

**AMENDED AND RESTATED DECISION ON APPLICATION FOR AMENDMENT OF
COMPREHENSIVE PERMIT APPLICATION**

G.L. C. 40B, §§20-23

APPLICANT: SEB/Herring Brook, LLC (the "Applicant")

PROPERTY: 126 and 132 Chief Justice Cushing Highway, Scituate, Massachusetts, also identified by the Scituate Assessor as Parcel ID 58-1-8-A and Parcel ID 58-1-5-O (the "Property")

PROJECT: Herring Brook Meadow (the "Project")

DATE: October 3, 2018

Pursuant to G.L. c.40B, the Zoning Board of Appeals of Scituate, after a public hearing, hereby approve the Amendment of the Comprehensive Permit to the Applicant for the construction of the Project, as modified and further described below, to include 60 dwelling units on the Property in a single multi-family structure, including an access drive, parking areas for 99 vehicles and associated infrastructure and improvements as described herein, subject to the following findings and conditions:

I. PROCEDURAL HISTORY AND JURISDICTIONAL FINDINGS

1. The original Application for a Comprehensive Permit was received by the Scituate Zoning Board of Appeals (the "Board") on November 8, 2006, as submitted by Herring Brook Meadow LLC ("HBM" or the "Original Applicant"). The Application was for a 60-unit condominium development on approximately 15.34 acres of land. The Application was accompanied by a Project Eligibility Letter dated May 26, 2006, from the Massachusetts Housing Finance Agency ("MassHousing"). Twenty-five (25) percent of the proposed housing units (15 units) were designated as affordable age-restricted housing under the guidelines established by the Commonwealth of Massachusetts.
2. On November 9, 2007, the Board issued a decision denying the original Application, from which an appeal was taken to the Housing Appeals Committee (the "HAC"). On May 26, 2010, the HAC issued its Decision, overturning the Board's denial and ordering the Board to issue a Comprehensive Permit consistent with the HAC's Decision. The HAC's decision was later upheld by the Land Court and the Appeals Court and became, by operation of law, the operable Comprehensive Permit for the Project (the "Original Comprehensive Permit").
3. The project plans, as approved in the Original Comprehensive Permit, were prepared by SITEC Environmental, Inc. ("SITEC"), as last revised through September 17, 2007. The approved project design included sixty (60) garden style condominium units, with a total

of 128 bedrooms, arranged in three buildings. The combined square footage of the buildings was roughly 85,500 gsf. The approved project included 120 parking spaces and such description describes the "Original Project." As with the Original Project, the amended and restated project approved hereunder will be served by municipal water and a private wastewater treatment facility.

4. In June 2017, the Board voted to approve an extension of the Original Comprehensive Permit until April 1, 2018. Thereafter, on March 1, 2018, the Board voted to further extend the permit, more recently, the Board voted to extend the Original Comprehensive Permit through receipt of Final Approval of the amended Project described herein.
5. Pursuant to 760 CMR 12.05(12)(b), prior to substantial completion of a project or phase thereof, a Comprehensive Permit may be transferred to an entity other than the original applicant upon written confirmation of from the Subsidizing Agency that the transferee meets the requirements of 760 CMR 56.01(1)(a) and (b) and written notice to the Board. By letter dated October 2, 2017, Massachusetts Housing and Finance Agency ("MassHousing") confirmed that pending review of the Final Approval submittal, transferee SEB/Herring Brook Meadow LLC ("SEB" or "Applicant"): (i) would be eligible to apply as a limited dividend entity and enter into a regularly agreement with MassHousing and (ii) appeared to meet eligibility standards for the New England Fund program or that the development would be fundable under the FHLBB New England Fund, consistent with 760 CMR 56.04(1)(b). The Board has not objected to this change and finds that the Applicant has substantial experience in the field of 40B project development.
6. The Applicant proposes to be a limited dividend entity that will limit its profits in accordance with legal requirements. Accordingly, the jurisdictional requirements under 760 CMR 56.04(1)(a) will be satisfied when the applicant executes a Regulatory Agreement and other related documentation, as referenced more fully in Section IV hereof.
7. Applicant possesses an interest in the site by virtue of the fact that it has entered into a Purchase and Sale Agreement with the original applicant, the owner of the site. The jurisdictional requirements of 760 CMR 56.04(1) have been satisfied, provided that the Applicant closes on such proposed purchase of the site.
8. By letter dated November 1, 2017, Applicant submitted written notice to the Board under 760 CMR 56.05(11)(a) regarding proposed changes to the Original Project approved in the Original Comprehensive Permit. The Applicant proposed, *inter alia*, to reduce the three-building design to a two-building design, which included both surface and sub-grade parking, for a reduced size project of 109 bedrooms, contained in 48 dwelling units. At a public meeting on November 15, 2017, the Board determined that the proposed changes to the Original Project were substantial under 760 CMR 56.05(11) and scheduled the project changes to be reviewed within a public hearing. The Applicant did not dispute such determination.

