



Town of Walpole

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Commonwealth of Massachusetts Zoning Board of Appeals

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

APPLICANT

Wall Street Development Corp – Burns Avenue Development, LLC

LOCATION OF PROPERTY INVOLVED

48 Burns Avenue

Walpole Assessors Map: 20; Lots 119, 136 & 137

I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was submitted by “Burns Avenue Development LLC, Wall Street Development Co. (“Applicant”) to the Walpole Zoning Board of Appeals (“Board”) on February 13, 2019. The application was for construction of thirty-six (36) home ownership units in seven (7) structures to be located on property located at 48 Burns Avenue, Walpole, Massachusetts (“Project”). During the hearing process the Applicant revised the Project to thirty-two (32) residential units in six (6) structures. The Board considers the only project before the Board at the time of this Decision to be the 32-unit Project.
2. The Board’s hearing on the application was duly opened on March 6, 2019, and was continued to April 3, 2019, May 29, 2019, June 19, 2019, July 28, 2019, August 28, 2019, September 18, 2019 and November 6, 2019. The hearing was closed on December 4, 2019, at the Applicant’s insistence. The Board deliberated on the application on December 6, 2019 and January 6, 2020.
3. The Project is located at 48 Burns Avenue, Walpole, Massachusetts and is identified on Walpole Assessors Map 20 – Parcel 119, Parcel 136 and Parcel 137 (“Property”).
4. The Property is located in the General Residential (GR) Zoning District. The 3.23+/- acre Property includes three lots between Burns Avenue and Union Street,

west of Brook Lane. The southwest lot is developed with a single-family home and the remainder of the Property is wooded with wetland resource areas along the southeast side of the Property.

5. The Applicant provided certain materials, reports, and revised plans during the course of the public hearing on the Application, but insisted on closing the hearing on December 4, 2019. During the public hearing, the Applicant was represented primarily by its principal, Lou Petrozzi. The Applicant's engineering consultant is Robert Truax, of GLM Engineering Consultants, Incorporated.
6. The Board utilized the services of Philip F. Paradis, Jr., P.E., of BETA Group, Inc. for civil, stormwater peer review and traffic peer review. Paul Haverty, Esq., and Christopher Alphen of Blatman, Bobrowski & Haverty, LLC also advised the Board as its 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: Mary Jane Coffey, Susanne Murphy, Robert Fitzgerald, Chairman John Lee, and Associate Member Drew Delaney. Rick Merrikin missed one meeting but certified compliance with the Mullin rule and is eligible to vote.

II. JURISDICTIONAL FINDINGS

8. The Applicant received a Project Eligibility Letter ("PEL") from MassHousing dated November 1, 2018 and submitted a copy to the Board with the original application. According to the PEL, the Board finds that 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 formed a limited dividend entity, the Burns Avenue Development, LLC, which is a single-purpose entity created for the purpose of the Project. The Burns Avenue Development, LLC has 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). However, as of the date of this Decision, the Town of Walpole does not meet the statutory minima set forth in G.L. c. 40B § 20 or 760 CMR 56.03(3) to 56.03(7).

III. FACTUAL FINDINGS

10. The Board engaged peer reviewers to review issues concerning civil engineering, site design, and stormwater impacts of the Project.
11. The traffic review by BETA determined that although “queuing would be minimally impacted by the proposed development, existing queuing is significant at the intersection of Union Street and Pleasant Street during the AM and PM peak periods.” The Applicant submitted a Memorandum dated June 10, 2019 by Green International Affiliates, Inc., in response to the peer review comments. William Scully, P.E. testified to the Board the contents of the memorandum which concluded that the “proposed residential development project is expected to generate less than 5 total vehicle trips at the intersection of Pleasant Street and Walcott Avenue during both weekday AM and PM peak hours.”
12. The ZBA’s independent peer reviewer, Philip F. Paradis, Jr., P.E., recommended eight (8) visitor parking spaces. Mr. Paradis’ recommendation was based on the design of the off-street parking and the tight radius of the cul-de-sac that prohibits on-street parking. The Walpole Fire Department provided testimony to the ZBA with the same concerns.
13. The civil engineering peer review and the Walpole Fire Department and other local officials identified numerous issues of concern, including the width of the access road (an issue for fire vehicle access), length of roadway, lack of visitor

