

**HOUSING APPEALS COMMITTEE  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**

WALL STREET DEVELOPMENT CORP.	)	
	)	
Appellant	)	INITIAL PLEADING
	)	DOCKET NO.
v.	)	
	)	
TOWN OF WALPOLE	)	
ZONING BOARD OF APPEALS,	)	
	)	
Appellee	)	

**INTRODUCTION**

This is an appeal pursuant to Massachusetts General Laws, Chapter 40B, sec. 21-23 and 760 CMR 56.00 from a decision of the Walpole Zoning Board of Appeals (the “Board”) dated June 10, 2021 and filed with the Walpole Town Clerk on June 10, 2021 (the “Decision”, attached hereto as Exhibit A). The appeal is from the Board’s Decision to deny a comprehensive permit for a 12-unit home ownership, affordable housing project located on Dupee Street in Walpole, Massachusetts commonly known as “Diamond Hill Estates” (the “Project”). The Project is located on Walpole Assessor's Map 35, Parcel 380-1, (the “Property”).

**THE PROPERTY AND THE PROJECT**

1. The Property is located on the westerly side of Dupee Street in the town of Walpole, MA and consists of one parcel totaling 1.22+/- acres. The Property is located in the Town’s Residence B (RB) Zoning District.

2. Dupee Street is a right of way approximately 28 feet in width and 880 +/- feet in length. The initial portion of Dupee Street is established as a gravel roadway, extending approximately 300+/- feet from its intersection with High Plain Street. According to recorded plans, this portion of Dupee Street is maintained by the town of Walpole. The remaining portion of Dupee Street, approximately 580+/- feet, has yet to be constructed. There are no existing buildings or improvements on the Property.

3. The site is bordered to the east and west by developed residential neighborhoods on Cybil Street and Victoria Circle, respectively, and to the south by land owned by the town of Walpole and the residential neighborhood along Summit Avenue.

4. The topography on the northern portion of the site slopes gently to the north toward the existing developed portion of Dupee Street, while the southern portion of the site slopes gently to the southwest toward Summit Avenue. Overall, the site is relatively flat, varying from elevation 300 on the north, to elevation 307 to the south. There are no significant slopes to be affected.

5. The Property includes a relatively homogeneous stand of upland forest consisting of eastern white pine, with subdominants of norther red oak and northern white oak. The shrub and ground cover layers are relatively sparse over much of the site.

6. There are no wetlands on the site and the site is not located within any mapped environmentally sensitive areas. There are no DEP-mapped outstanding resource waters, public wells or public water supplies or any state-designated Areas of Critical Concerns. In addition, there are no vernal pools or priority habitat of endangered or rare species as mapped by the MA Division of Fisheries and Wildlife.

7. The Property is situated just 1.5 miles from nearby MBTA Commuter Rail stations in Walpole Center and Norwood Center with train service to Boston, MA and Providence, RI and

just .3 miles to the MBTA's East Walpole Line bus service via Washington Street to surrounding area towns of Dedham, West Roxbury, Jamaica Plain, and Forest Hills Orange Line Station. In addition, the Property is located in close proximity to many employment opportunities with a short driving distance to US Route 1, US Route 1A, Interstate I-95, Interstate I-93 and Interstate I-495 which all lead to major places of employment, as well as, places of worship, elementary and middle schools and recreational areas. Lastly, the Property is a short walking distance to the Walpole Mall, where many shopping and personal needs are available to be served.

8. The development of Dupee Street to provide access for the proposed Project would not be dissimilar in design and construction to other area streets that also provide access from High Plain Street. The proposed density of the subject Project is also similar to the density that exists on nearby streets that access High Plain Street.

#### **THE PARTIES**

9. The Appellant, Wall Street Development Corp. and Diamond Hill Development LLC (to be formed) (the "Applicant"), will be a limited dividend organization within the meaning of M.G.L. c. 40B, sec 21-23. The Applicants have a usual place of business at the following address:

Wall Street Development Corp.  
P.O. Box 272  
Westwood, MA 02090  
and

Diamond Hill Development LLC  
2 Warthin Circle  
Norwood, MA 02062

Counsel for the Applicants is:

Jason R. Talerman, Esq.  
Mead, Talerman & Costa, LLC

730 Main Street, Suite 1F  
Millis, MA 02054  
(508) 376-8400  
jay@mtclawyers.com

10. The Appellee, the Walpole Zoning Board of Appeals, is a comprehensive permit granting authority pursuant to M.G.L. c. 40B sec. 21. The Board's address is as follows:

Walpole Zoning Board of Appeals  
135 School Street  
Walpole, MA 02081

Counsel for the Board is:

George Pucci, Esq.  
KP Law P.C.  
101 Arch Street  
Boston, MA 02110

### **PROCEEDINGS AND DECISION**

11. The Appellant received a Project Eligibility Letter ("PEL") from MassHousing dated December 6, 2019 under the New England Fund Program of the Federal Home Loan Bank of Boston to construct a 12-unit home ownership, affordable housing project on Dupee Street in Walpole, MA. A copy of the PEL was submitted to the Board with the original Application. According to the PEL, the Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and that the development fulfills the minimum Project eligibility requirements set forth in 760 CMR 56.04(1) as follows:

- a. The Applicant has agreed to form a limited dividend organization prior to applying for final approval (as defined in 760 CMR 56.02), Diamond Hill Development LLC, which will have a principal place of business of 2 Warthin Circle, Norwood, Massachusetts. The Applicant has agreed to conform to the limited dividend requirements of M.G.L Chapter 40B.

- b. The Applicant has included a copy of Purchase and Sale Agreements and certain deeds regarding the Property upon which the Board relies, in relevant part. According to the PEL, the Applicant has shown threshold evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.
- c. The Applicant has agreed to execute a Regulatory Agreement that limits its total profit and directs the redistribution of excess profit in accordance with the regulations adopted by the Massachusetts Department of Housing and Community Development ("DHCD").

12. An application for a Comprehensive Permit (the "Application") was submitted by Wall Street Development Co. (the "Applicant") to the Board on February 28, 2020. The Application proposed a 12-unit home ownership, affordable housing project to be built in six (6) detached buildings with 2-units in each building to be located on Property. During the hearing process the Applicant offered to revise the Project to reduce the number of units from 12-units in six (6) buildings to 8-units in eight (8) detached single-family condominium homes.

13. The Board opened the hearing on the Application on March 18, 2020 and the hearing was immediately continued to May 20, 2020 with no testimony allowed. At the continued public hearing on May 20, 2020 the hearing was immediately continued until June 17, 2020 without any allowing any testimony from the Applicant. At the continued public hearing on June 17, 2020 the hearing was immediately continued until July 27, 2020 without allowing any testimony. At the continued public hearing on July 27, 2020 the Board awarded a contract for peer review, but again, allowed no testimony from the Applicant and continued the public hearing until August 17, 2020. At the continued public hearing of August 17, 2020, the Board demanded the Applicant to pay the peer review fees or face other adverse consequences from the Board. Again, the Board did not allow the Applicant to offer any presentation or testimony regarding the Project and continued the public hearing until August 26, 2020. At the continued public hearing of August 26, 2020, again the Board did not allow any testimony or presentation

from the Applicant and the Board, once again, debated peer review of the Project. The Board refused to allow technical peer review of the Project to proceed, despite the Applicant having provided sufficient funds to cover the technical review of the Project. The Board continued the public hearing until September 21, 2020. At the continued public hearing on September 21, 2020, the Applicant was allowed to make its first public presentation of the Project since filing the Application some six months earlier on March 18, 2020. The public hearing was again continued until October 5, 2020. At the continued public hearing on October 5, 2020 the Board restricted comments solely to public comments from abutters to the Project. The Applicant was not allowed to address any comments and the hearing was continued until October 26, 2020. At the continued public hearing of October 26, 2020, the Board accepted testimony from the technical review peer consultants regarding the Project. The Applicant was not allowed to participate or offer testimony at this public hearing and the hearing was continued to October 28, 2020. At the continued public hearing of October 28, 2020, the Board again heard testimony from abutters to the Project as a reaction to the comments of the peer review consultants. The Applicant again was not allowed to offer testimony or make comments and the hearing was continued until November 18, 2020. At the continued hearing on November 18, 2020, the Board allowed the Applicant to offer testimony regarding the anticipated revisions to the Project based on the comments of the peer review consultants and the hearing was continued until December 2, 2020. At the public hearing on December 2, 2020 the Applicant introduced a revised plan reducing the scope of the Project from 12-units in six (6) buildings to 8-units in eight (8) detached single-family homes. In addition, the Applicant addressed prior comments of the peer review consultants. While the Board was quite pleased with the reduced number of units

proposed in the Project, the Board continued the hearing to January 13, 2021 and again to February 24, 2021.

14. In a letter dated February 22, 2021 the Board's peer review consultant, Tetra Tech, submitted to the Board its final technical review of the Project (the "Technical Review"). Tetra Tech's technical review reported that all technical issues related to the Project had been resolved. Attached as Exhibit B is a copy of Tetra Tech's Technical Review.

15. At the continued public hearing on February 24, 2021, the Board reviewed the Tetra Tech Technical Review. Despite full understanding that all the technical issues had been resolved, in the opinion of the Board's own peer review consultant, the Board seemed intent on delaying the hearing process further with subsequent hearings being held on March 24, 2021, April 14, 2021 and May 5, 2021.

16. On May 5, 2021, the Board voted to finally close the public hearing.

17. Following the close of the public hearing, the Board deliberated on the decision on May 26, 2021, June 2, 2021 and June 9, 2021. At the Board's meeting on June 9, 2021, the Board voted to deny the Application for Comprehensive Permit for the Project.

18. On June 10, 2021, the Board issued its final decision and recorded its decision with the Town Clerk. A copy of the Board's decision is attached as Exhibit B .

### **JURISDICTIONAL FINDINGS**

19. The Town of Walpole (the "Town") does not meet the statutory minima set forth in G.L. c. 40B § 20 or 760 CMR 56.03(3) to 56.03(7):

- a. At the time of the filing of the Application, the number of low, or moderate income, housing units in the Town of Walpole constituted 7.2% of the total year-round units in the Town, based on the most recent publicly available copy of the DHCD Subsidized Housing Inventory, dated December 21, 2020. Thus, the Town does not meet the 10 percent statutory minimum.