9. A duly advertised public hearing on the proposed amendment to the Original Project was timely opened with respect to the proposed modifications to the Original Project plans on December 7, 2017, and thereafter continued the public hearing to January 25, 2018, March 1, 2018, May 17, 2018, June 7, 2018, July 26, 2018 and August 30, 2018. At the public hearing session on July 26, 2018, the Applicant presented a substantially revised project, as described below, which the Board accepted as an amendment to the Application, allowing the hearing to proceed uninterrupted. The hearing on the revised project plans was closed on August 30, 2018. Extensions of the time to act on the requested Project Amendment were granted by the Applicant.
10. Many interested members of the public attended the public hearing and offered comments on the revised project plans. These individuals made a variety of comments and asked a variety of questions, to which the Board and the Applicant's representatives responded. The final revised plans were ultimately met with more positive comments by area residents. The Board further received comments by several Town officials including, with particularity, the Scituate Fire Department.
11. The Board retained Woodard and Curran to peer review the proposed changes to the project layout for compliance with the Massachusetts Stormwater Standards, the Scituate Zoning Bylaw, the Scituate Stormwater Bylaw, the Scituate Wetland Protection Rules and Regulations and generally accepted engineering practices. Ultimately, Woodard and Curran approved the modified plans, subject to the conditions noted herein and further review upon receipt of final plans.
12. During the course of the public hearings on the amended project design, the Applicant further revised the building layout by submittal on July 18, 2018. The revisions included reducing the project to a single building, consisting of 60 rental dwelling units (99 bedrooms), locating the entire development area above the 100-year FEMA floodplain; locating surface parking spaces (99 spaces) to be outside the FEMA floodplain; reducing the gross square footage for the building to approximately 74,700 SF (a 20,000 SF reduction of the prior revised design filed under this hearing and proceedings) and reducing the development area from 3.94 acres (of the plans approved as a part of the Original Comprehensive Permit) to 2.7 acres. Such revised plans also addressed significant concerns regarding emergency access, parking, open space preservation and other impacts that arose during the public hearing on this matter to the satisfaction of the Board.

II. PROJECT AND PROPERTY DESCRIPTION

1. The Project, as finally revised, is described and shown in the July 18, 2018 supplemental materials submitted to the request for project amendment and various plans, including, most notably, the Project plans entitled "Site Plan" for SEB Herring Brook, LLC, prepared by SITEC Environmental, dated September 29, 2017, as revised through July 10, 2018 and consisting of a 10-sheet set of drawings, together with additional detail

sheets, a snow management plan, erosion and sedimentation control plan and zoning district exhibit. These plans together with the architectural plans submitted within the public hearing titled "Floor Plans, Herring Brook Meadow modified," by Grazado Velleco Architects, Sheet A-1, dated 7/10/2018 and "Elevations, Herring Brook Meadow modified" by Grazado Velleco Architects," Sheet A2, dated 7/10/2018, depict the revised project advanced by Applicant and are hereby referred to as the "Plans".