parking, snow storage areas, trash collection, grading, and contaminated materials on site. The Board was also presented with concerns about impacts upon Burns Avenue which will provide the sole access and egress for the Project, and the close proximity of the Project to existing neighborhood single-family residences, and the impacts to the neighborhood during construction.

14. The Town Engineer provided testimony to the ZBA that an easement for the town to access the private portion of Burns Avenue as well as the site driveway hammerhead is necessary to allow town vehicles to safely turn around.
15. The issues referenced in paragraphs 13 and 14 would have benefited from further dialogue with the Applicant during the public hearing and possible further plan revisions, but the Applicant insisted on closing the hearing before the issues could be fully vetted and resolved.
16. Burns Avenue is a constructed public way for approximately 550 feet. In order to facilitate the construction of the proposed Project an additional 115 feet of Burns Avenue must be constructed with an additional 40 feet to enter the site. The length of Burns Avenue including the site access drive therefore results in a road length greater than 750 feet.¹
17. Several members of the public expressed their concern about the Project's impact to Burns Avenue, and the section that is a private way.
18. The Conservation Agent expressed concern regarding the proposed activity in the wetland resource areas and buffer zone, and the 25-foot no disturb zone protected under local regulations. The Conservation Agent provided testimony to the ZBA and recommended, given the location of the Project in a Wetlands Protection area, any fill used in connection with this Project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
19. The Applicant has not submitted a proposed landscaping plan, despite the Board's request. The Applicant shall submit a landscaping plan for the Board's review with final plans as specified in the conditions section, below. In addition to wetland related buffers, the Board discussed extensively for the need for

¹ The Town Engineer relied upon the GLM Project Site Development plans for the approximately street lengths and the plan recorded with the 1946 taking of Burns Avenue.

appropriate set-back related buffer zones and made the following findings: A buffer zone of ten (10) feet is appropriate for Buildings 1, 2 and 7. Buffer zones for buildings 4, 5, 6 and 7 should comply with the Restoration and Planting Details provided by GLM Engineering Consultants dated 9/20/2019, and the further conditions noted below.

20. The Board finds that granting a Comprehensive Permit, with the conditions and waivers contained below, is consistent with local needs.
21. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns. Based upon the fact that the Applicant was afforded ample opportunity to address these conditions during the public hearing and did not challenge the conditions on the grounds that they either singly or in the aggregate rendered the Project uneconomic, the Board finds that such conditions will not render the project uneconomic.
22. The Board requested, but the Applicant refused to submit a complete set of architectural plans stamped by a Massachusetts licensed architect. Undated, preliminary architectural renderings marked "Study Set Not for Construction" were provided on 12/2/2019. These renderings are not signed or stamped by a licensed Massachusetts architect and raised concerns among the Board members about the feasibility of the design.
23. The Board acknowledges concerns raised by abutters and other interested parties, including concerns relating to increased traffic and parking demand and stormwater runoff. The Board has addressed these concerns by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately address these matters of local concern in a manner that outweighs the regional need for affordable housing. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.
24. Abutting property owners disputed whether the Applicant has legal access to the Project from Burns Avenue. The Applicant's right to use the disputed private way area in the manner proposed in the development plans is disputed. In granting this Permit, the Board recognizes the Applicant may be at risk of a potential court challenge by persons with standing to contest the Applicant's right to use disputed areas as proposed; and that it is the Applicant's responsibility to ensure it holds the necessary rights to proceed with the Project as proposed, prior to proceeding with construction. The Board's grant of this Permit shall not be

construed to either confirm or deny access rights over the disputed private way area or to confer new access rights to use the private portion of Burns Avenue to access the Project.

