation those from Baker, Braverman & Barbadoro, P.C., McKenzie Engineering Group, Geoscience, Ron Mueller Associates, or Environmental Consulting & Restoration, LLC

ATTACHMENT B

Comprehensive Permit Conditions River Stone, Off Ward Street (Applicant shall include successors and assigns.)

A. General Conditions

1. This Comprehensive Permit permits the construction, use and occupancy of a multifamily for-sale housing development on the Property consistent with the Approved Plans. The construction and use of the Property shall be in substantial conformity with the Approved Plans, and there shall be no subdivision of the Property, change in building typology, or the creation of additional housing units or any other structures or infrastructure, except that which is consistent with the Approved Plans and except as otherwise permitted in this Comprehensive Permit, without further approval of the Board, subject to the provisions of 760 CMR 56.00 et seq.
2. The Applicant shall record this Comprehensive Permit at the Plymouth County Registry of Deeds and provide evidence of said recording to the Zoning Administrator and the Building Commissioner prior to application for a Building Permit.
3. Each condition in this Comprehensive Permit shall, in accordance with its terms and applicable law, be applicable to and binding on the Applicant and the Applicant's successors and assigns, including without limitation, any property owners' association comprised of the unit owners, or the unit owners jointly and severally if no association is formed, for as long as the Project and the use of the land does not strictly and fully conform with the requirements of the Hingham Zoning By-Law.
4. The Applicant shall copy the Zoning Administrator and the Building Commissioner on all material correspondence between the Applicant and any federal, state or Town official, board or commission that concerns the conditions set forth in this Comprehensive Permit.
5. The Applicant shall comply with all local rules and regulations of the Town of Hingham and its boards and commissions in effect as of the date of the Application unless and only to the extent expressly waived in these conditions and in Attachment C, which Attachment C is incorporated into this Comprehensive Permit by reference and made a substantive part of these conditions.
6. The Applicant shall provide peer review funds as specified by this Comprehensive Permit. Any surplus funds remaining in a specific peer review fund may be utilized by the Board for other peer review expenses as necessary as determined by the Zoning Administrator. Any excess funds will be returned to the Applicant upon Project completion.

7. The grant of this Comprehensive Permit shall not be construed as a determination by the Board as to the private party rights of any party, including the Applicant, with respect to the private property that may be affected by the proposed Project. Nor shall any provision of this permit shall be construed to authorize the Applicant to engage in any activity that would interfere with the private property rights of abutters.

B. General Pre-Construction Conditions

1. Prior to the start of construction, the Applicant shall engage the services of a qualified professional engineer and/or registered architect to provide certification at the completion of work that the Project has been built in accordance with the Approved Plans and prior to the start of construction shall inform the Zoning Administrator of the name, business address, and telephone number of the engineer and/or architect retained. The engineer and/or architect shall perform site inspections at his/her own discretion through the construction process to enable accurate final certification to the Building Commissioner of compliance with this Comprehensive Permit upon Project completion.
2. Prior to the start of construction, the Applicant shall schedule a pre-construction meeting, including a site walk, with the Zoning Administrator, Building Commissioner, Conservation Officer, Executive Health Director, DPW Director, Town Engineer, Hingham Police Department and Fire Department representatives, the Board's Consulting Engineer/s, and the Applicant's Project engineer and/or architect, and contractor.
3. Prior to the start of construction, the Applicant shall submit the proposed transportation route for construction vehicles and material deliveries. Construction vehicles and delivery trucks shall be prohibited from traveling on Autumn Circle. Construction vehicles and delivery trucks shall additionally be prohibited from entering onto Viking Lane from, or exiting from Viking Lane to, Ward Street except to the extent that safety measures for access and egress are approved by the Zoning Administrator and Hingham Police Department. Said prohibitions shall be included in all contracts for construction activities associated with the Project. Material suppliers shall be directed to use the Ward Street access to the Project.
4. Prior to the start of construction, the Applicant shall submit a construction schedule.
5. Prior to the start of construction, the Applicant shall erect construction fencing along all property lines and along the Tree Line as defined in condition C.1.b(iii). Supplemental construction fencing may be required by the Zoning Administrator as necessary to adequately screen the construction site for abutters.
6. The Applicant shall provide the Zoning Administrator with up to \$10,000 to support consultant review of the Project Plans to confirm compliance with the conditions of this Comprehensive Permit, including Condition C.3, and as-built site plans, and such additional peer review funds as may be determined to be necessary by the Zoning

Administrator in accordance with Condition A.6. This condition is not a limitation on Applicant's other peer review expenses that may be required by this Comprehensive Permit.

7. The Applicant shall provide the Zoning Administrator with up to \$8,000 to support construction inspections of the Project infrastructure improvements, including but not limited to installation of staked limits of work and erosion controls; clearing, grubbing and sub-grade; drainage; roadway fill and foundation; and a final inspection.

C. Project-Specific Pre-Construction Conditions (Prior to Application of a Building Permit)

1. Modifications to Project Plans: Prior to the application for a building permit, the Applicant shall submit revised Project Plans to reflect the conditions set forth in this Comprehensive Permit for review by the Board's agents (which shall be the Zoning Administrator and, as deemed necessary by the Zoning Administrator, other qualified town staff (such as the Town's conservation agent) and/or the Board's peer review consultants. The revised Project Plans shall be reviewed solely to ensure that they are consistent with this Comprehensive Permit and applicable federal and state laws and regulations. The Board's agents shall provide written comments to the Applicant requesting revisions, if any, that are required to make the same comply with this Comprehensive Permit and any applicable federal and state codes, or approve such revised Project Plans, in writing within thirty (30) days of submission of same, or else they shall be deemed approved. If revisions are required, then review, suggested revisions, and/or approval shall again take place within fifteen (15) days of submission of the revisions, or else they shall be deemed approved. Such review process shall be repeated until the revised Project Plans are in compliance with the conditions of this Comprehensive Permit. Upon confirmation in writing by the Zoning Administrator that the revised Project Plans are in compliance with the conditions of this Comprehensive Permit, they shall be deemed to be the "Approved Plans".

The Project Plans shall be modified and/or supplemented as follows:

a. Building Layout:

- (i) Minimum front yard setback of not less than 35' measured between the Ward Street layout and any portion of a dwelling unit, including decks and porches.
- (ii) Minimum side and rear yard setbacks of not less than 20' measured between side and rear property lines and a dwelling unit. Decks and porches, inclusive of any stairs, may extend up to 10' into the required side and rear yard setback, for a minimum side and rear yard setback of 10' for these attached accessory structures.
- (iii) Separation distance between buildings shall be increased to 20' with the exception of projections not exceeding 30 SF in area for steps, gutters, bay

windows, terraces, outside chimneys, stoops, piazzas or porches, eaves, cornices, window sills or belt courses into this separation distance; provided, however, that any building element that supplies useable floor area to a building shall not constitute a projection, and further provided that no such projection shall cause the separation between buildings, inclusive of the projection, to be less than 18'.