2. Per the Plans, the Project will consist of a single multifamily rental building, consisting of a total of 60 dwelling units/99 bedrooms, and related infrastructure including: surface parking for 99 vehicles, a private wastewater treatment facility, site access drive and emergency vehicle 360-degree access to the building. The development area will be approximately 2.7 acres of the 15.34 acre site. Further, under the revised plans, the area of fill within the existing Isolated Land Subject to Flooding has been reduced from approximately 30,800 square feet to 5,400 square feet, resulting in a significant reduction in the disturbance to the meadow for required compensatory storage.
3. The Property contains 15.34 acres of land, including both the real property known and numbered as 126 Chief Justice Cushing Highway which consists of .95 acres and 132 Chief Justice Cushing Highway which consists of approximately 14.39 acres (collectively, the "Property" or the "Site"). According to the project engineers, the total development area for the project is approximately 2.7 acres, approximately 1.24 acres less than the area for the Original Project.
4. Since the Project was initially proposed in 2006, the FEMA Flood Insurance Rate Maps ("FIRM") have been revised. At the time of the original application, the 100-year flood elevation was Elevation 11. On November 4, 2016, FEMA FIRM plans were updated. Under the updated FEMA maps, the Flood Zone AE Elevation 16 NAVD 1988 Datum, converted to NGVD 1929 Datum by increasing to .814 feet, for Elevation 16.841. The Project revisions have utilized a conservative elevation 17 NGVD 1929 as the 100-year flood elevation. To account for the change in the FEMA 100-year flood elevation, the Applicant has proposed bringing clean fill to the site to raise the elevations such that the access drive, the parking, the building footprint, wastewater treatment shed and an emergency access drive around the building will all be above the 100-year flood elevation.
5. The Property is located off Route 3A and adjacent to the First Herring Brook. The Property is located in the Scituate Residential-1 (formerly A-1) zoning district and Saltmarsh and Tideland zoning district. A portion of the Property is within the Flood Plan and Watershed Protection Zoning District.
6. The single building on the Property will be approximately 74,500 square feet. The rental units will include 27 one-bedroom units, 27 two-bedroom units and six (6) three-bedroom units. The Project will also include common space, including a communal outdoor lawn/terrace for the Project residents, as shown on the Plans.

7. There are 99 parking spaces as shown on the Revised Project Plans, all of which are located above elevation 17 NGVD 1929.
8. The Project will be served by public water and a private wastewater treatment facility. Stormwater runoff from the parking areas, driveways and central landscaping area will be directed to and collected by a series of catch basins. These catch basins then direct stormwater to a stormwater treatment unit through a network of piping. The stormwater management system has a single discharge outlet along the northern portion of the development area, directing stormwater to the salt marsh through a swale. Stormwater associated with roof runoff will be conveyed to an underground infiltration system, recharging into the groundwater table.
9. As compared to the design approved as part of the Original Project, the Project minimizes impervious area and maximizes retained open space.
10. The Project allows for substantially improved emergency access to the rear of the building via a stabilized surface that can be grassed over. Such access will be gated. Prior versions of the proposed project modifications did not have sufficient access to the rear of the building in the Board's opinion.
11. The Plans provide for well-developed landscaping, with a final landscaping plan to be submitted to the Board for review for consistency with this Decision

III. FINDINGS

1. The Project will contain 60 dwelling units in a single building, with a total of 99 bedrooms. The Board finds that the present design, as depicted on the Plans is a substantial improvement from prior designs and will mitigate the adverse impacts that would have resulted from prior project designs.
2. The Board finds that the Project, as depicted in the Plans, has adequate parking as well as adequate facilities for ingress and egress to the Site. The Board finds that the Project will not result in significant degradation of traffic conditions in the area.
3. The Board finds that, as conditioned herein, the Project has adequate provisions for emergency access. The Board's finding in this regard is contingent on the Applicant's compliance with any and all reasonable and customary requirements of the Scituate Fire Department.
4. The Board finds that, when built in accordance with the Plans and the conditions imposed herein, the Project is "consistent with local needs" as such phrase is contemplated by G.L. c. 40B, §§20-23. The Board also finds that any impacts posed by the Project will not outweigh the benefits provided by the Project's affordable units.