- b. The Town does not have information that there are existing affordable housing units that are on sites which comprise more than 1 ½% (1.5%) of the total land area of the Town which is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).
- c. The granting of this comprehensive permit will not result in the commencement of construction of low, or moderate, income housing units on a site comprising more than three tenths of one percent of land area in the Town of Walpole or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. The Town of Walpole has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
- e. The Project does not constitute a Large Project pursuant to 760 CMR 56.03(6).
- f. The Applicant's comprehensive permit application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

12. At the Board's meeting on June 2, 2020, a motion to approve the Application to construct the Project, with conditions, was voted down by a majority of the Board.

13. At the Board's meeting on June 9, 2021, a motion was made to deny the Application and the proposed Project. The Board voted to deny the Application and the Project.

14. On June 10, 2021, the Board issued the Decision and filed the same with the Town Clerk (the "Decision").

15. In the Decision the Board cited several reasons for denial of the Application.

These reasons can be summarized as follows:

- a. Allegedly insufficient ingress and egress to the Project site for emergency vehicles which need to cross the centerline of High Plain Street (Route 27) to make the turn;



- b. A narrow twenty (20) foot roadway allegedly preventing safe street parking for vehicles and potentially hazardous conditions for emergency vehicles and snow removal from the site;
- c. Alleged lack of proper open space and recreation amenities on site due to the Project design;
- d. Project is allegedly incompatible with the surrounding neighborhood due to the chosen density of development and physical limitations of the site; and
- e. Alleged failure to meet funding requirements of legally agreed upon consultant peer review.

### CONCLUSION

16. The Board's reasons for denial are not sufficiently based on any factual or technical evidence submitted during the public hearing process.

17. The Board's Conclusions and Reasons for Denial are subjective and based primarily upon personal opinion and not sufficiently supported by any technical evidence, plans, reports or testimony submitted during the hearing process.

18. The Board's decision and the reasons for denial therein are not consistent with local needs.

19. In all respects, the project meets generally accepted standards for matters of health, safety, the environment, open space and other matters of local concern.

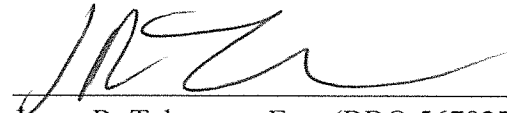
### REQUESTS FOR RELIEF

**WHEREFORE**, the Applicant requests that the Housing Appeals Committee:

- 1. Reverse the decision of the Board denying the Project and issue a Comprehensive Permit, as originally proposed; and

2. Enter such further relief as the Housing Appeals Committee deems necessary.

**APPELLANT,  
Wall Street Development Corp.,  
By its Attorney**

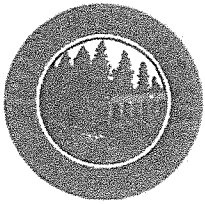


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June 23, 2021

EXHIBIT A



Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals

John Lee, Chairman  
Susanne Murphy, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Drew Delaney, Member  
David Anderson, Associate Member

DECISION ON CHAPTER 40B COMPREHENSIVE PERMIT APPLICATION  
G.L. c. 40B, §§20-23

APPLICANT  
Wall Street Development Corp

LOCATION OF PROPERTY INVOLVED  
Dupee Street  
Walpole Assessors Map: 35; Lot 380-1

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I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was submitted by Wall Street Development Co. (the "Applicant") to the Walpole Zoning Board of Appeals (the "Board") on February 28, 2020. The original application proposed twelve (12) home ownership units within six (6) structures to be located on property located on Assessor's Map 35, Lot 380-1 at Dupee Street, Walpole, Massachusetts (the "Project"). During the hearing process the Applicant revised the Project to eight (8) single-family homes.
2. The Board's hearing on the application was duly opened on March 18, 2020 and was continued May 20, 2020 (no testimony taken); May 20, 2020 (no testimony taken); June 17, 2020; July 27, 2020; August 17, 2020; August 26, 2020; September 21, 2020; October 5, 2020; October 26, 2020; October 28, 2020; November 18, 2020; December 2, 2020; January 13, 2021; February 24, 2021; March 24, 2021; April 14, 2021; and May 5, 2021. The public hearing was closed on May 5, 2021. The Board deliberated on the decision on May 26, 2021, June 2, 2021 and June 9, 2021. All of the public hearings and meetings were held via a virtual platform (zoom webinars) due to the Governor's March 10, 2020 declaration of a State of Emergency caused by the COVID-19 pandemic which put limits on public gatherings. All submittals concerning the Project are part of the administrative record kept at Walpole Town Hall and incorporated herein.

3. The Project is located at Assessor's Map 35, Parcel 380-1, Dupee Street, Walpole, Massachusetts.
4. The Property is located in the Residence B (RB) Zoning District. The Property consists of one parcel totaling 1.22+/- acres. There are no existing buildings or improvements on the Property. The Property resides along Dupee Street which is a private gravel roadway, extending approximately 300+/- feet from its intersection with High Plain Street. The remainder of Dupee Street, which the parcel in question resides along, is undeveloped.
5. The Applicant provided certain materials, reports, and revised plans during the course of the public hearing on the Application. During the public hearing, the Applicant was represented primarily by its principal, Louis Petrozzi. The Applicant's engineering consultant is Robert Truax, of GLM Engineering Consultants, Incorporated.
6. The Board utilized the services of Tetra Tech, Inc. ("Tetra Tech") for civil engineering, stormwater peer review and traffic peer review. Davis Square Architects ("Davis Square") was utilized for architectural review. Judi Barrett of Barrett Planning Group LLC advised the Board as its 40B technical consultant through the Massachusetts Housing Partnership Technical Review program. Town Counsel also attended the public hearings and advised the Board.
7. During the hearings, there was significant public input on a number of neighborhood concerns. The Board heard input from abutters and other interested persons throughout the hearing process. The following Board members were present for the entire public hearing process: Chairman John Lee, Vice Chairman Susanne Murphy, Mary Jane Coffey, and Drew Delaney. Board members Robert Fitzgerald and Jane Coffey were absent from a public hearing but complied with G.L. c. 39, § 23D.

## II. JURISDICTIONAL FINDINGS

8. The Applicant received a Project Eligibility Letter ("PEL") from MassHousing dated December 6, 2019 and submitted a copy to the Board with the original application. According to the PEL, the Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum Project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
  - a. The Applicant has agreed to form a limited dividend organization prior to

applying for final approval (as defined in 760 CMR 56.02), Diamond Hill Development LLC, which will have a principal place of business of 2 Warthin Circle, Norwood, Massachusetts. The Applicant has agreed to conform to the limited divided requirements of M.G.L Chapter 40B.

- b. The Applicant has included a copy of Purchase and Sale Agreements and certain deeds regarding the Property upon which the Board relies, in relevant part. According to the PEL, the Applicant has shown threshold evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.
  - c. The Applicant has agreed to execute a Regulatory Agreement that limits its total profit and directs the redistribution of excess profit in accordance with the regulations adopted by the Massachusetts Department of Housing and Community Development ("DHCD").
9. On April 25, 2019, the DHCD approved Walpole's Housing Production Plan pursuant to 760 CMR 56.03(4).

### III. FACTUAL FINDINGS

10. The Board engaged peer reviewers to review issues concerning civil engineering, drainage, traffic, site design, architecture and stormwater impacts of the Project. The Board also sought comments from Town Departments and abutters in the surrounding area.
11. There was significant delay in the Project being presented to the Board due to a disagreement between the Board and the Applicant on the scope and fee schedule of peer review. The Board's civil engineering peer review consultant, Tetra Tech, provided a scope of work for peer review dated 3/18/20 which was accepted by the Board on 7/27/20. The civil engineering peer review scope of work for \$9,950 was requested by the Board within seven (7) days of 7/27/20 and has still not yet been received in full. The Board's architectural peer review consultant, Davis Square Architects, provided a scope of work for peer review dated 8/13/20 which was accepted on 8/17/20. The architectural peer review scope of work for \$4,000 was requested by the Board within seven (7) days of 8/17/20, and the Board did receive this full requested amount for architectural peer review on 8/31/20.

For civil engineering peer review, the Board received a partial sum of \$4,950 from the Applicant on 8/12/20. The Board requested that the Applicant submit the remainder of the \$5,000 approved civil engineering peer review scope of work

within seven (7) days of 8/17/20. The Applicant submitted an additional partial sum of \$2,100 specifically for traffic peer review by Tetra Tech on 10/2/20. The full \$9,950 requested for Tetra Tech's original civil engineering peer review scope of work was never received by the Board. On 4/14/21 the Board accepted an amendment to Tetra Tech's peer review scope of work to add an additional \$6,000. This amendment was required to cover peer review services that had extended beyond the original scope of work. The Board requested this additional peer review funding from the Applicant within seven (7) days of 4/14/21.

The Board has not received any additional peer review funding from the Applicant for Tetra Tech's scope of work beyond the two payments received in the fall of 2020. In total \$7,050 has been received for Tetra Tech's approved \$9,950 in peer review. This peer review budget was later revised \$15,950 due to the \$6,000 amendment on 4/14/21. To date the Board has been invoiced \$11,446 from Tetra Tech of which only \$7,050 has been able to be paid due to the Applicant not providing the remaining consultant peer review funding. Notwithstanding the agreed about scope of work and subsequent amendment, the Applicant owes the Board a minimum of \$4,396 to pay off the current balance of their civil engineering peer review consultant fees.

This continued refusal by the Applicant to comply with State Regulation under 760 CMR 56.05(5) is troubling as it is the Board's right to seek consultant peer review as they have done so legally as defined under 760 CMR 56.05(5). The Board provided the Applicant with an ample amount of time to submit the remaining funding. The Board has shown a willingness to work with the Applicant on this matter, but this cooperation has not been reciprocated.

12. Both Town Departments (Fire Department and Engineering Department) as well as the Board's peer review consultants (Tetra Tech and Davis Square Architects) expressed concerns for the roadway width and initial "hammerhead" turn-around proposal for emergency access. There was also concern that the proposed twenty (20) foot roadway width would make emergency vehicle access difficult and street parking prohibited. The revisal of the site plan (from the November 30, 2020 revision to the February 3, 2021 revision) to convert the short "hammerhead" turnaround easement to a rounded a cul-de-sac turnaround was an appropriate and needed change. However, this change only partially addressed the Board's concerns regarding emergency and general site access as shown on all revisions of the site plan. The narrow roadway of twenty (20) feet and right-of-way of approximately thirty (30) feet, dead-end street, and potential encroachment onto abutting property remain major concerns and are unlikely to change given the lack of available lot width. While each of the eight (8) single-family dwelling

Decision on Chapter 40B Comprehensive Permit Application  
Wall Street Development Corp.