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 “The Residences at Burns Avenue, Walpole, Massachusetts”, prepared by GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, Massachusetts 01746, dated February 7, 2019, with revisions through September 25, 2019;

The Plan Set consisted of the following sheets:

Sheet 1 Cover
Sheet 2 Existing Conditions
Sheet 3 Layout Plan
Sheet 4 Grading, Drainage & Utilities
Sheet 5 Profiles
Sheet 6 Erosion Control Plan
Sheet 7 Details
Sheet 8 Details
Sheet 9 Details
Sheet 10 Details
Sheet 11 Details
Sheet 12 Details
Sup-A Riverfront Existing Conditions
Sup-B Riverfront Area Disturbance
Sub-C Restoration and Planting Details

The Applicant did not submit architectural plans stamped by a licensed Massachusetts architect, but did submit floor plan and architect renderings portraying the proposed project by Bruinier & Associates, Inc. titled C:\Drawings\PLEX\D-400 to D-499\D-446\D-466-6-unit.dwg. These renderings

are undated but identified as being printed off an Adobe PDF on 10/31/2017
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Sheet L1 Elevations
Sheet 1 Elevations
Sheet 2 Floor Plans
Sheet 3 Elevations
Sheet 4 Floor Plans

- A.2 The Applicant shall be a Limited Dividend Entity as required by Chapter 40B and it and its successors and assign, 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 thirty-two (32) condominium units in six (6) structures with occupancy for up to six (6) families per structure. The Project shall consist of twenty-eight (28) two-bedroom units and four (4) three-bedroom units.
- A.4 The Project provides a garage and driveway for each unit. There shall be two (2) parking spaces per unit, including the affordable units. Driveway spaces shall have minimum dimensions of parking spaces. There will be eight (8) visitor parking spaces available on the site. Visitor parking and all other forms of parking are prohibited in the Project roadway.
- A.5 All residential units approved under this Comprehensive Permit shall be for-sale condominium units and not available for short or long term rental at any time. Affordable units shall be interspersed evenly throughout the Project, as approved by the Subsidizing Agency during Final Approval.
- A.6 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 specifically 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 Approved 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.7 The Project shall comply with all local regulations of the Town of Walpole and its boards, commissions and departments unless specifically waived herein.
- A.8 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.9 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Inspector or other Town Departments, the Building Inspector 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 Inspector 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.10 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.11 The sidewalks, driveways, roads, 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 and landscape maintenance. In this regard, the driveway within the Project shall not be dedicated to or accepted by the Town.

- A.12 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.13 The Applicant shall submit to the Board prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Site, whether or not pursuant to a building permit, the following
- a. Final Architectural Plans. Final Architectural Plans shall be prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts. At a regularly scheduled Board hearing, the Community and Economic Development Director will provide the Board with an analysis on whether or not the final plans conform to the conditions of approval, and will request comments from relevant Town boards and commissions to inform that report. The Board shall vote to affirm or deny staff's findings.
 - b. A lighting plan which conforms to the following:
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 for design, the most restrictive provision shall apply. A proposed lighting plan shall be submitted to the Town Engineer, Zoning Board of Appeals, Walpole Fire Department, and Walpole Police Department prior to beginning of construction for review of public safety and project acceptance by the 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 Project property line. 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 of the set forth conditions. 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 0.5 foot-candle at the property line and there shall be no unshielded point sources of light visible from adjacent streets and properties.

- a. 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))
- b. 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 12ft in height from the surface area to be illuminated.
- c. Signage Lighting
All signage lighting shall comply with Walpole Zoning By-laws per Section 7.
All signage lighting shall be limited to white steady, stationary light of reasonable intensity that is directed solely at the sign and shielded from abutting parcels.
- 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” (3ft 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. No temporary lighting shall be aimed in the direction of Burns Ave and or Union Street abutters.

Temporary lighting of the interior buildings must be contained within the building structure or shut off between the hours of 10pm to 6am.