- (iv) Buildings along the Ward Street frontage shall be oriented to present a front façade to Ward Street in order to maintain the streetscape.

b. Wetland Resource Area Protections:

- (i) The Applicant shall delineate the limits of the vernal pool habitat identified by the Board's peer review wetland scientist within the bordering vegetated wetland and depict the limits and associated 100-foot Vernal Pool Protection Zone on the revised Project Plans.
- (ii) All improvements, including but not limited to buildings, decks, and components of the stormwater management system, shall be located outside the 100-foot Vernal Pool Protection Zone associated with the onsite vernal pool.
- (iii) The undisturbed portion of the 50-foot wetland buffer zone, shown on the Project Plans as the existing Tree Line (see Legend on Sheet G-1 for symbology) shall serve as the limit of work and identified on the ground with monuments. No clearing, grading, or construction shall be permitted within this undisturbed area.
- (iv) All construction proposed within the disturbed portion of the 50-foot wetland buffer zone, shown on the Approved Plans as outside the existing Tree Line, shall be mitigated by native plantings, at a ratio of 2:1 or greater, within the 50-foot buffer zone.
- (v) The Applicant shall submit a Spill Prevention, Control and Countermeasure Plan documenting the procedures to be implemented during construction to prevent and address spills of hazardous materials within the Property.

c. Internal Roadway, Pedestrian, and Parking Improvements:

- (i) All internal roadways shall provide a traveled-way of 24-feet in width in order to accommodate: 1) the turning and maneuvering requirements of emergency vehicles; 2) parking maneuvers to/from the visitor parking areas; and 3) occasional on-street parking, particularly in the vicinity of Ward Street where parents may park while waiting for the school bus.
- (ii) All internal roadways shall include a sidewalk along at least one side.
- (iii) All sidewalks and pedestrian routes required in this Comprehensive Permit shall

comply with applicable requirements of the state Architectural Access Board (AAB) and federal Americans with Disabilities Act (ADA) regulations.

- (iv) Vertical granite curbing shall be installed along the edge of the internal roadways adjacent to sidewalks.
- (v) A fire truck turning analysis shall confirm that no portion of the fire truck design vehicle crosses the sidewalk area or extends into individual driveways in order to circulate the internal roadways.
- (vi) Driveways to individual units shall be a minimum of 21-feet long measured between the garage door and the far edge of the sidewalk (edge closest to dwelling unit) where a sidewalk is provided, and 23-feet measured between the garage door and the edge of the traveled-way in locations without a sidewalk.
- (vii) Sight Distance Requirements:
 - (1) The object height and the driver eye height shall both be set at 3.5-feet above the pavement surface. This revision will increase the line of sight that is shown and reduce the extent of the regrading that is required.
 - (2) Given that the sight line to the west from "Road C" will cross the ground surface and not an area that will be cleared during a snow storm, the ground surface shall be established a minimum of 1-foot below the sight line elevation in order to allow for snow accumulation.
 - (3) The stopping sight distance along Ward Street approaching "Road C" and along "Road C" approaching "Road D" shall be provided in both plan and profile view. The stopping sight distance is required in order to demonstrate that a motorist traveling along Ward Street and "Road C" (assumed eye height of 3.5-feet above the pavement surface) can see an object (established as 2-feet above the pavement surface) in the roadway at the intersections. A grade correction factor shall be applied to the calculated stopping sight distance requirements for "Road C" approaching "Road D" based on an 8 percent grade along "Road C".
- (viii) Fire Department access into and out of the Property shall comply with all provisions of 527 CMR 1.00 2015 Ed. including, without limitation, the following:
 - (1) Fire Department Access Roads must extend to within 50 feet of an exterior access door for any dwelling unit in the Project.
 - (2) The gradient on any Fire Department Access Road shall not exceed 10%.

- (3) A note shall be added stating that no obstructions, including but not limited to parked vehicles, shall affect any portion of the minimum width or vertical clearance for any Fire Department Access Roads, and that Fire Department Access Roads shall provide a vertical clearance of 13.6 feet.
- d. Demolition Plan: A demolition plan shall be included with the revised Project Plans and shall include the following:
- (i) Removal/protection of existing utilities/drainage infrastructure;
 - (ii) Tree clearing;
 - (iii) Removal of asphalt/sawcutting; and
 - (iv) Removal of structures.
- e. Grading Plans:
- (i) Cut and Fill Analysis, including the destination of any soil that may need to be removed from the property in order to verify compliance with local earth removal regulations.
 - (ii) Retaining walls greater than 6' in height shall be located no closer than 8' to a property line. Due to the proximity of proposed retaining walls to abutting properties, the Applicant shall provide details on methods of construction that will be employed to insure there is no disturbance to abutting properties.
 - (iii) Retaining walls shall be located a minimum of 10' from any structure or dwelling unit within the Project in order to support public safety access and provide sufficient natural light and air for residents of the Project.
- f. Limit of Work:
- Due to the proximity of the proposed work to abutting properties and onsite wetland resource areas, a clear indication of the limit of work for the proposed construction, detailed survey data, including spot elevations, and the location of construction fencing.
- g. Utility Plans:
- (i) Utility plans including individual service locations and showing all pipe inverts, pump calculations, and profiles. The design shall provide adequate separation including consideration of the depth of utilities for repair and maintenance of all utilities, in accordance with utility provider requirements and standard engineering practice. Details of all utility components shall be shown on the plans, including but not limited to: catch basins, utility manholes, utility trench

construction, water system components, wastewater disposal system components, conduit duct banks, etc. Materials used shall be consistent with utility provider requirements.

- (ii) Flow test results and will-serve letter from Aquarion Water Company to demonstrate that there is an adequate water supply for fire protection and domestic water supply.
- (iii) Fire hydrants in a number and location approved by the Fire Department and not greater than 800 feet from any dwelling unit in the Project.

h. Stormwater:

- (i) The Applicant shall perform a minimum of one test pit/soil evaluation witnessed by an appropriate agent of the Town or its designee at the site of each proposed infiltration system to verify soil textural analysis and depth to seasonal high ground water prior to submission of revised Project Plans. Test pits shall be excavated to a minimum depth of four feet below the proposed bottom of each infiltration system and shall be witnessed by an agent of the Town or its designee. Test pit logs shall be submitted to the Zoning Administrator. The following actions shall be required based on test pit results:
 - (1) If the test pits confirm assumed soil textural analysis and depth to seasonal high groundwater then no further action is required.
 - (2) If the test pits indicate more-restrictive soil texture, then the design of the infiltration system(s) shall be reevaluated. Results of the reevaluation shall be submitted to the Zoning Administrator for review.
 - (3) If the seasonal high groundwater is found to be less than four feet from the bottom of any infiltration system a mounding analysis shall be performed and results submitted to the Zoning Administrator for review.
 - (4) If the seasonal high groundwater is found to be less than two feet from the bottom of any infiltration system the system shall be redesigned to provide a minimum of two feet of separation.
 - (5) Any modifications to an infiltration system design shall be submitted to the Zoning Administrator for review.
- (ii) The Applicant shall submit a final storm water management plan and supporting calculations that document compliance with the DEP Storm Water Management Performance Standards. The plan shall include, but not be limited to, spot grades, limits of various soil components, infrastructure specifications and a

construction period and post construction stormwater system Operation and Maintenance Plan.

(iii) The Applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) consistent with National Pollution Discharge Elimination System (NPDES) Construction Stormwater General Permit for review at least one month prior to submission of a Building Permit application.

(iv) Flared end sections shall be reinforced concrete. Plastic (HDPE) flared end sections are not allowed.

(v) Verification of outlet configuration and modeling (i.e. topography around the entire wetland to clearly show the outlet(s)) to confirm that increase in volume of stormwater runoff to the wetland area to the east side of the development will not impact adjacent properties.

i. Lighting Plans:

(i) Photometric plan, with values not exceeding 0 candle foot overspill at any property line.