Assessor's Map 35, Parcel 380-1, "Diamond Hill Estates", Dupee Street, Walpole, MA

May 26, 2021

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units were provided with four (4) total parking spaces per unit including each unit's garage, the confines of the site only safely allowed for two (2) visitor parking spaces for the entire Project site. The narrow roadway of twenty (20) feet would require all street parking of vehicles to be prohibited. In the event of an emergency, any vehicle illegally parked on Dupee Street (site drive) could present a significant public safety concern for emergency vehicles to access the Project site.

13. The Applicant provided the Board with Fire Apparatus Turning Movement Plans dated February 26, 2020 and revised February 3, 2021. These plans showed the right turn ingress and egress to the site with both a Walpole Fire Department "pumper truck" and "ladder truck". While both fire apparatuses could perform the turnaround at the proposed cul-de-sac, only the shorter pumper truck was shown to be able to make the right hand turn into Dupee Street from High Plain Street without crossing into the opposite side of traffic. The plan sheet detailing the Walpole Fire Department Ladder Truck entering and existing Dupee Street (site drive) with a right turning movement from and onto High Plain Street, shows the truck unable to safely make the turn without having to first swing left into the opposite lane of traffic. The Walpole Fire Department, as stated in their most recent project letter to the Board on March 24, 2021, indicated that this proposed turning movement was a dangerous maneuver and if possible the site's entrance should be re-evaluated in order to eliminate the maneuver.
14. Vehicles traveling west along High Plan Street (Route 27) may find themselves in a blind spot within the location of Dupee Street. The location of this blind spot could be problematic in situations where emergency vehicles need to cross the centerline of High Plain Street in order to access Dupee Street (site drive).
15. The Applicant amended their original proposal from twelve (12) duplex style housing units to eight (8) single-family style housing units. While this amendment lowered the number of units on the site, public safety and accessibility for public safety vehicles still remains a concern for the Board. The Project site consists of narrow lot measuring out of 51,238 S.F. with a proposed roadway width of twenty (20) feet. While the number of dwelling units may have decreased from the original submitted site plan (February 26, 2020), the impervious surface according to the latest revised site plan of March 15, 2021 had not. The project's number of dwelling units is not a primary concern of the Board, but rather the density brought on by the strict confines of the proposed lot itself.
16. The surrounding neighborhoods abutting the Project site primarily consist of single-family dwelling units. This is evident by the type of residential use allowed

within the Zoning District of the Project site which is the Residence B Zoning District. While the Project does consist of single-family dwelling units, the density created by the narrow dimensions of the lot do not make it compatible with the surrounding area.

17. Peer review from Tetra Tech and Davis Square Architects both expressed technical concerns with the Project's density within the site. The initial proposal of twelve (12) townhouse style dwelling units within six (6) buildings, as well as the final proposal of eight (8) single-family units were problematic for a site consisting of only 1.22 +/- acres. The proposed twenty (20) foot roadway and approximately thirty (30) foot right-of-way are both far smaller than standard requirements listed within Walpole's subdivision rules and regulations (twenty-six (26) foot roadway and forty-six (46) right-of-way).
18. Peer review from Tetra Tech had expressed concerns with the site's stormwater drainage due to the amount of clear cutting of trees needed and the elevation of the site being significantly higher than the surrounding neighborhoods. After revisions, the peer reviewer indicated that all major stormwater issues had been addressed.
19. Peer review from Tetra Tech also expressed concerns with the narrow twenty (20) foot roadway to access the site when it came to snow removal.
20. The architectural renderings, dated February 2021, of the proposed single-family dwelling units remain inconsistent with what is proposed on the Project's civil site plan, dated February 26, 2020, with revisions through March 15, 2021. This inconsistency with the Project's civil site plan and the Project's architectural renderings continue to show the Applicant being unforthcoming with the Board and not providing adequate material in order to conduct a proper review. The Board, as well as their architectural peer review consultant Davis Square Architects, both addressed this inconsistency frequently with the Applicant as shown on Davis Square Architects' peer review letters from 10/19/21 and 2/20/21. While the Board had hoped to remediate this inconsistency through a condition in the Final Plans, it highlights a flaw in this process by leaving the Board to make a decision based on inconsistent plans for which the Applicant has had ample amount of time to remediate.
21. The Board is concerned about the position of a utility pole labeled as Pole 12-29 at the intersection of High Plain Street and Dupee Street as shown on sheet eight (8) of the Project's civil site plan, dated February 26, 2020, with revisions through March 15, 2021. With this utility pole being in close proximity to the entrance of



Dupee Street (site drive), it could pose a problem for larger emergency vehicles safely accessing the Project site.

22. The Project site has no open space or recreational amenities for the potential residents.
23. The Board has approved two Comprehensive Permits for affordable housing developments over the past year and half. One development for 32 homeownership townhouse-style dwelling units was filed on January 13, 2020. That development was submitted by the same Applicant as this Project. The other recently approved Comprehensive Permit was filed on April 27, 2021 for 236 dwelling units. That development consisted of a combination of single-family, townhouse, and apartment dwelling units. Like this Project, meetings were held remotely due to the ongoing COVID-19 pandemic.
24. The Board acknowledges concerns raised by abutters and other interested parties, including but not limited to, concerns relating to the roadway width, public safety access, construction vehicle traffic, stormwater drainage, building height and design, privacy, and landscaping. The Board had attempted to address these concerns by imposing appropriate conditions. However, given the Board's numerous concerns with the Project's site and design, it was determined that Local Concerns could not be properly addressed through conditional approval.
25. On June 2, 2020 a motion to approve a conditional approval of the decision for the Project was denied by the Board. The Board's reasons for denial are detailed above within this section of the decision. These reasons for denial include:
  - a. Dangerous ingress and egress to the Project site for emergency vehicles which need to cross the centerline of High Plain Street (Route 27) to make the turn;
  - b. A narrow twenty (20) foot roadway preventing safe street parking for vehicles and potentially hazardous conditions for emergency vehicles and snow removal from the site;
  - c. Lack of proper open space and recreation amenities on site due to the Project design;
  - d. Project is incompatible with the surrounding neighborhood due to the chosen density of development and physical limitations of the site;
  - e. Inability of the Applicant to meet funding requirements of legally agreed upon consultant peer review.

Decision on Chapter 40B Comprehensive Permit Application  
Wall Street Development Corp.  
Assessor's Map 35, Parcel 380-1, "Diamond Hill Estates", Dupee Street, Walpole, MA  
May 26, 2021  
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**The following conditions of approval were crafted and deliberated on extensively by the Board prior to their final vote. Ultimately it was determined by the Board that the project could not be conditioned in a manner that could adequately address Local Concerns.**

#### IV. CONDITIONS

##### A. General

- A.1 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.1, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). The Approved Plans consist of the following:

"Site Development Plan, A Comprehensive Permit M.G.L. c. 40B, Diamond Hill Estates", prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, **dated February 26, 2020, with revisions through March 15, 2021**

The Plan Set consists of the following sheets:

- Sheet 1. Cover Sheet
- Sheet 2. Existing Conditions
- Sheet 3. Layout Plan
- Sheet 4. Grading, Drainage & Utilities
- Sheet 5. Roadway Profile
- Sheet 6. Landscape
- Sheet 7. Details
- Sheet 8. Details
- Sheet 9. Details
- Sheet 10. Details
- Sheet 11. Details
- Sheet 12. Details
- Sheet 13. Details

The Applicant did not initially submit architectural plans stamped by a licensed Massachusetts Architect. Revisions were submitted and dated June 3, 2020, January 2021, and February 2021. Final revised plans are as follows:

Architectural plans dated: February 2021, by Morabito Architects

Sheet 1. Concept Plan 1. (Elevation)  
Sheet 2. Concept Plan 1. (Floor Plan)  
Sheet 3. Concept Plan 2. (Elevation)  
Sheet 4. Concept Plan 2. (Floor Plan)  
Sheet 5. Concept Plan 3. (Elevation)  
Sheet 6. Concept Plan 3. (Floor Plan)

Additional Plans:

Fire Apparatus Turning Movement dated: February 26, 2020 with revisions through February 3, 2021, by Green International Affiliates, Inc.

Pumper Fire Truck U-Turn Around the Cul-de-sac  
Pumper Fire Truck Right Turn Enter & Exit  
Ladder Fire Truck U-Turn Around the Cul-de-sac  
Ladder Fire Truck Right Turn Enter & Exit

Street Lighting Plan dated: December 15, 2020, by Speclines Innovative Outdoor Lighting Solutions

- A.2 The Applicant shall be a Limited Dividend Organization as required by Chapter 40B and it and its successors and assigns, shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.3 The Project shall consist of not more than eight (8) single-family owner occupied dwelling units of which two (2) shall be affordable as defined by the subsidizing agency in perpetuity.
- A.4 The Project provides a garage and driveway for each unit. There shall be four (4) parking spaces per unit, two (2) parking spaces within each unit's garage, and two (2) parking spaces within each unit's driveway. Driveway spaces shall have a minimum depth of 20 feet as measured from the face of the building to the lot line coincident with the Project roadway.
- A.5 There will be two (2) visitor parking spaces available on the site as shown on the Approved Plans. Identified visitor parking shall not impede emergency access to and from the site.

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- A.6 All on-street parking or any other storage/staging within the Project roadway is prohibited.
- A.7 Affordable units shall be interspersed evenly throughout the Project, as approved by the Subsidizing Agency during Final Approval.
- A.8 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Walpole Zoning Bylaw and other local by-laws and regulations as specified therein. Some of the waivers granted by the Board have been granted conditionally, as set forth in Exhibit A. Those conditions are expressly incorporated by reference as conditions of approval to this Comprehensive Permit. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23, and no waivers of any requirements otherwise within the Board's jurisdiction under G.L. c.40B, §§20-23 have been granted except for those expressly granted by the Board as set forth in Exhibit A. To the extent the Approved Plans reflect a waiver not expressly granted in Exhibit A, the terms and conditions of Exhibit A shall govern. No waiver of building permit or inspection fees has been granted. Any subsequent revision to the Final Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.9 The Project shall comply with all local regulations of the Town of Walpole and its boards, commissions and departments unless specifically waived herein.
- A.10 The Applicant shall copy the Board, through the Board Secretary and the Community and Economic Development Director, on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.
- A.11 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Commissioner or other Town Departments, the Building Commissioner or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Commissioner or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.