- c. A landscaping plan with the Final Plans, depicting the following:
 - a. the location, name, number, and size of plant types, and the locations and elevation and/or height of planting beds, fences, walls, steps and paths of the existing site and proposed site plan including the screening proposed for any tanks, solid waste or utility related structures;
 - b. Provide street trees (2 ½" caliper min.) along Burns Ave Extension and the new cul-de-sac planted at 40-50 feet O.C.;
 - c. Retain existing trees along property line;
 - d. Provide screening against abutting residential area and visitor parking by a mix of evergreen and deciduous trees and shrubs and solid fencing where appropriate. Do not plant large growing trees under over-head powerlines that are to remain. Approximately 60-75% of the plant material to be evergreen. Use of native plant material is encouraged. Evergreen trees shall be a mix of arborvitae, eastern red cedar, and spruce. White pine is not appropriate for this use;
 - e. Overall planting plan that includes a demarcation of clearing and the limits of work;
 - f. Planting plans for drives showing shade trees and lighting fixture locations;
 - g. Prototype planting plans for each building that include shade trees, ornamental trees, shrubs, and groundcovers;
 - h. Planting details for coniferous and deciduous shade trees, ornamental trees, and shrubs;
 - i. Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;
 - j. Tree protection and preservation plans;
 - k. Construction details;
 - l. All plantings shall consist of non-invasive, drought-tolerant species;
 - m. Plantings installed along drives and walkways shall also be salt-tolerant;
 - n. Planting details for required buffer zones; and
 - o. Complies with the Order of Conditions issued by the Conservation Commission on November 4, 2019, and the approved landscaping plan referenced therein.

- d. 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, the Professional (Civil) Engineer of record. The Final Plans shall be submitted to the Board at least thirty (30) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier (the "Final Site Plan Submission Date").

Final Plans shall include the location of walkways to doors of each units, which shall include stairs, deck, paths and access at the rear of each unit. Final Plans shall provide grading detail between the roadway and the buildings and shall include grading detail to show positive drainage behind units 1-5.

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 or comments have been given to the Applicant by the Board concerning the Final Plans within thirty (30) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.

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.
- B.2 Upon completion of the Project, and in perpetuity eight (8) 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 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 Site, 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 Board to be used for the Board to retain outside experts for technical and legal reviews and inspections required under these conditions. Said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, s. 53G and shall only be used for technical reviews and inspections 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 ZBA 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 ZBA in a reasonable amount as may be determined by the ZBA. Said funds may be used by the ZBA to hire civil engineering, architect, traffic engineering, accounting, and/or other professionals that the ZBA deems reasonably necessary to ensure compliance with the conditions hereof.
 - b. 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 SWPPP submitted along with the NPDES filing.
 - c. Provide the Board with recording information documenting the fact that the Order of Conditions for the Project issued by the Conservation Commission dated November 4, 2019 has been recorded in the Norfolk Registry of Deeds and that all appeals have been exhausted.
 - d. 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.

- e. A construction management plan shall be submitted to the Building Inspector for review and approval, including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, 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. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction management plan. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project and shall employ water based street sweeping so as to avoid clouds of dust in and around the public and private ways and surrounding neighborhood. 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 Applicant shall also include in its construction management plan, a plan for ensuring health and safety concerning disturbance and stockpiling of potentially contaminated soils on site, including a plan for sampling, testing, and covering disturbed and stockpiled soils and materials on site and/or transfer off-site, in accordance with state statutory and regulatory law. Other than site work and such other work as may be authorized in writing by the Building Inspector, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Building Inspector, in consultation with the Board's peer review engineer, has approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Building Inspector concerning the Final Site Plans within thirty (30) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to be consistent. 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 which may arise during construction. Applicant shall also make the following submissions:
1. Submit to the Building Inspector a construction schedule outlining the entire development of the Project.
 2. 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 and shall be checked by the building inspector for compliance of all site personnel.