(ii) Details and specifications for proposed light post and building lighting, if any.

(iii) All site lighting shall be DarkSky compliant.

(iv) Color temperature of any outdoor light source shall not exceed 3,500 Kelvin.

(v) Building-mounted lighting, if any, shall be located at entries; mounted no higher than 8' above finished grade; and downward directed. No floodlights shall be permitted.

j. Landscaping Plans:

(i) Detailed landscape plan, including materials list specifying planting size and species, including a minimum of one roadway tree, not less than 12' in height, per unit on each side of the internal roadways. A minimum of four (4) roadway trees shall additionally be planted along the Project's southerly Ward Street frontage. Roadway trees shall not be less than twelve feet in height and of a species selected from the Hingham Shade Tree Committee's list of "Deciduous Tree Recommendations," revised Winter 2018. If the Applicant determines that such Recommendations are overly restrictive, Applicant shall submit proposed alternative, noninvasive roadway trees to the Zoning Administrator for review. A mix of evergreen and deciduous trees, shrubs, and other plantings shall be

shown on a portion of the former Viking Lane between the three visitor parking spaces and the Project's northerly Ward Street frontage.

(ii) A minimum 10' buffer area planted with a mix of evergreen and deciduous trees and shrubs to present a reasonably opaque, natural barrier to a height of 10' shall be planted between the rear of the units in the Project and all side and rear property lines. No fence greater than 4' in height shall be located within the front yard along Ward Street.

(iii) Dedicated play area for children residing in the Project.

k. Detail Plans:

(i) Retaining wall details, prepared by a structural engineer, for each wall in excess of 4' in height. The detail shall specify structural concrete with a stone facing.

(ii) Detail or specification sheet for the proposed 6' High Vinyl Privacy Fence shown on the Preliminary Landscaping Plan.

(iii) Details for the equipment and surfacing of the dedicated play area required by Condition C.1.j.(iii).

l. Architectural Plans:

(i) Elevation plans consistent with those depicted on the "Typical Building Elevations" referenced in the Project Plans.

(ii) Building typology shall be consistent with the architectural plans included in Project Plans, with a mix of single-family, two-family, three-family, and four-family dwelling units. Buildings shall not exceed more than four attached, townhouse-style dwelling units.

2. Vernal Pool Studies: A confined depression within the western lobe of the Bordering Vegetated Wetland meets both the physical and biological criteria necessary to qualify, and is positively confirmed, as a vernal pool. In order to protect the wildlife habitat interest associated with the vernal pool resource area, the Applicant shall provide a narrative describing how the vernal pool habitat will be protected against adverse impacts associated with the proposed Project including the removal of buffer zone vegetation, modifications to the hydrologic regime of the vernal pool and best management practices to be implemented during construction.

3. Secondary Access and Related Improvements: In order to both accommodate safe vehicular and pedestrian travel for residents, visitors and abutters, and public safety responders, the Applicant shall provide two means of access to the Project.

The Project Plans propose to create primary access from the Property's southerly frontage on Ward Street. The Project Plans also propose to connect the internal roadway for the Project to Autumn Circle by way of an access road ("Autumn Circle Access Road") through a purported access easement or right of way over a public drainage easement and portions of abutting property. However, abutters to the Project dispute the Applicant's rights as a matter of title to create this secondary access through the Autumn Circle Access Road. At the time of issuance of this Comprehensive Permit, the Land Court allowed in part the abutters motion for preliminary injunctive relief, ordering that the Applicant enjoin and restrain from entering on or altering the way. The Project Plans continue to propose secondary access by way of the Autumn Circle Access Road. As matters related to title and site control fall outside the Board's jurisdiction, members resolved to review the Project Plans as proposed, but additionally to require a secondary means of access to the Project in the event that the Courts or Subsidizing Agent determine that the Applicant does not have rights in the way.

- a. If the Project is constructed with secondary access through the Autumn Circle Access Road, the Applicant shall revise the Project Plans prior to application for a Building Permit in order to mitigate Project-related impacts on Autumn Circle to include the following:
 - (i) Identify the ownership of the proposed Autumn Circle Access Road between 18 and 23 Autumn Circle and the rights of others for its use.
 - (ii) Show the location of drainage easement held by the Town of Hingham in the area of the proposed access road pursuant to an instrument of taking recorded with the Plymouth Country Registry of Deeds in Book 3017, Page 400 and the location of existing subsurface drainage structures. Any subsurface drainage facilities designed by the Applicant in connection with the Project shall be subject to review by the Hingham Town Engineer to confirm that such structures do not encroach upon or interfere with the Town's drainage easement and drainage infrastructure.
 - (iii) The Autumn Circle Access Road shall be 24' wide with a sidewalk on one side consistent with the internal roadways of the Project.
 - (iv) The only utilities to be installed in the Autumn Circle Access Road shall be subsurface drainage facilities shown on the Approved Plan subject to subsection 3.a.(ii) above.
 - (v) Design/performance standards for the proposed conversion of the existing Autumn Circle cul-de-sac to a roundabout:
 - (1) The circulating area within the roundabout shall provide a 30-foot wide paved area, with the inner circle designed to be traversable by the Hingham Fire Department design vehicle and constructed with a sloped

granite curbing center that will support the weight of the Hingham Fire Department design vehicle;

(2) The roundabout and the Autumn Circle Access Road shall be designed so as not to inhibit access to the residential properties abutting the roundabout or require that motorists exiting driveways within the roundabout back-up into the circulating area; and

(3) The roundabout shall allow for on-street parking without impeding circulation within the paved area or inhibiting emergency vehicle access.

(vi) Submit a plan for additional traffic calming features, pedestrian improvements, and other appropriate measures to address travel speeds and the increased traffic, including traffic generated by the Project and potential cut-through traffic between Ward Street and High Street, that will be using Autumn Circle. The plan shall include a dedicated bus stop for school children at the intersection of Autumn Circle and High Street.

(vii) Submit a plan for a sidewalk, with a minimum width of 5', to be constructed on the north side of Autumn Circle between the Autumn Circle Access Road and High Street, to conform to Town of Hingham DPW/Highway Department standards for public sidewalks within a public right of way.

b. If the Project is not constructed within the Autumn Circle Access Road, the Applicant shall revise the Project Plans prior to application for a Building Permit in order to provide a secondary means of access to the Project. The secondary access shall be designed to the same safety and design standards as the internal roadways.

4. High Street/French Street/Ward Street Improvements: In an effort to mitigate Project-related impacts on the intersection of High Street/French Street/Ward Street, the Applicant has agreed to conduct a Road Safety Audit (RSA) in order to identify corrective measures that can be undertaken at the intersection to improve safety.

a. Prior to application for a Building Permit, the Applicant shall facilitate and fund the completion of the RSA to identify both short and long-term measures to improve safety at the intersection. The RSA shall be conducted by an independent consultant retained by the Applicant with experience in preparing RSAs, and the RSA shall follow the *MassDOT Road Safety Audit Guidelines*.

b. Copies of the Draft and Final RSA shall be provided to the Zoning Administrator, Department of Public Works, Town Engineer, and Police Department.