5. The Board finds that the Applicant has worked in good faith to mitigate adverse impacts to a reasonable and acceptable extent and that most substantive comments made by the Board, the Board's peer review consultants and by the public as part of the record have been satisfactorily addressed, subject to the conditions below.
6. The Board finds that the grant of certain waivers from local by-laws and regulations, as described more fully in Section IV hereof, is acceptable although the grant of any waivers may cause adverse impacts to local concerns. The Board finds that any local concerns that have been affected thereby do not outweigh the Town's need for affordable housing, particularly given the improvements to the Project design that have been provided by the Applicant.
7. The Board finds that the Project will positively address housing needs in the Town of Scituate. As revised, the Project will provide the Town with 60 rental units (45 market rate/15 affordable) all of which may qualify to be counted as SHI Eligible. The Project assists in the Town's goals in addressing a need for affordable housing.
8. The Board finds that the conditions imposed in the following section are necessary in order to properly address local concerns. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions do render the Project uneconomic, the Board finds that the local concerns in imposing the same outweigh the statutory requirements for the affordable units that have been proposed.
9. While the Applicant did file plans which are of sufficient design to enable the Board to make this Decision, the Board finds that further administrative review of further developed plans is required as described in Section IV below. This Decision shall be the master permit issued in lieu of all local permits that are subsumed into the c. 40B process or approvals that would otherwise be required, except for local permits issued pursuant to State statutes (the Wetland Protection Act, etc.), and issuance of Building Permits and Certificates of Occupancy by the Building Department.
10. While the Applicant did file landscaping plans which are of sufficient design to enable the Board to issue this Decision, the Board finds that further administrative review of more highly developed landscaping plans is required as further described in Section IV below.

IV. DECISION AND CONDITIONS

Upon motion and second, the Board voted unanimously to approve the Applicant's Project as described in this Amended and Restated Comprehensive Permit Decision, subject to the following conditions:

1. The conditions contained in this Amended and Restated Comprehensive Permit entirely supersede the Original Comprehensive Permit, including the decision of the

Housing Appeals Committee. Accordingly, the findings and conditions of this Decision shall be the governing findings and conditions for this Project.

2. Except as otherwise required by the conditions imposed by this Decision or by the "Final Site Plans," as defined below, the Project shall be developed, constructed and completed in conformance with the Plans, as revised during the public hearing and by these conditions under Section IV.
3. No construction may commence and no building permits may issue unless and until the Applicant provides the Board with evidence of Final Approval issued by MassHousing under 760 CMR 56.04(7).
4. Final, fully designed site plans (the "Final Site Plans") shall be submitted to the Board, the Board's designated engineer, the Scituate DPW Director and the Scituate Building Commissioner no less than 45 days prior to the application for building permits for the commencement of construction of the Project. The Final Site Plans shall be of a quality and level of detail sufficient to allow the DPW, Building Commissioner and the Board's engineer to review the Final Site Plans for consistency with the Plans, the terms of this Comprehensive Permit, state building code requirements and industry standards. No construction shall commence and no building permits shall issue under this Comprehensive Permit until the Board's engineer has approved the Final Site Plans as being in conformance with this Decision, said approval to be in writing. If no written response or comments have been given to the Applicant by the Board's engineer concerning the Final Site Plans within forty-five (45) days after the Final Site Plan submission date, the Final Site Plans, as delivered, will be deemed to have been approved, provided that, for good cause shown, the Applicant shall allow a 30-day extension of such approval period. Nothing herein shall be construed to limit or otherwise affect the Scituate Building Department's authority and obligations under the State Building Code. The Final Site Plans shall include, but not be limited to, complete construction plans, final storm water management plans (including an operation and maintenance plan and erosion control plan), a landscaping plan and a lighting plan as well as all other plans described below and that are customarily submitted for projects of this scope, as may be determined in the reasonable discretion of the Board's engineer. The 45-day time period under this paragraph shall not commence if the Board's engineer timely notifies the Applicant in writing that the Final Site Plans are incomplete.
5. No building permits may issue and no site work may commence until the Applicant provides the Board with architectural plans (elevations and floor plans and unit mix) The Board shall review such plans administratively for consistency with this decision within forty-five (45) days after submission to the Board's office, and the Board's approval of the same shall not be unreasonably withheld or conditioned if said plans are consistent with the Plans. In the event that the Board does not issue a decision with respect to such plans within said 45 days, such plans shall be deemed approved.