- A.12 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the Project regardless of sale, transfer, or assignment of the Project.
- A.13 The driveways, road, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Walpole shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, drainage and landscape maintenance.
- A.14 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.
- A.15 The Applicant shall submit to the Building Commissioner and Board prior to any construction or site development activities (including site clearing, tree removal, grading, etc.):
- f. Final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts. Said plans shall be reviewed by the Building Commissioner, as to whether or not the Final Plans conform to the Approved Plans and the conditions of approval. If the Building Commissioner takes no action within thirty (30) days of receipt, the plans shall be deemed to conform.
  - g. Final Engineering Drawings and Plans ("Final Plans") that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record and the Professional (Civil) Engineer of record. The Final Plans shall be submitted to the Building Commissioner at least thirty (30) days prior to the anticipated date of the submission of an application for building permits (the "Final Site Plan Submission Date").

At a minimum, the Final Plans shall be in accordance with the comments from the peer review consultants and Town staff detailed during the course of the

hearing. If no written response of comments have been given to the Applicant by the Board concerning the Final Plans within (3) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.

- A.16 Applicant shall provide payment of all remaining peer review fees in the full total amount owed to the Board within thirty (30) from issuance of this Comprehensive Permit. Applicant shall be responsible of cost of collection and attorney fees if peer review payment is not received within thirty (30) days.

**B. Affordability**

- B.1 A minimum of 25% of the home ownership units shall be low- or moderate-income units, meaning that they shall be sold to, and occupied by, households whose income is not more than 80% of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD ("Affordable Units"). Affordable units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Applicant shall be responsible for maintaining records sufficient to comply with DHCD guidelines for the location of Affordable Units in the Project and occupancy of such Units by income-eligible households. Affordable Units shall remain affordable, as defined by the subsidizing agency in perpetuity.

- B.2 Upon completion of the Project, and in perpetuity, two (2) units shall meet the criteria for inclusion in the DHCD's Subsidized Housing Inventory.

- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the sale or rental of any units and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements.

**C. Submission Requirements**

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit, the Applicant shall:
- a. Deliver to the Board a check in a reasonable amount determined by the Building Commissioner to be used for the Building Commissioner to retain outside experts for technical review required under these conditions. Said funds shall be deposited by the Building Commissioner in an account

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pursuant to G.L. c. 44, s. 53G and shall only be used for technical reviews associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project. If at any time the Building Commissioner reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Building Commissioner in a reasonable amount as may be determined by the Building Commissioner.

- b. Obtain any and all Federal, State and local permits and approvals required for the construction and operation of the Project.
- c. Obtain a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) submitted along with the NPDES filing.
- d. Submit Final Plans and supporting documentation for review and approval by the Board and Building Commissioner and its review consultant.
- e. Determine the volume of cuts/fills needed for the Project and provide such information to the Board, signed by the Registered (Civil) Engineer of record.
- f. A construction management plan shall be submitted to the Building Commissioner for review and approval, including, but not limited to, dust control measures, fill delivery schedules, stockpiling area, and like matters. The Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. The Applicant shall keep all portions of any public way used to access/egress the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project. During the construction process an up-to-date Material Safety Data Sheet must be updated and kept on site with any materials brought onto site and used on site by the construction team. The Building Commissioner may restrict hours of delivery depending upon peak traffic concerns. The Building Commissioner may also request police detail as needed with coordination and input from the Police Chief. The expenses for police detail shall be paid for by the Applicant or their successor.

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- g. Other than site work and such other work as may be authorized in writing by the Building Commissioner, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Building Commissioner has approved the Final Plans as being in conformance with this Decision.
- h. The construction management plan shall also provide a 24-hour contact person for the Applicant who will be available to respond to local officials or area residents reporting issues or problems that may arise during construction.
- i. Submit to the Building Commissioner a construction schedule outlining the entire development of the Project.
- j. Submit to the Board a Site-Specific Safety Plan including but not limited to emergency contacts information for the job team, muster point for emergency personnel, emergency response plan, sign-in area for all site visitors, designated employee parking area, and designated fueling area. All employees on site shall be responsible for understanding the plan and, at any point during the construction process, the Project shall be subject to inspection by the Building Commissioner for compliance of all site personnel.

C.2 Prior to the issuance of any building permits, the Applicant shall:

- a. Provide remainder of all \$4,396 in peer review fees owed to the Board and their peer review consultant.
- b. Record this Comprehensive Permit with the Norfolk Registry of Deeds, at the Applicant's expense, and provide proof of such recording with the Walpole Building Commissioner, Community and Economic Development Director.
- c. Submit to the Board and the Building Commissioner evidence of Final Approval from the Subsidizing Agency, MassHousing, as required by the Project Eligibility Letters and the Chapter 40B regulations.
- d. Submit to the Board and the Building Commissioner a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project and evidence of recording the same. The Building Commissioner



shall also be provided with evidence of a subsidy funding commitment by MassHousing or an approved New England Fund lender prior to the issuance of any building permit.

- e. Submit all Final Plans to the Board and Building Commissioner for their review and approval.
- f. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
- g. Obtain all necessary electrical, plumbing, and other permits required to begin construction on the building for which the building permit is sought.
- h. The Applicant shall provide security in an amount acceptable to the Town for restorative landscaping to consist of loam, hydroseed, and planting and replant die-outs of any disturbed areas. Said security shall be provided consistent with the provisions of G. L. 41, § 81U, as provided for in Condition No. I.1, provided herein.

**D. Construction Completion/Certificate of Occupancy**

- D.1 Prior to issuance of certificate of occupancy for specific dwelling units, the Applicant shall:
- a. Submit engineer's interim certification of compliance with utilities plan and profiles (as applicable) to the Walpole Building Commissioner.
  - b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the as-built Project has been constructed in compliance with the Final Plans in all material respects, or noting where there are differences.
  - c. Obtain acceptance from the Walpole Fire Department of testing of all fire protection systems including but not limited to, fire alarm systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.

- d. Submit to the Board's counsel the Condominium Master Deed, Condominium Declaration of Trust and accompanying condominium plans (together, the Condominium Documents"). Such Condominium Documents shall incorporate all the conditions of this Decision.
  - e. Submit as-built plan of stormwater basin and infiltration units along with certification by Applicant's Civil Engineer of compliance with the conditions of approval for the stormwater management system set forth in the final approved stormwater management plans that have been approved by the Town's peer review engineer with counsel from Town Engineering.
- D.2 Prior to issuance of the certificate of occupancy for the last residential unit, the Applicant shall:
- a. Submit to the Building Commissioner, in digital file format, a final as-built utilities plan showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in a form acceptable to the Building Department. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
  - b. Submit to the Building Commissioner as-built plans for all buildings in the Project.
  - c. Submit to the Board all information relating to the condominium association rules and regulations and the management company being retained to act as the property manager that the Applicant submits to the Subsidizing Agency as part of the Final Approval process. Such property management agreement and condominium association rules and regulations shall, at a minimum, address building security, public access, pet policy, staffing, trash removal, smoking policies, snow and ice removal, and snow storage.
  - d. Submit verification that the stormwater management system including but not limited to catch basins, infiltration units, pipes and detention basin, has been inspected and cleaned.

- e. Submit to the Board a certification of compliance with all terms and conditions of this Comprehensive Permit.
- f. Certification by the Town Engineering Department that all off-site measures (if any) are complete.
- g. Certification from the Town's DPW Water and Sewer Department that all sewer and water systems have been installed, tested, and that all valve covers and other related items are at grade and are in proper working condition.

**E. Project Design and Construction**

- E.1 Prior to the commencement of any work on the site, the Applicant and the site general contractor shall attend a preconstruction conference with the Building Commissioner and other Town staff as may be determined. If Applicant has obtained a demolition permit, Applicant may proceed with demolition of existing structures in accordance with the terms and conditions of the permit.
- E.2 At reasonable times and after notice to the Applicant, representatives of the Board may observe and inspect the Property and construction progress until such time as the Project has been completed at their own risk.
- E.3 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.4 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer and shall be equipped with a 4 foot chain link fence for safety purposes.
- E.5 During construction, the Applicant shall comply with the construction management plan referenced in Condition C.1.
- E.6 Appropriate signage shall be shown on the Final Plans. All other sign regulations shall be abided by.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans provided to the Board and Building Commissioner.

- E.8 If the Applicant uses natural gas for the Project or any part thereof, gas service locations shall be included on the Final Plans.
- E.9 Lighting shall be installed as follows:
- a. All proposed exterior lighting shall comply with all applicable federal, state, and local laws, rules, and regulations, including but not limited to, applicable sections of the Massachusetts Building Code, the Walpole Zoning Bylaws, and the Walpole Town Bylaws. In event of a conflict among such requirements, the most restrictive provision shall apply. A proposed lighting plan shall be submitted to the Building Commissioner and Board. The lighting plan submitted shall show all locations of proposed street lighting fixtures, exterior mounted light fixtures, signage lighting, and landscape lighting. The lighting plan proposed shall include, but not be limited to, a site plan depicting the property lines of all properties for which lighting is proposed, the location and specification of all exterior light fixtures to be installed within the Property, their lumen values, mounting heights, shielding, directionality and controls, protections provided to minimize light pollution, the uses of properties associated with parties in interest, other relevant site conditions, and any additional information required to demonstrate compliance with applicable standards. The lighting plan submitted shall include a proposed photometric calculation to ensure public safety and minimize light trespass from the proposed Project property line. To minimize impacts to abutters, rear lighting shall meet standards for building code while avoiding excessive flood lighting.
  - b. Permanent Street Lighting  
No free-standing light fixtures shall be installed to a height exceeding 15 feet. All illumination shall be directed and/ or shielded so as not to shine beyond the perimeter of the site or interfere with traffic. (Walpole ZBL Section 13 Sub-Section 10.A(5))
  - c. Permanent Exterior lighting mounted to building structures  
Broad lighting will be highly discouraged while soft lighting aimed down will be highly encouraged. (Walpole ZBL Section 13 Sub-Section 12.H(1)). Exterior mounted fixtures must be partially shielded directional light fixtures, placed not less than 4 feet apart or 8 feet in height from the surface area to be illuminated.).
  - d. Seasonal Lighting & Landscape Lighting

Landscape lighting shall be limited to lighting of trees, shrubs, or other plant material. Lighting shall be "low-level light fixtures" (3 feet or lower) and only be directed in a downward facing direction. Seasonal Lighting shall not be permitted for longer than a six-week period in any calendar year.

e. Construction & Temporary Lighting

Temporary lighting used for security or illumination purposes shall be shielded and down-ward facing. Temporary lighting of the interior buildings must be contained with-in the building structure or shut off between the hours of 7:00 pm to 7:00 am.

f. Photometric Survey:

Upon completion of said Project a photometric study shall be conducted by a registered professional engineer license in the Commonwealth of Massachusetts at the cost of the Applicant to ensure compliance with the conditions of this Section E9. All exterior light fixtures shall comply with IDA fixture seal of approval. All proposed lighting shall promote Dark Skies and minimize glare while reducing light trespass and skyglow. All products proposed shall be required to be fully shielded and minimize the amount of blue-light in the nighttime environment. Light trespass shall be limited to 0.2 foot-candle at the property line and there shall be no unshielded point sources of light visible from adjacent streets and properties.