- c. Following completion of the RSA, the Applicant shall design the short-term improvements identified as a part of the RSA. Said plans to be filed prior to application for a Building Permit.
5. Wastewater Disposal: The wastewater disposal system shall be designed in full compliance with Title 5 (310 CMR 15) and all local Board of Health Supplementary Rules and Regulations for the Disposal of Sanitary Sewage not expressly waived in Appendix C and the conditions set forth below:
- a. In accordance with a partial waiver from Section VI (8) of the local Board of Health Supplementary Septic Regulations and in an effort to minimize Project-related impacts related to nitrogen loading on existing private drinking water wells and potential public drinking water wells in the area, the Applicant shall either:
 - (i) Reduce the number of bedrooms in the Project such that the onsite wastewater disposal system does not discharge more than 110 gallons of design flow per day per 10,000 SF in lot area; OR
 - (ii) Design the onsite wastewater disposal system using advanced nitrogen reduction technology which has been certified by the Massachusetts Department of Environmental Protection for general use. This alternative additionally requires the following:
 - (1) Prior to application for a Building Permit, the Applicant shall provide analyses identified in Title 5 guidelines relative to nutrient loading and nitrogen sensitivity. The required analyses identified below reflect the components of a basic septic Site-Specific Mass Balance Analysis.
 - Hydrogeologic Assessment
 - Mounding Analysis
 - Nitrogen Analysis
 - Groundwater Monitoring Program
 - (2) As the maximum daily sewage flow for the Project exceeds 7,500 gallons per day, the Applicant shall file a permit for a plant with the Zoning Administrator. In connection with the filing, the Applicant shall provide six (6) sets of plans prepared by a registered professional engineer. Said permit shall be subject to peer review (consistent with Condition A.6) to confirm compliance with all local Board of Health Supplementary Septic Regulations not expressly waived in Appendix C and the conditions set forth herein.
 - (3) The advanced treatment, denitrifying wastewater disposal system shall provide a level of treatment which will limit concentration of nitrate-nitrogen in groundwater to less than 10 milligrams per liter (mg/l) at the Project property boundaries, provided that this alternative shall not be deemed a

waiver of any requirements of Title 5 related to such a system. Calculations shall be submitted to document that the design of the system will comply with this condition. A ground water monitoring program shall be established which includes a preconstruction nitrate-nitrogen baseline assessment and post-construction quarterly nitrate-nitrogen sampling analyses to verify compliance with the 10 mg/l limit.

- b. All septic components under roadways shall be designed for loading of the Hingham Fire Department's largest apparatus (Tower Ladder). Leaching system piping under roadways shall consist of Schedule 80 PVC.
- c. New test pits shall be conducted and systematically located to confirm the subsurface characteristics of the soils in the area of the proposed soil absorption system.
- d. Separation from high groundwater shall be calculated after adding the effect of groundwater mounding to the high groundwater elevation as determined pursuant to 310 CMR 15.103(3).
- e. The system installed for the Project shall be equipped with sensors and alarms to protect against high water due to failure of the pump consistent with Title 5.

D. Conditions in Effect During Construction

- 1. A copy of this Comprehensive Permit shall be kept on the work site at all times during construction. The Applicant is responsible for providing a copy to all contractors and subcontractors, for informing them of its requirements, and for ensuring compliance with the conditions.
- 2. The Applicant shall comply with the State Building Code and any local regulations or fees of the Hingham Building Commissioner. The Applicant shall pay all required fees for all such building and other permits including any fees charged for inspections and permits.
- 3. The Board's agent(s) may enter onto and view the site during regular business hours to ensure compliance with the terms of this Comprehensive Permit, subject to applicable safety requirements.
- 4. The Applicant may display one, unlighted, temporary construction or marketing sign not exceeding 12 square feet at the primary site entrance on Ward Street, stating appropriate marketing information on the site, provided it otherwise complies with Section V-B of the Zoning By-Law. The temporary construction and marketing sign shall be displayed for no longer than three years from the date of issuance of a Building Permit, which term shall be renewable at the Board's discretion.

5. All deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 am and not later than 5:00 pm. As provided in Condition B.3, no construction vehicles or deliveries of construction materials shall be permitted to access or exit the Project site by way of Autumn Circle, except as specifically required by the conditions of this Comprehensive Permit. Construction operations shall be limited to the hours of 7:00 am to 6:00 pm Monday through Friday and 8:00 am to 4:00 pm on Saturday. After-hours activity shall be limited to interior work within a fully-enclosed building and site cleanup. Except for emergency conditions, no exterior construction work shall be allowed on Sundays. The Building Department shall be notified promptly of any such emergency conditions. Hours of operation may be enforced by the Police Department. Throughout construction, the Applicant shall comply with all local, state, and federal laws in effect as of the date of the Application regarding noise, vibration, dust and blocking of roadways.
6. During the period of construction and marketing, notwithstanding any pre-conditions for the issuance of a certificate of occupancy otherwise set forth herein, the Applicant shall be entitled to designate, construct and operate one (1) of the units as a decorated, model unit, but not to be used as a habitable unit.
7. The Applicant may locate up to two construction trailers on the Property, unless additional trailers are otherwise permitted by the Building Commissioner. All construction trailers shall be located within the fenced construction area of the Project. Placement, operation, and maintenance of the construction trailers shall not adversely impact parking, safety, or the surrounding neighborhood. Other conditions of this Decision required to be satisfied prior to issuance of a building permit or certificate of occupancy shall not apply to building permits or certificates of occupancy required for the construction trailers.
8. Portable bathroom facilities, trash containers, and portable generators shall be located within the fenced construction area for the Project, at least 50 feet from the boundary of the Property.
9. No construction worker vehicles, and no construction equipment (unless in connection with off-site mitigation while such work is underway), shall be parked on any public or private way outside of the Project site.
10. No construction vehicles or construction worker vehicles shall be permitted to idle their vehicles for more than 5 minutes, in accordance with MGL Chapter 90, Section 16A and 310 CMR 7.11.
11. The Applicant shall implement the Construction Period Pollution Prevention Plan & Erosion Control Plan until the site is fully stabilized and the temporary erosion and sedimentation controls are removed.

12. Pavement areas (including Ward Street) within the 100-foot buffer zone shall be swept daily at a minimum and more frequently as necessary to prevent tracking of soil into wetland resource areas and/or stormwater management facilities.
13. There shall be no stockpiling of soil or other materials within 100 feet of a wetland resource area. Stockpiles shall be protected with erosion control barriers or other means as necessary. Any soil stockpiles that will remain unworked for greater than 14 days shall be seeded with an annual rye grass or equivalent seed mixture.
14. No construction materials, debris or stumps shall be buried within 100 feet of a wetland resource area.
15. As the Applicant has requested and the Board has granted a waiver of Section VI.22 of the Hingham Board of Health Supplementary Rules and Regulations for the Disposal of Sanitary Sewage, prior to commencement of any site work, the Applicant shall, in order to protect the soil from compaction, install fencing around the entire area where the soil absorption system is to be constructed and shall maintain such fencing until the soil absorption system is fully constructed.