6. No building permits may issue and no site work may commence until the Applicant provides the Board with final landscaping plans. In addition to general landscaping details (consistent with plans already provided), said landscaping plans shall include final designs of landscaping that will provide a buffer and/or screening for neighboring properties. The Board shall review such plans administratively within forty-five (45) days of submission and the Board's approval of the same shall not be unreasonably withheld or conditioned if said plans provide adequate buffering and screening, including screening that will mitigate impacts from car lights. In the event that the Board does not issue a decision with respect to such plans within said 45 days, such plans shall be deemed approved. The Applicant is hereby directed to work with said neighboring property owners to achieve consensus on screening and buffering, to the maximum extent feasible. The final landscaping plan shall include a representative planting list. All plantings shall be maintained by the Applicant. Changes to the plantings made over time provided that all plantings shall be maintained in a suitable and attractive manner and all screening is maintained.
7. The Applicant is directed to work with the Scituate School Department, as well as the Police Department as may be necessary, to designate and design a suitable bus stop area. Such area shall be shown on the Final Site Plans and evidence of the communication with the Scituate School Department shall be provided to the Board.
8. At least thirty (30) days prior to the commencement of construction, as defined by substantial site work or the construction on the site, the Applicant shall be responsible for the scheduling of a pre-construction meeting with the Board's engineer. During the construction of the Project, the Applicant shall be responsible for the scheduling of a meeting with the Board's engineer at least once every three months to discuss the progress of construction. Failure to schedule and attend such a meeting may be grounds for a stop work order.
9. The lighting plan shall incorporate full cut-off lighting to mitigate, to the maximum extent possible, light pollution, as well "light spill" onto abutting properties. The lighting plan shall also incorporate illumination along the rear emergency access drive. The lighting plan shall fully comply with the provisions of the Scituate Zoning Bylaw.
10. The Final Site Plans shall include a construction mitigation plan that will address all aspects of construction mitigation, including, but not limited to: (i) grading; (ii) provisions that meet the prior approval of the Scituate Fire Department and Scituate Police Department for traffic flow and emergency vehicle ingress/egress along any partially constructed driveways within the Project; (iii) stockpiling of materials; (iv) trucking routes that meet the prior approval of the Scituate Police Department; (v) a concise construction mitigation and sequencing plan; and (vi) erosion control plan. The construction mitigation plan shall address cutting and clearing.

11. No building permits shall be issued until the Applicant provides the Building Commissioner with evidence that it has received administrative approval from the Water Division for connections to such utilities.
12. No building permits may issue until the Applicant provides the Building Commissioner with a final approval of the groundwater discharge permit issued by the Massachusetts Department of Environmental Protection ("DEP").
13. No building permits may issue until the Applicant provides the Building Commissioner with an approved amendment to the Applicant's Superseding Order of Conditions from Massachusetts DEP or, alternatively, as may be required by the Massachusetts DEP, an approved Order of Conditions from the Scituate Conservation Commission.
14. The building shall be designed to meet the applicable state building code and fire protection codes to the satisfaction of the Scituate Fire Department and Building Commissioner. The emergency access to the rear of the building shall be gated, on each side, with a design and location of such gate to be approved by the Scituate Fire Department. The gates shall be controlled by a Knox Box or other similar design approved by the Fire Department. Keys to the lock box will be held by the Fire Department as well as the Property Management Company. Snow plow access to the emergency access drive will be permitted. The emergency access shall, at all times, be kept free of obstructions and shall be plowed promptly after snow fall. Such emergency access shall not be open to general vehicular traffic by residents. The emergency access drive behind the building shall be constructed of pervious materials, such as Turfstone Grid Pavers, or such comparable pavers as proposed by Applicant and acceptable to the Fire Department.
15. The Final Site Plans shall depict the final design of the drainage system that exhibits compliance with all applicable best management practices and any applicable Storm Water Management Guidelines promulgated by the Massachusetts DEP or the Commonwealth of Massachusetts. A Stormwater Operation and Maintenance Plan ("O&M Plan") shall be included with the Final Site Plans and shall be subject to the Board's engineer's review and approval. Upon receipt of a final Certificate of Occupancy, the Applicant shall submit annual verification to the Board of the completed Stormwater O&M Plan Inspection Schedule and Evaluation Checklist Form.
16. Prior to issuance of a building permit, the Applicant shall provide a Fire Safety Plan for administrative review and approval by the Fire Department. Construction documents will include a fire safety room, with the location of an internal fire hydrant to be recommended by the Fire Department. The fire safety room will be within 100 feet of the internal fire hydrant.
17. Prior to obtaining a building permit, the Applicant must submit a copy of the Notice of Intent and SWPPP as filed with the EPA for a NPDES construction stormwater permit to

the Board and to the Conservation Commission.