- E.10 Construction activities shall be conducted between the hours of 8:00 A.M. and 5:00 P.M., Monday through Saturday. Any work causing noise over 85 decibels at any segment of a property line shall be further restricted to hours of 11:00 a.m. to 3:00 p.m. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on site during construction.

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In addition, no exterior work shall be conducted except snow management or work to prepare the site for a weather event, on Sunday or on the following National holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.

- E.11 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law, and Applicant shall provide manifests/bills of lading to the Town certifying the removal of any waste or contaminants from the Project site. The Applicant shall also include a dumpster location and management plan for approval by the Building Commissioner prior to commencement of work at the Property including a dumpster emptying and removal protocol from a duly licensed and insured private contractor approved by the Building Commissioner. During construction, the site shall be secured against unauthorized entry or vandalism by construction security fencing, and all construction materials shall be stored or stockpiled in a safe manner.
- E.12 Applicant shall also identify the proposed location for any construction trailer on site during the course of construction for the Building Commissioner's approval. Applicant shall renew the building permit for the construction trailer every six (6) months. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.13 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by paving or loaming and seeding exposed areas. All 2:1 slopes or steeper areas shall be permanently stabilized with rip rap or vegetated cover.
- E.14 All retaining walls visible from a public way or direct abutters, as determined by the Building Commissioner based upon the time of year when such walls would be most visible, shall be constructed in an aesthetic manner. Specifically, retaining walls shall avoid the use of exposed concrete (except for modular concrete block wall systems) to the greatest extent practicable.
- E.15 Snow shall be stored within the areas of the site designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage on the site, the Applicant shall truck the excess snow off-site. Final Plans shall include snow management plan approved by the Department of Public Works.

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- E.16 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.17 The Applicant is responsible for the sweeping, removal of snow and sanding of the roadway and driveways providing access to residents of the Project, as well as emergency vehicles for all of Dupee Street.
- E.18 The Applicant shall maintain all portions of any public road, whether state or local roads, and Dupee Street used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.
- E.19 The Construction Management plan shall also include provisions securing the site so that children are kept out of the site and are protected against unsafe conditions.
- E.20 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall submit a dust mitigation plan and air quality management plan to the Building Commissioner. Water must be used to mitigate any dust caused by rock crushing, soil sifting, or any other dust creating operation.
- E.21 Construction security fencing shall be utilized at least until the first certificate of occupancy is issued to ensure the safety and security of the site for the benefit of the surrounding neighborhood and the Applicant. Six (6) foot tall chain-link fencing shall be utilized with access gate at the entrance of the site. Walpole Fire Department shall have access to a Knox Box placed at the entrance to the gate during the construction process. Security personnel shall be utilized to open and close the site daily and confirm/mandate the hours of operation for site personnel. Security personnel contact information shall be posted on the site and made visible to the public.

E.22 All construction equipment must be off-loaded and parked on the Property. No equipment or material shall be off-loaded or parked on Dupee Street. This excludes work needed to extend Dupee Street as shown on the final approved plan.

E.23 The Applicant shall submit a trucking routes plan, subject to the review and approval of the Town Engineer.

**F. Roadway and Traffic Safety Conditions**

F.1 Access and egress to the Project shall be consistent with the Approved Plans.

F.2 Any reduction in the number of parking spaces for the Project, absent a corresponding reduction in the number of units, shall constitute a substantial change pursuant to 760 CMR 56.05(11).

F.3 Applicant shall install ADA compliant wheelchair ramps with detectable warning panels at the sidewalk transitions at the intersection of Dupee Street and High Plain Street.

F.4 Applicant shall install a marked crosswalk at the intersection of Dupee Street and High Plain Street as shown on the final approved site plan.

F.5 The internal driveway spaces shall have a minimum depth of 20 feet as measured from the face of the building to the lot line coincident with the Project roadway.

F.6 All individual unit driveways shall have a minimum depth of 20' as measured from the face of building/edge of pavement to the nearest path of public accommodation (ie. travel way).

F.7 Appropriate directional and safety signage shall be shown on the Final Plans and approved by the Fire Department. All stop signs to be installed shall be consistent with the current Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines.

F.8 The site triangles for the 85<sup>th</sup> percentile travel speeds shall be shown on the Final Plans to ensure all vegetation (existing and proposed) or other improvements do not impede required lines of site.



- F.9 Access to existing parcels on Dupee Street shall be maintained at all times and the proposed roadway improvements should be coordinated in a manner that ensures no adverse impact on existing driveways.
- F.10 Proposed utility pole location along Dupee Street shall be shown on the Final Plans and no certificates of occupancy shall be issued until the utility pole has been relocated outside the proposed travel way or area otherwise required to maintain emergency access.

**G. Police, Fire, and Emergency Medical Conditions**

- G.1 The Project shall comply with NFPA-13 and applicable building codes.
- G.2 Posted no parking restrictions along Dupee Street with appropriate markings and/or signage shall be provided on the Final Plans.

**H. Water, Septic, Stormwater and Utilities**

- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.
- H.2 Fire hydrants shall be placed as shown on the Approved Plans, subject to the final approval of the Walpole Fire Department. If the Walpole Fire Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.3 The service size for the domestic water service for each individual building should be verified by the Water Department and information on the fire service size and requirements should be verified by the Fire Department (if applicable). The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Water Department and the Fire Department respectively.
- H.4 All valves and fittings shall be shown on the Final Plans and their locations be approved by the Water department prior to construction and that an as-built plan of all utility infrastructure be provided upon completion.

- H.5 All water and sanitary sewer improvements necessary to serve the Project must be shown on Final Plans including all details and supporting information required for review by the Water and Sewer Departments. The water and sanitary sewer improvements servicing individual structures are to be completed, and interim as-built plans must be submitted to and approved by the DPW Water / Sewer Department, before any certificate of occupancy for said individual structures may be issued. All operation, maintenance and repair of water and sewer infrastructure within the Project will be the sole responsibility of the Applicant and/or its successor. As-built Plans shall show layout and construction details of all proposed water and sewer infrastructure installed per town standards. A detailed hydraulic analysis shall be submitted to the Building Commissioner that complies with applicable regulations.
- H.6 The Project shall meet all applicable state stormwater management standards to be documented on the Final Plans and approved by the Peer Reviewer prior to issuing a building permit. Stormwater management facilities shall be constructed as shown on the Final Plans.
- H.7 The area of infiltration systems shall be excavated to remove fill down to natural soils and shall be witnessed by an agent of the Town prior to the installing crushed stone and the underground infiltration system.
- H.8 Maintenance of the drainage basin shall be the responsibility of the Applicant and the subsequent condominium association.

**I. Completion of Infrastructure:**

- I.1 As security for completion of the infrastructure shown on the Final Plans, including, but not limited to the roadways, sidewalks, parking, stormwater management system, lighting, water and sewer systems, landscaping and utilities (collectively the "Infrastructure"), the Applicant shall provide security consistent with the provisions of G. L. 41, § 81U, solely for that portion of the Project for which certificates of occupancy are requested and subject to the following:
- a. No certificate of occupancy for a dwelling unit shall be issued until: (1) the portion of the roadway shown on the Final Plans providing access to all of the proposed buildings has been installed, excepting the final course of pavement; and (2) all other Infrastructure necessary to serve all of said buildings, as approved by the Board's peer review engineer or the Building Commissioner has been constructed and installed so as to adequately serve all of said buildings. The final infrastructure for the Project, including, but not limited

to, final course of pavement shall be installed prior to the issuance of a certificate of occupancy for the final dwelling unit. The final infrastructure shall include, but not be limited to: intermediate and final course of pavement, remaining landscaping, and any "punch list" items identified by the Board's engineer or the Building Commissioner. Alternatively, if the Applicant desires to obtain such final certificate of occupancy for the final dwelling unit before the completion of said Final Infrastructure, it shall deposit such security as permitted by M.G.L. ch. 41, section 81U with the Town securing the installation and construction of such Final Infrastructure. The amount of such security and any necessary contingency shall be determined by the Board, acting reasonably and upon the advice of its consulting engineer. The form of the security agreement binding such security shall be subject to reasonable review by Town Counsel.

- b. The Board's peer review engineer shall review the Project upon completion of all such Final Infrastructure as described above, and shall notify the Building Commissioner that all Infrastructure is complete, whereupon security shall be released to Applicant.

**J. Other General Conditions**

- J.1 In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law.
- J.2 The Applicant shall comply with all applicable local regulations of the Town of Walpole and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3 This Decision prohibits the parking or storage of any unregistered vehicle on the Property, and likewise prohibits the service of any vehicles on the Property.
- J.4 Trash and recycling services are not the responsibility of the Town. However, a trash and recycling management plan shall be submitted to the Board of Health for review and approval. No common dumpsters are permitted on the Property, no dumpsters were shown on the Approved Plans.

- J.5 Prior to the issuance of any certificates of occupancy, and prior to the execution of any purchase and sales agreement for a market rate unit, the Applicant shall submit, to the satisfaction of the Building Commissioner, a copy of the Condominium Trust and Condominium Master Deed which shall include an adequate plan for the operation and maintenance of the Project roadway. The Project roadway shall be maintained in perpetuity by the Condominium Association, which obligation shall be incorporated in the Condominium Association documents, as applicable, and the declaration of restrictive covenants to be executed by the Applicant. The Condominium Association obligation shall include snow removal of Dupee Street. The condominium documents shall include bylaws prohibiting cars from parking on any portion of Dupee Street with exception of the two (2) marked visitor parking spaces.
- J.6 The Applicant is responsible for the sweeping, removal of snow and sanding of the roadway and driveways providing access to residents of the Project, as well as emergency vehicles for all of Dupee Street.
- J.7 The landscaping shall be maintained in perpetuity by the Condominium Association, which obligation shall be incorporated in the Association documents, as applicable, and the declaration of restrictive covenants, if any, to be executed by the Applicant. Dead or diseased plantings shall be replaced within six (6) months in accordance with growing and weather conditions. The Building Commissioner shall confirm compliance with Approved Plan before issuance of certificate of occupancy. Obligation to maintain the landscaping in accordance with the landscaping plan shall be the responsibility of the Applicant and any subsequent condominium association.
- J.8 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as deemed reasonably necessary by the Building Commissioner), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (b) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.
- J.9 A revised final landscaping plan shall extend the plantings of the proposed green giant arborvitae trees to the proposed retaining wall surrounding the drainage basin.