E. Occupancy-Related Conditions

1. As-Built Plans: Prior to the issuance of certificates of occupancy for more than 85% of the dwelling units within the Project, the Applicant shall submit as-built site and building plans stamped by the appropriate qualified professional with a certification that all site work improvements have been completed in accordance with the Approved Plans.
2. Traffic Improvements: Prior to the issuance of any certificate of occupancy for the Project, in order to provide safe and efficient vehicular and pedestrian access to and from the Project and to promote public health, safety, and welfare of the residents of the Project and the public, and to address the Project's projected impacts on transportation and pedestrian infrastructure, the Applicant shall complete the traffic improvements in accordance with the Approved Plans and as described below:
 - a. **Internal Roadway Improvements**: In order to accommodate safe vehicular and pedestrian travel for residents, visitors and public safety responders, the Applicant shall design and construct the following improvements in accordance with the Approved Plans:
 - (i) All internal roads shall maintain a minimum width of 24' and a sidewalk on a minimum of one side of each roadway.
 - (ii) Traffic calming devices to include a raised crosswalk and a speed table on Road C shall be completed in an effort to minimize the potential for cut-through traffic and reduce vehicle travel speeds within the Project.

- (iii) Given the extent of the regrading activities that will be required to provide the necessary sight lines from both “Road C” and “Road D”, the Applicant shall submit an affidavit from a Professional Engineer certifying that the required minimum sight lines are met at the Project site roadway intersections after the completion of the improvements.
- b. **High Street/French Street/Ward Street Improvements:** In an effort to mitigate Project-related impacts on the intersection of High Street/French Street/Ward Street, and prior to issuance of any Certificate of Occupancy for the Project, the Applicant shall:
 - (i) Construct short-term improvements identified in the RSA, subject to receipt of all necessary rights, permits and approvals; or
 - (ii) In the alternative, the Applicant shall provide funds to the Town in the amount of \$30,000, or such lesser amount as is required, to be used toward the design and construction of the short-term improvements identified in the RSA.
- c. **Autumn Circle Improvements:** Prior to issuance of any Certificate of Occupancy for the Project, the Applicant shall complete all improvements to Autumn Circle and the Autumn Circle Access Road as identified in Condition C.3.

3. Stormwater Improvements:

The Applicant shall submit an Operation & Maintenance (O&M) Compliance Statement prior to application for any Certificate of Occupancy. The O&M Compliance Statement shall identify the party responsible for implementation of the Operation and Maintenance Plan and confirm the following:

- (i) The site has been inspected for erosion and appropriate steps have been taken to permanently stabilize any eroded areas.
- (ii) All aspects of the stormwater DEP Best Management Practices have been inspected for damage, wear and malfunction, and appropriate steps have been taken to repair or replace the system or portions of the system so that the stormwater at the site may be managed in accordance with the Stormwater Management Standards.
- (iii) The Operation and Maintenance Plan is being implemented.
- (iv) Future responsible parties have been notified by recorded instrument of their continuing legal responsibility to operate and maintain the structures.

F. Post-Construction and Ongoing Conditions

1. The Applicant shall undertake the following measures to maintain sight lines:

- a. Ensure that signs, landscaping and other features located within the sight triangle areas of the Project site driveway intersection with Ward Street do not to impede lines of sight. Such features shall be maintained so as to not exceed 2.5-feet in height as measured from the surface elevation of the Project site driveway. A recorded easement shall be secured by the Applicant to limit features greater than 2.5-feet in height within any portion of the sight triangle area that crosses private property.
 - b. Promptly remove snow windrows located within the sight triangle areas of the Project driveway intersection with Ward Street and at intersections within the Project that exceed 3.5-feet in height or that would otherwise inhibit sight lines.
2. Parking outside of designated areas within the Project shall be prohibited and no obstructions, including but not limited to parked vehicles, shall affect any portion of the minimum width for any Fire Department Access Roads in order to ensure that sufficient maneuvering areas are afforded for public safety vehicles.
3. A vertical clearance of 13.6 feet shall be maintained along Fire Department Access Roads.
4. The storm water drainage system shall be operated and maintained by the Applicant in accordance with the Operation and Maintenance Plan submitted under Condition C.1.h(ii).
5. The Applicant shall remove snow from the site as soon as practicable following large snow events when the site cannot itself accommodate snow storage without a loss of driving aisles. No snow shall be removed from the Project or the Autumn Circle Access Road onto any adjoining properties, including Autumn Circle, Autumn Circle Access Road, or Ward Street.

G. Affordability Conditions

1. The Project shall provide no fewer than twenty-five percent of the units to households at or below 80% of the area median income, subject to all applicable requirements of the subsidizing agency for the Project (“affordable units”).
2. Upon submission by the Town to the Applicant of the Supporting Documentation and Justification pursuant to Section III-D of the G.L. c. 40B Comprehensive Permit Guidelines, the Applicant shall prepare an Affirmative Fair Marketing Plan which includes local preference for review by, and subject to the approval of, the subsidizing agency.
3. The affordable units in the Project shall remain affordable in perpetuity.

4. The Applicant shall make provisions for a monitoring agent to assume the functions specified in the Regulatory Agreement following expiration of the Subsidizing Agency's monitoring role. The recordable form of these provisions shall be submitted to the Zoning Administrator for review prior to application for a building permit.

ATTACHMENT C

**Requested Waivers from Local Requirements and Regulations
River Stone, Off Ward Street**

Pursuant to Chapter 40B (as defined in the Findings of this Comprehensive Permit), the Board reviewed the following waiver requests from Local Requirements and Regulations, as made by the Applicant, and acted as follows. The following actions of the Board to grant, grant in part, or deny in whole or in part the requested waivers are an integral part of this Comprehensive Permit shall be taken together, and have the same force and effect, as the Findings and Conditions adopted by the Board pursuant to its vote to grant this Comprehensive Permit:

I. Hingham Zoning Bylaw

Criteria	Requirement	Proposed	Board Action
Table of Use Regulations (Section III-A, 1.4-1.7) Multi-Unit Development	Prohibited Use in Residence B	Multi-Unit Dwellings	Granted
Section I-I Site Plan Review Multi-Unit Development	Site Plan Review by Planning Board Subsections: 2. Procedures 3. Pre-Application Submittal 4. Submittal Requirements (Items c., d., g., h., i., j.) 6. Review Standards and Approval 7. Lapse	Plan review by Zoning Board of Appeals consistent with M.G.L. 40B and regulations thereunder.	#2 Denied as not required #3 Denied as not required #4 (Items c. & d. – Denied as the application complies; Items g., h. & i. – Denied; Item j. – Waived as to other local boards, but denied as to the Board) #6 Waived to the extent inconsistent with 40B regulations #7 Waived
Section IV-A Dimensional Requirements			
F.Y. Setback	Residence B: 35 (ft.)	5.7 ft. (Units 20 & 21 – Units 19-21 less than 35 ft. setback).	Denied as inconsistent with identified Local Concerns (see Findings, including without limitation Finding 3(b))

Criteria	Requirement	Proposed	Board Action
S.Y. Setback	Residence B: 20 (ft.)	10 ft. (Units 18, 19 & 32 - Units 18, 19, 24-27 & 32 all less than 20 ft. setback) and less than 10 ft. for other structures, including mechanized or motorized equipment that is placed or installed at a fixed location on the ground or at a fixed location on a pad, platform or foundation that itself is on the ground which equipment is used to ventilate, heat or cool a building or structure and including retaining wall adjacent to Units 23-25.	Denied except to the extent expressly waived by conditions, including without limitation Conditions C.1.a. and C.1.e.(ii)
R.Y. Setback	Residence B: 20 (ft.)	5.6 ft. (Unit 9 - Units 1-9 all less than 20 ft. setback) and less than 10 ft. for other structures, including mechanized or motorized equipment that is placed or installed at a fixed location on the ground or at a fixed location on a pad, platform or foundation that itself is on the ground which equipment is used to ventilate, heat or cool a building or structure.	Denied except to the extent expressly waived by conditions, including without limitation Conditions C.1.a.
Section IV-B Special Requirements to Schedule of Dimensional Requirements			
IV-B 6.	Site Plan Review by Planning Board under Section I-I	Plan review by Zoning Board of Appeals consistent with M.G.L. 40B and regulations thereunder.	Denied as not required because the Board is acting as the Planning Board and the Applicant has agreed of record that this waiver is not required.