18. With respect to each of the Applicant's requests for waivers from local by-laws and regulations, the Board hereby decides as follows:
 - a. The Board approves all of the waivers to the requirements in the Zoning Bylaw and to the local bylaws as set forth in the Applicant's Waiver List, dated August 22, 2018, only to the extent necessary in order to build the Project that is shown on the Plans and approved Final Site Plans.
 - b. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23.
 - c. No waivers are granted from inspectional fees.
 - d. Any by-law or regulation not inconsistent with the Project as approved and not expressly waived hereunder shall be strictly enforceable. Any subsequent revision to the Plans, including but not limited to material revisions that are apparent in the Final Site Plans that require additional or more expansive waivers of any local by-laws or regulations, must be reviewed in accordance with 760 CMR 56.05(11).
19. No less than twenty-five percent of the apartment units approved for the Project (i.e., at least 15 units) shall be affordable to individual and/or families earning not more than eighty percent (80%) of area median income (as defined by HUD on an annual basis), in perpetuity (the "Affordable Units"). Increments of dwelling units shall be rounded up to the nearest whole number such that twenty-five percent (25%) of the dwelling units shall result in no less than 15 affordable units based on the total number of dwelling units (60). The Affordable Units shall be proportionately distributed between one-bedroom, two-bedroom and three-bedroom units and shall be comparable in terms of amenities and location to the market rate units in the Project, provided however that such distribution may be subject to change in the event that tenants exceed allowable income limits, all in compliance with the Regulatory Agreement to govern the Project. The affordable units shall be made available at an average annual rent (including utility allowances) which does not exceed 30% of 80% of the household median income of the Boston Primary Metropolitan Statistical Area (as defined by HUD on an annual basis) at a household size which is equal to 1.5 persons per bedroom for the affordable unit being rented, or pursuant to any amendment of the requirements that are applicable to the calculation of rental rates. The original lease of affordable units shall keep pace of the lease of market-rate units such that at least two out of every eight units on initial lease-up shall be affordable units.
20. To the extent permitted by law, and with the approval of MassHousing, the maximum number of affordable units allowed by law and applicable subsidy program, but no more than 70% of the units, shall be reserved for present residents of Scituate, or employees of the Town of Scituate including teachers of the school district serving Scituate, employees of businesses located in Scituate, or households with children attending Scituate public

schools. The Board acknowledges that is the Town's responsibility to demonstrate to the Subsidizing Agency that there is a need for local preference. The Applicant shall assist the Town in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. The Board recognizes that the Town must provide evidence of its local preference need to the Subsidizing Agency within 3 months of the final issuance of the Comprehensive Permit. A lottery shall be established in a form approved by MassHousing and/or the Project's monitoring agent to effectuate this local preference, with an approved secondary lottery for all other applicants.

21. The Monitoring Agent for the project shall be a qualified entity approved by the Applicant's subsidizing agency. The Applicant shall provide the Board with copies of any and all correspondence, documents and statements provided by the Applicant to the Monitoring Agent or from the Monitoring Agent to the Applicant. The copy of the fully executed Monitoring Services Agreement(s) must be provided to the Board and the Building Inspector prior to the issuance of occupancy permits.
22. As the Applicant is a limited dividend entity, and, as required by law, all excess profits shall be used for affordable housing purposes in the Town of Scituate. The Town shall not be a party to the Regulatory Agreement executed by and between MassHousing and the Applicant, but evidence of a fully executed and recorded Regulatory Agreement shall be provided to the Board and the Building Inspector prior to the issuance of any building permits. Additionally, the Board shall be provided with a copy of any and all limited dividend audits and certified cost/income statements, as well as any other public records that are shared by and between the Applicant and the Monitoring Agent and their respective sub-contractors.
23. The Applicant is responsible for the preparation and execution of any document that may be required by MassHousing in order to have all of units in the Project included on the Town's Subsidized Housing Inventory.
24. As security for completion of the infrastructure shown on the Final Site Plans, including but not limited to the driveways, sidewalks, parking, storm water management system, lighting, water and sewer systems, landscaping and utilities (collectively the "Infrastructure"), the release of occupancy permits for the buildings shall be subject to the following restrictions:
 - a. No occupancy permit for a unit shall be issued until the Infrastructure as shown on the Final Site Plans essential for the building's occupancy, as approved by the Board's engineer or its designated agent, has been constructed or installed so as to adequately serve said building. The final "punch list" items of the Infrastructure for the Project shall be installed prior to the occupancy permit for the final four (4) units in the Project. The final infrastructure shall include, but not be limited to: final course of pavement, curbing, remaining landscaping, and any "punch list" items identified by the Board's Engineer.