Decision on Chapter 40B Comprehensive Permit Application  
Wall Street Development Corp.  
Assessor's Map 35, Parcel 380-1, "Diamond Hill Estates", Dupee Street, Walpole, MA  
May 26, 2021  
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V. DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby **denies** the Applicant a comprehensive permit for the construction of eight (8) single-family dwelling units of which two (2) would be affordable as defined by the subsidizing agency, pursuant to Chapter 40B, §§ 20-23, for the development described above and as shown in the Project's site plan dated February 26, 2020, with revisions through March 15, 2021.

**SIGNATURE PAGE TO FOLLOW**

Decision on Chapter 40B Comprehensive Permit Application  
Wall Street Development Corp.  
Assessor's Map 35, Parcel 380-1, "Diamond Hill Estates", Dupee Street, Walpole, MA  
May 26, 2021  
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**VI. RECORD OF VOTE**

On June 9, 2021, the Board, on a motion made by Ms. Murphy, seconded by Ms. Coffey voted four (4) in favor and one (1) opposed to approve the decision as drafted for the denial of a comprehensive permit for the Project at Assessor's Map 35, Parcel 380-1 of Dupee Street, Walpole, MA, which consisted of eight (8) single-family dwelling units, as shown on the Project's site plan dated February 26, 2020, with revisions through March 15, 2021. The vote of the Board was as follows:

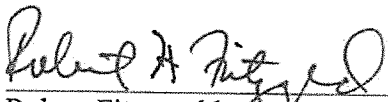
**In Favor:** John Lee, Chair  
Susanne Murphy, Vice Chair  
Jane Coffey  
Drew Delaney

**Opposed:** Robert Fitzgerald, Clerk

**The resulting vote of four (4) in favor and one (1) opposed results in a denial of the Comprehensive Permit for the proposed Project at Assessor's Map 35, Parcel 380-1, Dupee Street, Walpole, MA**


The Board has complied with all statutory requirements for the denial of this Comprehensive Permit. A copy of this decision will be filed with the Town Clerk. Copies of this decision have been, or will be mailed, to all parties, persons or boards as required by M.G.L. c. 40B.

On June 9, 2021, the Board voted to authorize Robert Fitzgerald, Clerk to sign the decision on behalf of the Board.

  
\_\_\_\_\_  
Robert Fitzgerald, Clerk

Date: 6/10/2021

Filed with the Town Clerk on June 10, 2021.

  
\_\_\_\_\_  
Town Clerk

RECEIVED  
21 JUN 10 AM 10:46  
TOWN OF WALPOLE  
TOWN CLERK

Decision on Chapter 40B Comprehensive Permit Application

Wall Street Development Corp.

Assessor's Map 35, Parcel 380-1, "Diamond Hill Estates", Dupee Street, Walpole, MA

May 26, 2021

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**Notice:** Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Walpole, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.



EXHIBIT B

February 22, 2021

Mr. John Lee, Chairman  
135 School Street  
Walpole, MA 02081  
United States

**Re:** Diamond Hill Estates – Dupee Street  
**Review Letter No. 3**  
Comprehensive Permit (40B) Peer Review  
Walpole, Massachusetts

Dear Mr. Chairman:

**TT 2/22/2021 Update**

The Applicant has provided revised submission materials addressing many of the comments provided in our previous letter. Revised submittals include the following:

- A Response to Comments letter dated January 26, 2021, prepared by GLM Engineering Consultants, Inc. (GLM).
- A plan set (Site Plans) titled "Site Development Plan A Comprehensive Permit M.G.L c. 40B "Diamond Hill Estates" Walpole, Massachusetts", dated February 26, 2020 with most recent revision date Feb. 3, 2021 (Rev 4), prepared by GLM.
- Stormwater Management Report (Stormwater Report) with latest revision date Feb. 3, 2021 prepared by GLM.
- Letter regarding "Updated Fire Truck Movement Analysis" dated February 5, 2021 by Green International Affiliates, Inc. (Green).
- "Fire Apparatus Turn Movements" figures prepared by Green (3 sheets total). Figure is undated but underlying drawing from Site Plan noted above.
- "Outlet Structure/Drainage Basin Detail" stamped for Geotech Review February 5, 2021.

The most significant plan change is incorporation of a cul-de-sac turnaround which partially addresses concerns regarding emergency and general site access shown on prior submittals. That being said, most of the issues previously identified, such as (1) the narrow travel way and right of way, (2) dead end length and (3) potential encroachment onto abutting property generally remain and are unlikely to change given the lack of available lot width. The following are our responses to revised submittal materials.

**TT 12/28/2020 Update**

The Applicant has provided revised submission materials addressing comments provided in our previous letter including the following documents:

- A plan (Site Plans) set titled "Site Development Plan A Comprehensive Permit M.G.L c. 40B "Diamond Hill Estates" Walpole, Massachusetts", dated February 26, 2020 with most recent revision date Nov. 30, 2020, prepared by GLM Engineering Consultants, Inc. (GLM).
- Stormwater Management Report (Stormwater Report) dated Nov. 30, 2020, prepared by GLM.
- A Response to Comments letter dated Nov. 25, 2020, prepared by GLM.

Infrastructure Northeast  
100 Nickerson Road, Marlborough, MA 01752  
Tel 508.786.2200 Fax 508.786.2201 [tetrattech.com](http://tetrattech.com)



The most significant plan change is a reduction in unit count from twelve (12) duplex units to eight (8) single family homes. The change reduces traffic volume generated as well as anticipated demand for visitor parking. Otherwise the Project is still remarkably similar to the prior plan with many of the same issues including:

- a right of way width that is substantially (>40%) smaller than required under Walpole Subdivision Regulations,
- a dead-end travel way that is substantially narrower (>23%) and longer than allowed and without required end of cul-de-sac accommodations for vehicle turnaround,
- a stormwater detention basin perched on the side of a hill immediately upgradient from an abutting structure and residence,
- and a development program that proposes modifications up to the very limit of the subject property without clear strategies for how that work can be achieved without trespass on abutting property.

The revised Plans and supporting information were reviewed against our previous comment letter (October 19, 2020) and comments have been tracked accordingly. Text shown in gray represents information contained in previous correspondence while new information is shown in black text. Comments noted as "addressed" will be removed from future correspondence and comment numbering will be maintained throughout the review.

Tetra Tech (TT) has reviewed specific submittal materials for the above-referenced Project to assist the Town of Walpole Zoning Board of Appeals (Board) in its Comprehensive Permit review of the proposed Diamond Hill Estates development. We found the plans and supporting documentation to be professionally done and generally thorough in their analysis. However, the site is very narrow, and the proposed development density leaves very little room for normal traffic access and circulation or to accommodate some routine or unanticipated needs.

Comments provided below are intended to inform and prompt discussion as well note where minor changes or edits should be reflected for the record. We reserve the option to provide additional comments as the design and discussion advances. Our review is based on materials received from the Board comprising the following pertinent documents:

- Comprehensive Permit Application package prepared by Wall Street Development Corp.
- A plan (Site Plans) set titled "Site Development Plan..." "Diamond Hill Estates" Walpole, Massachusetts", dated February 26, 202 (Rev. Aug 5, 2020), prepared by GLM Engineering Consultants, Inc. (GLM).
- Stormwater Management Report (Stormwater Report) dated August 5, 2020, prepared by GLM.
- "Traffic Assessment for Diamond Hill Estates" dated February 21, 2020 prepared by Green International Affiliates, Inc. (GIA).
- "Traffic Assessment Update for Proposed Residential Development" Memorandum dated June 2, 2020 prepared by GIA
- "Supplemental Traffic Information" Letter dated July 16, 2020 prepared by GIA.
- A June 2, 2020 "Traffic Assessment Update for Proposed Residential Development" Memorandum prepared by GIA.
- An architectural plan set dated June 5, 2020, prepared by Morabito Architects (MA).
- Comment letters from Town Boards, Commissions and Departments.

The Plans and accompanying materials were reviewed for good engineering practice, overall site plan efficiency, stormwater, utilities, traffic and public safety. In general, the plans and supporting materials were

well prepared and we appreciate the clarity and completeness of documents provided. Our initial comments are provided below.

### **Site Plans**

The Site Plans were generally well organized, clear, readable and professionally done. Although some information may be missing or confusing, they are suitable for review.

The principal concern is the lack of available right-of-way width on Dupee Street. Plans suggest a variable approximately 27-foot wide right of way width is available in which to accommodate those public way functions for which Walpole Subdivision Regulations require 46 feet (single-family) and 52 feet (multi-family). The net result is a constrained public access way of 20 feet which is substantially narrower than the 26 feet otherwise required by Walpole Subdivision Regulations. The constrained right of way makes the development hypersensitive to density-related issues on the proposed home sites.

The following specific comments are offered to identify areas where additional information is required, or changes are requested to address questions or support further review.

### **General Comments**

1. Please clarify if any of the proposed development is, or is intended to become, the responsibility of the Town or its departments. For example, the plans note that portions of Dupee Street are maintained by the Town. This note should be removed unless Dupee Street has been accepted by the Town or the Town has committed to a specific maintenance responsibility.
  - *TT 12/28/2020 – Applicant’s response suggests a portion of the road will continue to be maintained by the Town but that “the proposed extension will remain private.” We recommend any continuing Town obligations be clearly defined in the decision as the proposed project will fundamentally alter the operational characteristics of all sections of Dupee Street.*
  - *TT 02/22/2021 – Resolution is still unclear but can be addressed in a decision on the comprehensive permit. We recommend any decision include a condition clearly defining/limiting any ongoing town maintenance obligations. Resolved*
2. The Project includes 12 units with a single narrow means of access that is constrained by driveways/buildings and stormwater detention basin along most of its length.
  - *TT 12/28/2020 – The revised plans include eight (8) single family homes instead of the 12 duplex units originally proposed. While this reduces resident density total building footprint remains practically the same as originally proposed. Access is still limited to a narrow paved width and right-of-way.*
  - *TT 02/22/2021 – Access is still narrow, but at 20 feet wide, meets minimum width requirements for emergency access. Based on responses provided by the applicant, proposed width is not expected to change. While substantially smaller than otherwise required by zoning regulations, the 20-foot width can accommodate emergency vehicles and allow cars to pass each other in opposing directions. Our concern is somewhat mitigated by the reduction from 12 to 8 units and by the proposed home ownership which tends to provide more accountable residents. Aside from further reductions to unit count we see no other modifications that are likely to improve the situation. We recommend any decision include a condition that on-street parking or any other storage/staging within the roadway be precluded. Resolved*