Criteria	Requirement	Proposed	Board Action
IV-B.9. Front yard Setback	Setback average of buildings or structures in adjacent lots	5.7 ft. (Units 19, 20 & 21)	Denied as not applicable and the Applicant has agreed of record that this waiver is not required.
IV-C.5. Density	No more than 1 dwelling per lot	32 dwellings per lot	Waiver is granted as to the number of units that will be shown on the final Approved Plans after compliance with all Conditions, but in no event more than 32 units.
Section IV-E Residential Multi-Unit Development			
IV-E.1.c. Min. Distance between Structures	35 ft.	9.35 ft. (Structures 28-29 & 30-32; all structures with exception of structures 5, 18-22 less than 35 ft.)	Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law and the Applicant has agreed of record that this waiver is not required.
IV-E.1.f. Side or Rear yard buffer	There shall be provided a landscaped side or rear yard buffer area of at least 50 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planned or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural buffer to a height of ten feet.	5.6 ft. (Unit 9; all units with exception of Units 5, 12, 13, 14, 15, 16, 17, 20, 21, 22, 28, 29 & 30) distance less than 50 ft.)	
IV-E.1.g. Recreational Area	There shall be set aside, suitable prepared, protected and equipped for organized recreational activities, site areas equal to 300 SF per dwelling unit, which are not to be included in the buffer area.	Waiver requested allowing less than 300 square ft. per dwelling unit for organized, recreational activities.	
IV-E.1.j. Sanitary sewer	Must be connected to sanitary sewer system	On-site sewage disposal system	
IV-E.1.i. No space below ground level for dwelling purposes	No space below ground level for dwelling purposes	Finished Basement (optional)	

Criteria	Requirement	Proposed	Board Action
<p>IV-E.1.m. Street and parking lot grading, surfacing shall comply with the the Subdivision Rules & Regulations</p>	<p>Hingham Planning Board Rules & Regulations - Section 5 – Specifications for Construction of Required Improvements</p> <p>L1. Drainage and Stormwater Management (4) Min. 2-1/2 feet of cover</p> <p>(5) Gutter mouth stone shall be used with two transitional sections of curb</p> <p>(9) Concrete or masonry headwall</p> <p>M1 Culvert Piping (1) Reinforced concrete</p> <p>(2) winged headwall of reinforced concrete</p> <p>L2 Gravel Material for Backfill or Road Base (7) 24" total depth (8) 12" total depth</p> <p>J3 Roadway Foundation (1) 24" gravel base</p> <p>N3 Driveway Installations (Pavement) (1) within 60' of intersection (2) 12" gravel base</p>	<p>Min. 1-1/2 feet of cover</p> <p>No gutter mouth stone</p> <p>Flared end section</p> <p>HDPE pipe</p> <p>Flared end section</p> <p>12" 8"</p> <p>12"</p> <p>26' 8"</p>	<p>Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law and to the extent that the Applicant has requested waivers from the provisions that the Board has relied on for guidance in crafting its conditions, such waivers are denied as inappropriate blanket waivers and to the extent such requirements are subject to Comprehensive Permit.</p>

Criteria	Requirement	Proposed	Board Action
IV-E.1.m. Street and parking lot grading, surfacing shall comply with the the Subdivision Rules & Regulations	O3 Sidewalks 5 feet wide Min. 5' wide travel way 27" excavation P3 Paved Sidewalks (1) 24" gravel base X3 Street Lighting – Entire Section	4 feet wide Min. 4' 11.5" 8" Light posts at every house. Photosensitive cell.	Pursuant to c. 40B regulations (760 CMR 56.05(7)) no waivers are required from special permits requirements of the Zoning By-Law and to the extent that the Applicant has requested waivers from the provisions that the Board has relied on for guidance in crafting its conditions, such waivers are denied as inappropriate "blanket" waivers and also to the extent such requirements are governed by express conditions of this Comprehensive Permit.
IV-E. 2.	Special Permit A2/Site Plan Review Not Applicable (N/A)		
IV-E. 4.	Special Permit A2 - N/A		
IV-E. 5.	Affordable Units – 10% affordable units for projects with more than 6 dwelling units per acre	25% affordable units per MGL Ch. 40B	
Section V-A	Off-Street Parking Regulations Aisle Width 24 ft. for 90 degree	20 ft. for 90 degree	Denied as inconsistent with identified Local Concern (see Findings, including without limitation Finding 3(c))
ection V-C	Earth Removal Regulations Special Permit A2 - N/A		No waiver required from special permits requirements, but the Project is subject to Condition C.1.e.(i) with respect to Project grading activities.

II. Hingham Wetland Regulations

Criteria	Requirement	Proposed	Board Action
Part I. Purpose and Procedures 3.0 Regulated Activities	3.1 Any activity proposed or undertaken within a Resource Area as described in HWR 2.0 et seq.,	Waiver of this requirement.	Denied as inappropriate "blanket" waiver and to the extent such requirements are subject to express conditions of this Comprehensive Permit.

Criteria	Requirement	Proposed	Board Action
<p>13. Fees</p>	<p>3.2 Any Activity deemed by the Commission as likely to have a significant or cumulative adverse effect upon Resource Areas as defined herein;</p> <p>3.3 Any activity, including but not limited to, any and all of the following activities when undertaken to, upon, within or affecting Resource Areas or their wetland values, as determined by the Commission: a) through k)</p> <p>13.1 Application Fees: Local Bylaw Fees specified in Appendix A</p>	<p>Waiver of this requirement.</p> <p>Waiver of these requirements.</p> <p>Waiver of this requirement.</p>	<p>3.2 and 3.3: Granted to the extent request applies to the Board acting as Conservation Commission but otherwise denied.</p> <p>13.1 - Denied as not required as all local fees are included in the 40B application fee and the Applicant has agreed of record that this waiver is not required; but no waiver of fees for Conservation Commission review required under the state Wetlands Act.</p>
<p>Part II. Performance Standards for Resource Areas</p> <p>19.1 Land Subject to Flooding (Bordering and Isolated Land Subject to Flooding and Vernal Pools)</p>	<p>c) The term “vernal pool” shall be included and shall defined as any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, is free of adult fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or vernal pool community species, regardless of whether the wetland site has been certified as a vernal pool by the Massachusetts Division of Fisheries and Wildlife and Fisheries. The</p>	<p>Waiver of this requirement.</p>	<p>9.1(c) Denied as inconsistent with an identified Local Concern (see Findings, including without limitation Finding 3(f), and Conditions applicable to the identified vernal pool on the Project site, including but not limited to Condition C.1.b(i), C.1.b(ii), and C.2).</p>