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

- a. 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 Inspector and Community and Economic Development Director.
- b. Submit to the Board and the Building Inspector evidence of Final Approval from the Subsidizing Agency (MA Department of Housing and Community Development) ("DHCD"), as required by the Project Eligibility letter and the Chapter 40B regulations.
- c. Submit to the Board and the Building Inspector a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. Execution and recording of such Regulatory Agreement and subsidy funding commitment by MassHousing or an approved New England Fund lender shall be complete prior to the issuance of any building permit.
- d. Submit for a sign application to the Building Inspector and include location and details of every sign to confirm its compliance with this Decision.
- e. Submit all final plans submitted to the Board for their review and approval.
- f. Obtain and file with the Building Inspector 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 and form acceptable to

the Town for emergency sediment control and site stabilization.

- i. The Applicant shall provide security in sum of one hundred twenty five percent (125%) of the bona fide estimate of the cost of restorative landscaping. These funds will be used to restore the site should the project be abandoned, and no construction activity takes place for a year.

D. Construction Completion/Certificate of Occupancy

D.1 Prior to issuance of a certificate of occupancy for a specific portion of the Project, the Applicant shall:

- a. Submit engineer's interim certification of compliance with utilities plan and profiles (as applicable) to the Walpole Building Inspector.
- 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, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.
- d. Prior to the first occupancy agreement for the first unit, 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 the all the conditions of this Decision.
- e. Submit as-built plan of stormwater basin and infiltration units and certification by peer review engineer of compliance with the conditions of approval for the stormwater management system set forth in the Conservation Commission's Order of Conditions for the Project issued on November 4, 2019, the peer reviewer's comments and recommendations submitted during the course of the public hearings and the final approved stormwater management plans dated September 25, 2019.

- f. All Burns Ave improvements, Burns Avenue extension, and the site access drive work must all be completed to binder coarse with all castings/valve boxes to binder grade, subject to review and approval of by the Town Engineer. No security shall be taken for these items.

D.2 Prior to issuance of the certificate of occupancy for the last residential building to be constructed, the Applicant shall:

- a. Submit to the Building Department, in digital file format, a final as-built utilities plan including profiles, 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, edge of water bodies, wetland boundaries, 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 Inspector 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. The management agreement and condominium association rules and regulations shall include prohibition of dumpsters, and shall require curbside trash and recycling pick up.
- d. Submit verification that the stormwater management system including but not limited to catch basins, infiltration units, pipes and detention basin has been inspected, cleaned and final approval by peer review engineer and Conservation Commission.

- e. Submit to the Board Certification of compliance with all terms and conditions of this Comprehensive Permit.
- f. Certification by the Town Engineering Department that all off-site measures 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 Inspector 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 The Applicant shall not conduct any blasting operations. The Applicant shall permit representatives of the Board to observe and inspect the Site and construction progress until such time as the Project has been completed.
- E.3 The Applicant shall permit, upon a 48-hour notice, subject to applicable safety standards, representatives of the Board to observe and inspect the Site and construction progress until such time as the Project has been completed.
- E.4 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.5 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- E.6 During construction, the Applicant shall comply with the construction management plan referenced in Condition C.1e., above.
- E.7 Appropriate signage shall be shown on the Final Plans. The Applicant has requested certain waivers from the Town of Walpole Bylaws regarding signs, all other sign regulations shall be abided by.

- E.8 The location of all utilities, including but not limited to electric, telephone, and cable, shall be provided to the Board prior to the issuance of any building permits shown on the Final Plans. All transformers and other electric and telecommunication system components shall be submitted to the Board prior to the issuance of any building permits.
- E.9 The Applicant shall use natural gas for the Project, if reasonably available at the time of the submission of Final Plans. Gas service locations shall be included on the Final Plans.
- E.10 Lighting shall comply with Condition A.13b., noted above.
- E.11 Utilities, including but not limited to telephone, electric, and cable, shall be located underground from the last existing pole on Burns Avenue.
- E.12 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Civil Engineer to the Building Inspector as meeting design specifications, as applicable.
- E.13 Due to the single access roadway, close proximity to existing residences, and school children walking about the area prior to 8:00 a.m. on weekdays, 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 the 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.