3. The proposed layout and density leave very little available space for snow storage and none are identified on the plans.
  - *TT 12/28/2020 – Snow storage areas are shown in practical locations on the plans. However, there is almost no available shoulder width west of Dupee Street. Any snow bladed to the west will be pushed onto abutting private property. We recommend any decision include a condition the snow is not to be plowed onto adjacent private property.*
  - *TT 02/22/2021 –Based on responses provided by the applicant the proposed narrow road and right-of-way width is not expected to change and as such our concern regarding lack of available space along the road for snow storage remains. However, reasonable options exist to address snow removal obligations on tight sites. We recommend any decision include a condition that all snow removal be the responsibility of the development and that storage on the roadway or abutting property be precluded. **Resolved***
4. Driveways are currently shown as 24' deep which we recommend maintaining at a minimum to ensure adequate space is available for at least one non-garage space. We also recommend the decision include a condition that garages be maintained as viable parking spaces given the lack of any available space elsewhere in the development.
  - *TT 12/28/2020 – Plans label a driveway depth of 25' in one area and 24' in another area. Please address inconsistency unless deviation is intended. In either case, driveway depths shown are sufficient to accommodate parked vehicles.*
  - *TT 02/22/2021 – Driveways are currently shown with a sufficient depth. We recommend any decision include a condition that driveways shall have a minimum depth of 20 feet as measured from the face of building to the closer of the nearest route of public accommodation or the right-of-way. **Resolved***
5. The proposed building footprint shown on the Site Plans appears to be different (smaller) than that shown on the Architectural Plans. The site is extremely tight and any increase in building size may have impacts on site viability.
  - *TT 12/28/2020 – Construction staging and sequencing notes are provided however temporary sedimentation basins are proposed within steeply graded areas. Please provide a detail showing slope stabilization measures that will be used to maintain steep slopes before groundcover is established.*
  - *TT 02/22/2021 – There are still minor inconsistencies between civil plans and architectural plans but they can all be addressed in a Final Plan submittal. We recommend any decision include a condition that Final Plans be coordinated and consistent among design disciplines. **Resolved***
6. We request the applicant provide a Construction Phasing Plan showing the anticipated sequence of construction and identifying proposed locations and sizes of construction staging and stockpile areas.
  - *TT 12/28/2020 – Comment partially addressed. Stockpile and sediment basin areas are proposed within the footprint of three units and no area is shown for construction trailers or contractor parking. Given the constrained access and the density of development it is hard to determine how routine construction issues such as managing tractor trailer deliveries will be accommodated during construction. Our concern is that unanticipated needs will result in*

*impacts to abutting properties, preclude emergency access or otherwise create potentially unsafe conditions during construction.*

- *TT 02/22/2021 – Plans address comments related to phasing by stipulating homes at the end of the cul-de-sac will be constructed last so that those sites can be used for construction staging during roadway and initial unit construction. We recommend any decision include a condition requiring access and utility infrastructure and the six units along the road be complete prior to issuing a building permit for the two homes at the end of the cul-de-sac. Resolved*

### **Existing Conditions Plan**

7. Please clarify the current ownership status of Dupee Street. In particular is it considered part of the development project or is it part of a larger right of way or shared use parcel.
  - *TT 12/28/2020 – Please clarify who own's fee interest in Dupee Street and to what extent it applies. We are interested in understanding the current ownership interests in Dupee Street.*
  - *TT 02/22/2021 – It is our understanding that fee interest in Dupee Street rests with the abutting parcels. No further comments. Resolved*
9. The garage and associated driveway to House No. 257 should be shown on the plans. Given the skewing of the existing Dupee Street travel way, properties along the east side of Dupee Street will be more affected than those on the west side.
  - *TT 12/28/2020 – Garage is shown however no accommodations for the existing driveway are noted on the plans. Please provide notes on plans or a typical section clarifying how existing driveway will be accommodated in the proposed widening/relocation of Dupee Street.*
  - *TT 02/22/2021 – Grading and Utilities Plan indicates that "Driveway Apron to Be Repaved (see note)" but no note was found. We recommend any decision include a condition requiring access to existing parcels on Dupee Street be maintained at all times and that proposed roadway improvements be coordinated in a manner that ensures no adverse impact on existing driveways. Resolved*
10. Intersecting sidelines for Sybil and Victoria Street properties should be clearly shown given the proximity of project impacts to, and potential trespass onto, those properties.
  - *TT 12/28/2020 – Sidelines of abutting lots are not shown connecting to subject property. As indicated in our original comment, the actual location of these lot boundaries should be defined given the proximity of the project and the constrained space.*
  - *TT 02/22/2021 – Comment addressed. Resolved*
11. Existing tree line and limit of clearing should be shown on the plans.
  - *TT 12/28/2020 – Applicant states the entire site is wooded and refers to sheet 13 Of 13. The entire site is not wooded as portions of Dupee Street and abutting parcels are cleared. Trees near the connection to High Plain Street appear to require removal to accommodate the re-positioning of Dupee Street. Please indicate the location of existing trees and woods on the existing conditions plan and clearly show what trees will be removed.*
  - *TT 02/22/2021 – Comment addressed. Resolved*

**Layout Plan**

12. It is unclear what improvements are proposed for Dupee Street north of Change Street. In particular, it's unclear how existing driveways will be impacted and how the modified width will transition to High Plain Street. All roadway improvements should be shown on the plans.
- *TT 12/28/2020 – The plans show no information addressing how existing driveways will be addressed nor how the relocated Dupee Street will impact abutting parcels. The response does not address our comment. Please show how driveways and other abutting properties will be impacted by the modification of Dupee Street.*
  - **TT 02/22/2021 – See Comment 9. Resolved**
13. What is the justification for stopping the Cape Cod berm at the location shown?
- *TT 12/28/2020 – Given the steep slope of Dupee Street, it is highly likely that portions of the gutter line flow will bypass the proposed catchbasins (flow slipping) and continue down Dupee Street likely resulting in the eventual erosion at the edge of pavement. We recommend curb be continued down the length of Dupee Street and double grates be considered to reduce flow slip.*
  - **TT 02/22/2021 – Comment addressed. Resolved**
14. Subdivision Regulations clearly require dead end streets to be "provided with cul-de-sacs at the closed end with a turnaround having an outside street line diameter of at least one hundred and four (104) feet". The turnaround shown is substantially below these requirements and is proposed within an "easement". Any turn around should be within the dedicated right of way.
- *TT 12/28/2020 – The only change made in response to our comment was to add parking spaces at the end of the turnaround which provides for visitor parking but increases the likelihood that larger or poorly parked vehicles could block access. It is still our opinion that the turnaround does not provide adequate access for the Town's larger emergency vehicles or for larger trucks accessing the site. As mentioned during the public hearing, the turnaround is difficult, if not impossible to see from High Plain Street requiring emergency vehicles to drive up Dupee Street without knowing if the turnaround is blocked or not. At a minimum, the applicant should coordinate with the Walpole Fire Department to provide accommodations suitable for Fire Department access and provide documentation to the ZBA.*
  - *TT 02/22/2021 – A cul-de-sac has been provided however it is substantially smaller than otherwise required by zoning regulations (80-foot diameter proposed vs. 104-foot required). While an 80-foot cul-de-sac is suitable for normal day-to-day use it may not provide adequate space for larger vehicles. The "Fire Apparatus Turn Movements" figure provided appears to show a travel path over the cape cod berm and ladder overhang extending into proposed driveways but is extremely difficult to read. Please provide a readable figure clearly showing (1) the anticipated wheel path and (2) anticipated bumper overhang as depicted by auto turn analysis) or equal. We also request a simple figure depicting the largest commercial vehicle that can be accommodated by the proposed cul-de-sac geometry and that signage be provided at the end of Dupee Street limiting access to larger vehicles. We recommend any decision include a condition that requires cul-de-sac geometry be approved by the Fire Department and a figure be provided with the Final Plans showing an unobstructed emergency vehicle travel path in and out of the site. **Resolved***

15. The proposed edge of road appears to go through an existing utility pole south of House No. 6.
- *TT 12/28/2020 – Utility pole will be relocated. We recommend any decision include a condition requiring any utility poles within the proposed travel way be relocated prior to issuing building permits.*
  - *TT 02/22/2021 – The utility pole is marginally within the proposed right of way and it is our opinion that adequate space through the site can be maintained during construction but the pole should be relocated before issuing a certificate of occupancy for any home. We recommend any decision include a condition that the proposed pole locations be shown on the final plans and that no certificates of occupancy be issued until utility poles have been relocated outside the proposed travel way or areas otherwise required to maintain emergency access. **Resolved***
17. There are no provisions for guest parking.
- *TT 12/28/2020 – Conversion to single family units provides additional space for driveway parking and additional spaces have been added. Comment addressed.*
  - *TT 02/22/2021 – Two visitor spaces have been added at the end of the cul-de-sac however it is unclear if the smaller of the two spaces meets minimum size requirements or accounts for emergency vehicle travel path needs. Comment is partially addressed. We recommend at least two parking spaces be shown on the Final Plans in a location and size that meets minimum requirements and doesn't impede emergency access. **Resolved***

#### **Grading and Utilities Plans**

19. Temporary construction easements will likely be required to install new catchbasins given the anticipated depth of excavation and the proximity to the abutting parcel.
- *TT 12/28/2020 – This comment has not been addressed. Trench boxes or other stabilization measures will not eliminate the need to occupy abutting parcels to complete the work. We recommend any decision include a condition requiring the applicant to obtain any easements needed to complete the work prior to the issuing any building permits. This issue is a function of the constrained right of way. Typically, all work and related transitions would be accomplished within the street layout and not require any work or trespass onto abutting property.*
  - *TT 02/22/2021 – Applicant responses indicate that “work on abutting properties will not be conducted without abutting property owners consent prior to such work.” In our opinion, the potential work anticipated on abutting properties can be performed in a manner that keeps impacts on abutting parcels relatively small and manageable with abutter's consent. We recommend any decision include a condition that requires any work outside the limit of the development parcel be performed only with landowner consent and that all roadway infrastructure be substantially complete prior to issuing a certificate of occupancy. **Resolved***
20. The proposed detention pond is constructed in retained fill with an emergency spillway that discharges over the top of a proposed wall 2'-3' above grade and directly onto Dupee Street. This is a very atypical installation and will at a minimum require strict operation and maintenance assurances and additional construction details to ensure water does not infiltrate through the embankment and that the energy of the water is adequately dissipated. The applicant should provide documentation that the pond does not qualify as a “dam”.