Criteria	Requirement	Proposed	Board Action
	<p>buffer zone for vernal pools shall extend 100 feet from the mean annual high-water line defining the depression. The term "isolated land subject to flooding" shall be included and shall be defined as an area, depression, or basin that holds at minimum one-sixteenth acre-foot of water and at least six inches of standing water once a year.</p> <p>The buffer zone for isolated land subject to flooding shall extend 100 feet from the highest extent of flooding.</p>		
<p>19.1 (continued)</p> <p>19.3. Bordering and Isolated Vegetated Wetlands (Wet Meadows, Marshes, Swamps and Bogs)</p> <p>22.0 Buffer Zone</p> <p>23.3 Landscaping</p> <p>23.6 Filling</p>	<p>d) Performance standards. When a Land Subject to Flooding, (Bordering or Isolated), or Land within a minimum distance of 100 feet of Land Subject to Flooding (Bordering or Isolated) is determined to be significant to a wetland value, the following regulations shall apply: (1) through (8)</p> <p>d) Performance Standards, when a vegetated wetland, whether Bordering or Isolated, or land within a minimum distance of 100 feet of a vegetated Wetland is determined to be significant to a wetland value, the following regulations shall apply: (1) through (6)</p> <p>d) Performance Standards (1) through (5)</p> <p>No new lawns or driveways may be constructed within 50 feet of any Resource Area.</p> <p>a) No fill shall be placed in any Resource Area or any buffer zone so as to alter the flow of surface water in a way that the Conservation Commission feels will adversely affect the</p>	<p>Waiver of these requirements.</p> <p>Waiver of these requirements.</p> <p>Waiver of these requirements.</p> <p>New lawns within 3 feet of Bordering Vegetated Wetland (BVW) for Units 10-13, detention basin.</p> <p>Fill placed within buffer zone to Bordering Vegetated Wetland (BVW) for the construction of a portion of Roadway C, Units 10-14, 18,</p>	<p>19.1(d), 19.3(d), 22(d), 23.3; 23.6, 23.7(a), (b) & (c) – Waivers of these provisions denied unless, and only to the extent of express conditions that act as waivers or partial waivers, including without limitation Condition C.1.b.</p>

Criteria	Requirement	Proposed	Board Action
<p>[continued]</p> <p>23.7 Structures</p>	<p>wetland values of the Resource Area(s).</p> <p>a. The intent of the Conservation Commission is to move all structures and activities as faraway as possible from any Resource Area.</p> <p>b. The Commission may at its discretion allow a proposed structure on a wall-type foundation within 100 to 50 feet of the Resource Area, as defined in HWR 2.0 (1-5), if satisfied that mitigation required in the Order of Conditions is sufficient to protect the Resource Area.</p> <p>c. No mitigation is sufficient to allow a structure on a wall-type foundation less than 50 feet from a Resource Area, as defined in HWR 2.0 (1-5).</p>	<p>detention basins, retaining wall, drainage structures.</p> <p>Waiver of this requirement.</p> <p>Waiver of this requirement.</p> <p>16 feet from Bordering Vegetated Wetland (BVW) (Units 10-13).</p>	
<p>Appendix A – Filing Fee Schedule</p>	<p>Filing fee schedule - Fees under local Bylaw</p>	<p>Waiver of required fees.</p>	<p>Denied as not required as all local fees included in 40B application fee and Applicant has agreed of record as to local fees; but no waiver is granted of fees required for Conservation Commission review under the state Wetlands Act</p>
<p>Appendix B – Guide to Permitting under the Wetlands Protection Act and the Town of Hingham Wetlands Bylaw</p>	<p>Paying fees - Fees under local Bylaw</p>	<p>Waiver of required fees.</p>	<p>Denied as not required as all local fees included in 40B application fee and Applicant has agreed of record as to local fees; but no waiver is granted of fees required for Conservation Commission review under the state</p>

Criteria	Requirement	Proposed	Board Action
			Wetlands Act

III. Hingham Wetlands Protection Bylaw – Article 22

Criteria	Requirement	Proposed	Board Action
Section 2: Regulated Activities	<p>2A Except as permitted by the Commission or as otherwise provided in this By-Law, no person shall remove, fill, dredge, alter or build upon or within one hundred (100') feet of any resource area</p> <p>2B Except as authorized by the Commission, no activity or alteration shall be permitted within a fifty (50') foot Buffer strip between any wetland resource, bordering vegetated wetland, coastal dune or bank, and/or isolated vegetated wetland and any proposed site disturbance.</p> <p>2C Except as authorized by the Commission, no activity or alteration shall be permitted within one hundred (100') feet of a vernal pool, whether it be certified or uncertified but accompanied by credible evidence of its viability as a vernal pool. The one hundred feet (100') around the defined vernal pool boundaries shall be known as "Vernal Pool Protection Zone."</p>	<p>Within 100 feet of Bordering Vegetated Wetland (BVW) for the construction of a portion of Roadway C, Units 10-14, 18, detention basins, retaining wall, drainage structures.</p> <p>Within 50-foot buffer strip of Bordering Vegetated Wetland (BVW) for the construction of Units 10-13, detention basins, retaining wall, drainage structures.</p> <p>Work within 100 feet of a potential vernal pool for the construction of a portion of Roadway C, Units 10-14, 18, detention basins, retaining wall, drainage structures.</p>	<p>Partial waiver granted only to the extent of express conditions, including without limitation Condition C.1.b.</p> <p>Partial waiver granted only to the extent of express conditions, including without limitation Condition C.1.b.</p> <p>Denied and subject to express conditions, including without limitation Condition C.1.b.</p>
Section 5: Authorization of Commission to Deny Project	<p>The Commission is empowered to deny permission for any removal, dredging, filling or altering on subject lands within the Town if, in its judgement, such denial is necessary to preserve the environmental quality and to protect the wetland and water quality values of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values to be protected under this By-Law and to any demonstrated hardship</p>	<p>Waiver of this requirement.</p>	<p>Denied as the Board is acting as the Commission and otherwise denied as an inappropriate "blanket" waiver.</p>

Criteria	Requirement	Proposed	Board Action
	on the petitioner by reason of a denial, as brought forth at the Public Hearing.		
Section 7B: Filing Fees	Fees under local Bylaw.	Waiver of required fees.	Denied as not required and the Applicant has agreed of record.
Section 8: Establishment of Surety Bonds	The Commission may require the posting of security, running to the Town, including, without limitation, a letter or credit, cash, and Bond with surety, in such form and amount and with such conditions as may be determined in the sole opinion of the Commission, after recommendation by its Town Counsel. Such security shall secure faithful and satisfactory performance on work required by any final "Order of Conditions" but shall not be an amount greater than the estimated cost of the work required for the restoration of affected lands and properties of the work is not performed as required.	Waiver of this requirement.	Granted

IV. Hingham Board of Health Supplementary Rules and Regulations for the Disposal of Sanitary Sewage

Criteria	Requirement	Proposed	Board Action
IV. Application requirements	2. ".an application fee must be paid at the time of submission of the application.." 3. ".the Applicant shall also deposit with the Health Department a the time of the application the sum set forth in the Board's Schedule of Fees..."	Waiver of required fees. Waiver of required fees.	Denied as not required as all local fees included in 40B application fee and Applicant has agreed of record as to local fees; but no waiver is granted of fees required for Board of Health review under state Title 5 regulations.
	8. "...project exceeds seven thousand five hundred (7500) gallons of sewage per day..."	9,900 gallons of sewage per day.	Denied as inconsistent with an identified Local Concern (see Findings including, Finding without limitation, Finding 3(g), and Condition C.5.a.(ii)(2)).