- b. In that the Plans reviewed by the Board were preliminary, no occupancy permits shall be issued until the Applicant complies with any other requirements or specifications that are reasonably required by the Board's engineer for compliance with the Final Site Plans, this decision and recognized best management practices.
 - c. Upon completion of all such Infrastructure for the Project's building, as described above, the Board's engineer shall inform the Scituate Building Commissioner accordingly, who may then release occupancy permits. No occupancy permit shall be issued without such authorization from the Board's engineer and such authorization shall be ineffective unless it is in writing.
 - d. Notwithstanding the procedures of this paragraph, the Board may initiate an enforcement action in order to compel the completion of any infrastructure not completed by the Applicant in accordance with the Final Site Plans.
25. During construction, the Applicant shall maintain all feasible and reasonable means of dust control and shall collect all debris on a daily basis. No construction, deliveries or any other activities may occur on Sundays or on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving, Christmas Eve or Christmas. No construction or deliveries may begin before 7:00 a.m. nor continue past 6:00 p.m., unless approved in advance by the Board. Notwithstanding the foregoing, interior construction that doesn't generate excessive noise may occur on weekday evenings, until 10:00p.m., and on Sundays from 8:00 a.m. to 6:00 p.m.
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26. The Applicant shall be responsible for all continued maintenance and repair of the Project's building and Infrastructure.
27. Snow and ice removal shall be the responsibility of the Applicant. Snow and ice removal shall be undertaken as soon as is practicable after snowfall and shall not impede or obstruct the driveways or the sight lines thereon and so as not to impede or obstruct the hydrants. Accumulated ice on the driveways shall be promptly removed or sanded such that vehicles may pass safely. To the extent practical, use of sodium-based de-icers shall not be utilized.
28. The Board's engineer shall be charged with general review of construction activities of the Project. In this capacity, the Board's engineer shall, during periods of active construction, conduct periodic inspections as reasonably necessary to ascertain the status and nature of work at the site and provide monthly reports to the Board. In addition, the Applicant shall also provide the Board's engineer with any pertinent photographs, logs, data or other information that may be helpful in the monitoring process. Such services shall be reasonably tailored to the extent and type of construction work being conducted at any particular time. The Applicant shall be provided with an opportunity to review the scope of services prior to commencement thereof.
29. The Board's engineer's reasonable fees for any services contemplated hereunder shall be paid by the Applicant in the manner prescribed by G.L. c. 44, §53G. The Applicant shall

also pay for any additional third-party inspections of project infrastructure, as may be reasonably required by the Board or the Board's engineer.

30. If the Applicant proposes changes to the project after issuance of the Decision, the proposed changes shall be subject to the procedures set forth in 760 CMR 56.05(11).
31. This Decision shall not be valid until recorded with the Plymouth County Registry of Deeds and evidence of such recording is provided to the Inspector of Buildings and the Board of Appeals.
32. Prior to the issuance of any occupancy permits, any and all easements that may be necessary to complete and occupy the Project shall be in a form approved by the Town's Counsel, such approval not to be unreasonably withheld.
33. The Permit shall run with the land and be binding on the Applicant and any of its assignees and successors in interest at the Property or with respect to the Project. Any transfer of this permit prior to substantial completion of the Project shall be subject to written confirmation from the Subsidizing Agency and otherwise in accordance with 760 CMR 56.05(12)(b). The Applicant shall provide 30-days advance written notice to the Board of any such request. The Applicant shall provide the Board and the Building Commissioner with the name of any management company that may be retained to manage day to day operations of the Project, once it is completed.
34. This Decision shall expire if construction is not commenced within three years from the date it is filed by the Board with the Town Clerk, as provided in 760 CMR 56.05(13)(c). For purposes of this paragraph, commencement of construction shall be defined as the construction of the foundation for the Project's building. However, the Applicant may seek extensions of this three-year period for good cause, which shall not be unreasonably withheld. A request for an extension shall be deemed timely filed if it is received prior to the expiration hereof.
35. Any finding, by any court of competent jurisdiction, that any condition hereof is unenforceable shall not otherwise affect the enforceability of the remainder of the conditions hereof.
36. Appeals of this amended permit decision shall be made pursuant to G.L. c. 40B.

SCITUATE ZONING
BOARD OF APPEALS


By John Hallin, Chairman