- *TT 12/28/2020 – Applicant has adequately addressed dam status and has included a “Revised Basin Detail Impermeable core, riprap” which only partially addresses our concern. Detail should include how impermeable core will be keyed into the underlying soils to prevent embankment from sliding when under full hydrostatic load. We still have significant concerns regarding the proposed detention basin and its placement on a side slope. It is our opinion that it is not a suitable location, is potentially unsafe and does not meet applicable design standards for Infiltration Basins included in the Massachusetts Stormwater Handbook including but not limited to (1) basin floor slope exceeds maximum 1% (0% preferred), and (2) design shown is in obvious contradiction to the requirement to “Design infiltration basins to be below surrounding grade to avoid issues related to potential embankment failure.” We recommend any decision include a condition requiring details of construction stamped by a Massachusetts licensed structural and geotechnical engineer be provided for review prior to the issuance of any building permits.*
  - *TT 02/22/2021 – The revised submittals include a detail showing a proposed basin design, reviewed and stamped by a licensed geotechnical engineer, that address our concerns related to slope stability and potential impacts to downhill properties. Our concerns related to system safety have been addressed and the basin is no longer being used for infiltration and as such many of the design issues previously noted no longer apply. We recommend any decision include a condition that requires all drainage infrastructure be shown on the Final Plans and comply with all applicable requirements of the Massachusetts Stormwater Handbook. **Resolved***
21. A hydrant is proposed immediately adjacent to the edge of road without any proposed curb to protect it. Given the narrowness of the roadway additional protection for the hydrant may be required to prevent damage from plows or vehicles.
- *TT 12/28/2020 – Comment addressed. However, hydrant installation at the location shown will likely require work on adjacent parcel. Suggest applicant consider relocating hydrants to the building side of the street to increase set back from the travel way, avoid impacts on abutting property and to be closer to buildings they serve.*
  - *TT 02/22/2021 – Comment addressed. **Resolved***
22. Water and sewer lines appear to be only separated by 6 feet. At least 10 feet of separation should be maintained.
- *TT 12/28/2020 – Please provide copy of correspondence indicating Town Engineer approval of the spacing shown.*
  - *TT 02/22/2021 – Comment addressed. **Resolved***
23. No sediment forebay is shown for the detention pond.
- *TT 12/28/2020 – Comment addressed. Please call out the unit clearly on the plans.*
  - *TT 02/22/2021 – Comment addressed. **Resolved***
26. The proposed looped water system is a significant benefit to the quality and quantity of water available to the development. However, the proposed connection geometry is awkward with two 90-degree bends in a short distance. We recommend the two bends be eliminated in exchange for a “T” connection and that a valve be added to allow isolation of the Project loop.

- *TT 12/28/2020 – Comment partially addressed. We recommend valves and bends be clearly shown on plans and that proposed water system details be approved by the Town prior to installation.*
- *TT 02/22/2021 – Comment addressed. We recommend any decision include a condition that requires all valves and fittings be shown on the Final Plans and their locations be approved by the Walpole Water Department prior to construction and that an As-Built Plan of all utility infrastructure be provided upon completion. Resolved*

### **Roadway Profile**

33. It's unclear if a level landing area is provided for vehicles on Dupee Street approaching High Plain Street. If not, we recommend one be provided given the consistent downward slope of Dupee Street.
- *TT 12/28/2020 – A level area should be provided at the base of Dupee Street's approach to High Plain Street to ensure runoff from a widened and lengthened Dupee Street does not flow into High Plain Street. Please provide additional detail of grading at the intersection to show how catchbasin rims and Dupee Street centerline relate while maintaining handicap accessibility along the sidewalk.*
  - *TT 02/22/2021 – Additional detail has been provided but still lacks key information. We recommend any decision include a condition that Final Plans include detail of the proposed improvements at Dupee Street's intersection with High Plain Street including at a minimum (1) proposed limits of paving/sawcut, (2) roadway grading and spot grades showing how Dupee Street grades will transition to match gutter line of High Plain Street, (3) utility rim and invert elevations and any other associated work. We also recommend a catchbasin be added opposite the one currently proposed to prevent runoff from a widened Dupee Street from crossing the handicap ramp and entering the travel way of High Plain Street to reach the existing catch basin and that both proposed catchbasins be connected to the new drain manhole rather than the existing structure. Resolved*

### **Stormwater Report**

39. It appears that a variable infiltration rate has been used in the pond modeling. Stormwater Standards specify using static infiltration rates. Please address in future submittals.
- *TT 12/28/2020 – Response letter suggests that modeling guidance included in the Stormwater Handbook only applies to Recharge Calculations and not to modeling used for peak rate attenuation. While we disagree, the impact of the requested change is likely minor and is insignificant in comparison to our other listed concerns.*
  - *TT 02/22/2021 – Comment addressed. Resolved*
41. Given the nature of the emergency spillway please provide the rainfall intensity at which the basin is expected to overtop.
- *TT 12/28/2020 – Comment addressed. Please note the basin should be expected to overtop during storms with rainfall intensities just above the 100-year design storm (7.0"/24 hour) and flow down the Dupee Street to High Plain Street. Given recent changes in climate patterns combined with normal degradation of pond performance residents and abutters should expect that overtopping will occur.*



- *TT 02/22/2021 – Revised analysis indicates the pond will have approximately nine inches of additional storage volume above the 100-year storm and the spillway has been modified to minimize risk of erosion. Resolved*

### Traffic

43. Required site distances were calculated based on the posted speed of 35 mph. Based on conditions observed during our site visit, it appears that actual vehicle speeds may be significantly higher. We recommend the applicant document the 85<sup>th</sup> percentile speed and confirm adequate site distances based on the 85<sup>th</sup> percentile speed. This is consistent with requests made by the Town Engineer and is important record information for support of an eventual ZBA decision.
  - *TT 12/28/2020 – Information requested has not yet been provided. Request is outstanding.*
  - *TT 02/22/2021 – Requested information has been provided confirming that adequate site distance is available. We recommend any decision include a condition that requires the site triangles for the 85<sup>th</sup> percentile travel speeds be shown on the Final Plans to ensure all vegetation (existing and proposed) or other improvements do not impede required lines of site. Resolved*
44. Site distance triangles based on the 85<sup>th</sup> percentile speed should be shown on the approved plans.
  - *TT 12/28/2020 – Response indicates a plan has been included in the updated plan set but none was found or referenced in the Cover Sheet.*
  - *TT 02/22/2021 – Comment addressed with prior response. Resolved*
45. As noted earlier, proposed accommodations for fire truck turnaround are less than ideal and likely prone to being blocked by visiting/resident vehicles or plowed snow. We recommend a cul-de-sac turnaround as described in the Walpole Subdivision Regulations be provided to accommodate emergency vehicles and others seeking to change direction such as delivery vehicles. The Project may also consider providing a secondary means of turning in case the primary turnaround is blocked.
  - *TT 12/28/2020 – The reduced unit count and additional parking/unit reduces the likelihood that parked vehicles will block the turnaround however we still recommend a more reliable means of turnaround similar to that required by the Subdivision Regulations due to the lack of an alternate means of egress and the narrow street width and right of way.*
  - *TT 02/22/2021 – Plans have been modified to incorporate a proposed cul-de-sac turnaround which improves access, but the 80-foot diameter is substantially smaller than the 104 feet required. Unfortunately, emergency vehicle turning movement figures are not readable and appear to show potential impediments to access. We request the applicant provide a clear figure generated from autocad showing the wheel path and bumper overhang clearly over proposed street and lane geometry.*
46. Fire truck turning movements should be shown on the Site Plans to confirm movements incorporate the most current design and all related improvements such as curb, wall and hydrant locations.
  - *TT 12/28/2020 – Please specify the vehicle used in the Typical Fire Truck Turning Detail and its dimensions.*

- *TT 02/22/2021 – See prior requests for more readable figures. Comment applies to all figures. Please be sure to show existing High Plain Street pavement markings clearly on the plans and be sure to distinguish clearly between wheel travel, bumper overhang, and ladder overhang so that the extent of “kick out” can be understood.*

The following are additional comments generated during our review of the revised submittal information.

49. Please review sheet numbering provided on revised plans and update to reflect current sheet totals and titles. Include all sheets on the Sheet Index provided on the Cover Sheet
  - *TT 02/22/2021 – Comment addressed. Resolved*
50. The Plans were very difficult to read as PDFs making detailed information unreadable in many cases. Please check future submittals for readability of scanned images or provide unstamped versions printed to PDF direct from AutoCAD.
  - *TT 02/22/2021 – Comment addressed. Resolved*
51. The February 5, 2021 letter from Green International notes potential “refinements” to proposed roadway geometry. Any changes included in the traffic analysis should be shown on the Final Plans. This comment can be addressed in Final Plan. We recommend any decision include a condition requiring so. ***Resolved with confirmation in Final Plans.***
52. Please include page numbers and headings in any reports provided with the Final Plans. This comment can be addressed in Final Plan. We recommend any decision include a condition requiring so. ***Resolved with confirmation in Final Plans.***
53. Final Plans should show breaks in the curb at all driveway locations and indicate special transitions if needed. This comment can be addressed in Final Plan. We recommend any decision include a condition requiring so. ***Resolved with confirmation in Final Plans.***
54. Recommend granite inlets and transitions be provided for gutter line catchbasins. This comment can be addressed in Final Plan. We recommend any decision include a condition requiring so. ***Resolved with confirmation in Final Plans.***
55. Please indicate proposed and relocated power infrastructure on the plans and distinguish between overhead and underground installation. This comment can be addressed in Final Plan. We recommend any decision include a condition requiring so. ***Resolved with confirmation in Final Plans.***
56. Final Plans should include all proposed signage including “no parking” signs. This comment can be addressed in Final Plan. We recommend any decision include a condition requiring so. ***Resolved with confirmation in Final Plans.***
57. Given the extent to which homeowners will be responsible for operation and maintenance of roadway and utility infrastructure we recommend any decision include a *condition requiring establishment of a homeowner’s association or similar and that obligations and prohibitions included in the decision be clearly referenced or incorporated.* ***Resolved***

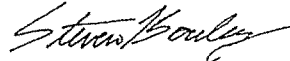
These comments are offered as guides for use during the Town’s review and additional comments are likely to be generated as additional or revised documentation is submitted. If you have any questions or comments, please feel free to contact us at (508) 786-2200.

Very truly yours,

Diamond Hill Estates  
Comprehensive Permit Peer Review  
(February 22, 2021 Update)



Sean P. Reardon, P.E.  
Vice President



Steven M. Bouley, P.E.  
Senior Project Engineer

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