Criteria	Requirement	Proposed	Board Action
	9 “..All percolation test results and groundwater elevation observations shall be considered valid for 2 years..”	All percolation test results and groundwater elevation observations shall be considered valid for duration of the project.	Denied as inconsistent with an identified Local Concern (see Findings including, without limitation, Finding 3(g), and Condition C.5.c.).
	10. “..any or all other data required by the Town or Hingham Board of Health...”	Waiver of this requirement.	Denied as inconsistent with an identified Local Concern (see Findings including, without limitation, Finding 3(g), and Condition C.5).
	11.x “..If, upon review of the foregoing, the Executive Health Officer or the Board determines that further information is needed before the application will be deemed complete, then he may require additional testing...”	Waiver of this requirement.	Waiver granted as to Board of Health or Health Officer but denied to extent of express conditions, including Condition C.5.
	12. “..should the Applicant’s initial deposit required under paragraph 3 of this Section be insufficient to pay the Consultant’s fees to witness tests or review the Additional Studies required by the Board, the board in its discretion may require additional amounts as may be necessary..”	Waiver of required fees.	12. Waiver granted as to Board of Health but denied to extent of express conditions, including without limitation Conditions A.6, B.6, and C.5.a.ii(2).
V. Permit Restrictions	A permit will become void automatically and without further action or notice if the work under the Permit is not Completed within twelve months from the date of issue of such Permit. Further, any Permit issued can be revoked by the Board of Health after notice to the Licensed Disposal Installer (DWI) if conditions set forth in the application have changed prior to or during work under the Permit. Permits may be extended upon written request is the sole discretion of the Board.	Waiver of this requirement.	Granted for a period of three (3) years, or for such other period of time as would otherwise be authorized under the provisions of 760 CMR 56.05(12)(c), unless an earlier lapse applies pursuant to state Title 5 regulations.

Criteria	Requirement	Proposed	Board Action
<p>VI. Design Requirements for Sewage Disposal Systems and Plants</p>	<p>3. "...shall be located no greater than 200 feet from the structure to be served by.."</p> <p>5. " No Sewage Disposal System or Plant shall be constructed within one hundred (100) feet of the normal annual high water level of any great pond, brook, river, swamp, or of a wetland as defined by Massachusetts General Law Chapter 131, Section 40 or the Town of Hingham Wetlands Protection By-Law.."</p> <p>6. " No Sewage Disposal System or Plant shall be constructed within four hundred (400) feet of a public water supply well or wellfield, as defined in Massachusetts drinking water regulation, 310 CMR 22.02 or surface water supply as defined herein or within two-hundred and fifty (250) feet of any private potable well or one hundred (100) feet of any private nonpotable well..."</p> <p>7. No Leaching Facility shall be constructed within:</p> <p>a) Twenty-five (25) feet of any surface or subsurface Drain when the Drain elevation is higher than the proposed Leaching Facility.</p> <p>(b) Fifty (50) feet of any surface or subsurface Drain when the Drain elevation is equal to or lower in elevation than the proposed Leaching Facility.</p> <p>(c) One hundred (100) feet of any surface or subsurface Drain which discharges into a Protected Water Body.</p> <p>(d) Two hundred fifty (250) feet of any surface or</p>	<p>466 ft. (Unit 19 – Units 1, 2, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 greater than 200 feet).</p> <p>Waiver of this requirement.</p>	<p>3. Partial waiver granted subject to Condition C.5.e.</p> <p>5. Denied as not applicable to Project as the system or plant to be constructed is not proposed in such a location.</p> <p>6. Denied as inconsistent with an identified Local Concern (see Findings, including without limitation Finding 3(g) and Condition C.5).</p> <p>7(a)(b)(c)(d) – Denied as an inappropriate "blanket" waiver and because there was no demonstration by the Applicant that these waivers necessary to permit the construction and operation of the Project.</p>

Criteria	Requirement	Proposed	Board Action
	subsurface Drain which discharges into a surface Water Supply or tributary thereto.		
	8. “ .. shall be designed to discharge more than 110 gallons of design flow per day per 12,500 sq. ft. in Lot area..”	426 gallons/day/12,500 sq. ft. in lot area Total lot area = 290,365 sq. ft./12,500 sq. ft = 23.23; 9,900 gal/day/23.23 = 426 gallons/day/12,500 sq. ft.	Partial waiver granted only to the extent provided in Condition C.5.a.
	9. “ less than five (5) feet below the bottom of the Leaching Facility except that if the percolation rate of the soil in the Leaching Area is between 2 and 5 minutes per inch, at least six (6) feet...”	As allowed in Title V: Maximum Groundwater Elevation 5 feet below bottom of leaching facility for soil with perc rate between 2 and 5 minutes per inch.	Denied as an inappropriate “blanket” waiver and because there was no demonstration by the Applicant that these waivers necessary to permit the construction and operation of the Project.
	10. “ .. the area between the trenches shall not be used for part of the reserve area...”	As allowed in Title V: Area between trenches can be used for reserve area.	Granted
	12.a) “ and where at least 5 feet of the underlying naturally occurring pervious strata is above the Maximum Groundwater Elevation, except that at least 6 feet of the underlying naturally occurring pervious strata must be above the Maximum Groundwater Elevation if the percolation rate of the pervious material is between 2 and 5 minutes per inch...”	As allowed in Title V: Maximum Groundwater Elevation 5 feet below bottom of leaching facility for soil with perc rate between 2 and 5 minutes per inch.	Denied. Based on the Applicant’s comprehensive permit application, no waiver is required to permit the construction and operation of the Project.
	14. “ the bottom of the cellar floor must be at least 18” above the Maximum Groundwater Elevation...” 17. “ the stone used in a leaching area shall not be less than 8 inches deep beneath the bottom of the distribution lines.”	Waiver of this requirement. As allowed in Title V: Stone 6 inches deep.	14 & 17 - Denied there was no demonstration by the Applicant that these waivers necessary to permit the construction and operation of the Project.
	18. Tees and Wyes will not be permitted in the leaching area.	As allowed in Title V: Tee and Wye connections permitted in leaching areas.	Granted

Criteria	Requirement	Proposed	Board Action
	22. " a new Sewage Disposal System or Plant must be constructed prior to the commencement of the construction of the Structure it is to serve..." Entire Section	New Sewage Disposal System or Plant to be operational prior to occupancy permits. Waiver of these requirements. Wastewater treatment plant if required to be permitted under Mass. DEP Environmental Code Title 5 (310 CMR 15.00) or the Mass. DEP Groundwater Discharge Permit (314 CMR 5.13).	Partial waiver granted subject to the provisions of Condition D.15. Denied as inconsistent with identified Local Concerns (see Findings, including without limitation Finding 3(g), and Condition C.5).
VII. Wastewater Treatment Plants			

- V. The Project shall be exempt from the filing fee requirements established by the Zoning Board of Appeals, Board of Health, Planning Board, Conservation Commission, or other Town entity, except for fees specifically relating to Comprehensive Permit Applications. **Denied as not required as all filing fees under local regulations pursuant which Zoning Board is acting as other local boards are included in 40B application fee; but no other fees are waived.**
- VI. The Project shall be exempt from any other applicable zoning or related municipal ordinances so far as the same may be at variance with the Project or the Site Development Plans or the Architectural Plans as filed. **Denied as an inappropriate "blanket" waiver.**