In addition to existing condition: No work shall be conducted on Sunday or any National holiday including but not limited to New Year's Day, Memorial Day, Fourth of July, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas.

- E.14 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 Inspector prior to commencement of work at the site including a dumpster emptying and removal protocol from a duly licensed and insured private contractor approved by the Building Inspector. 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. 15 Applicant shall also identify the proposed location for a 36'x10' construction trailer on site during the course of construction for the Building Inspector's approval. Applicant shall renew the building permit for the construction trailer every six (6) months for a maximum of five (5) extensions. 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. Floodlights used during the construction period should only be faced in South-East direction and no light shall emit past the property line more than 0.05 Foot Candles.
- E.16 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 slope areas shall be permanently stabilized with rip rap or vegetated cover.
- E.17 All retaining walls visible from a public way or direct abutters, as determined by the Building Inspector 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 to the greatest extent practicable.
- E.18 Snow shall be stored within the areas of the site designated on the Final Plans and not anywhere on Burns Avenue. 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 Board.

- E.19 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.20 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to residents of the Project, as well as emergency vehicles.
- E.21 The Applicant shall maintain all portions of any public road, whether state or local roads, and Burns Avenue 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.22 All construction vehicles shall be parked on the Property. No construction equipment can be staged on Burns Avenue or other public ways.
- E.23 Prior to the commencement of any work on the site, the Applicant and the site general contractor shall submit a plan indicating soil, debris, and other deleterious materials to be removed as well as materials to be brought into the Property including soil, stone, gravel, pipe, drainage structures, riprap, sand, loam, mulch, etc. The plan shall also include provisions securing the site so that children are kept out of the site and are protected against unsafe conditions. Estimated quantities of said materials shall be provided and well as estimated delivery schedule for the benefit of the residents of Burns Avenue. 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. 24 Prior to the commencement of any work on the site, the Applicant and the site general contractor shall submit a dust mitigation plan and air quality management plan to the Building Inspector. Water must be used to mitigate any dust caused by rock crushing, soil sifting, or any other dust creating operation.

- E.25 Construction security fencing (csf) shall be utilized at least until the first occupancy permit 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 a lock box placed accessible at the entrance to the gate during the construction process. A security contractor shall be utilized to open and close the site daily and confirm/mandate the hours of operation for the site personnel.
- E.26 A proper truck pad shall be created and maintained at the entrance to the Burns Ave Extension site to wash and diminish the tracking of any debris from the site onto Burns Ave. At the completion of everyday the Burns Ave road shall be swept by the construction team with an approved means by the Board. This shall continue until the final layer of pavement is installed on Burns Ave and Burns Ave extension.
- E.27 All construction equipment must be off-loaded on Burns Avenue Extension construction site. No equipment or material shall be off-loaded on Burns Avenue.
- E.28 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 The Final Plans shall show the access road as a two-way road.
- F.3 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.4 The area at the intersection of the proposed driveway and Burns Avenue abutting the visitor parking spaces shall remain clear of debris and snow at all times to allow space for a school bus pick-up and drop-off area.
- F.5 The Applicant shall repave the entire length of Burns Avenue in compliance with Town standards. A leveling course of bituminous concrete will be required from curb to curb for the entire existing street and driveway aprons will be tied in unless not required after the overlay, as determined by the DPW.

- F.6 The Proposed extension of Burns Avenue will consist of 360+/- feet (“Burns Avenue Extension”). Burns Avenue Extension shall be 24 feet wide. Burns Avenue Extension shall be constructed to Town Construction Standards, as detailed in the Town’s subdivision regulations for an accepted Town street. The pavement binder shall be installed prior to issuance of the first building permit for the Project.
- F.7 The entirety of Burns Avenue and Burns Avenue Extension shall include the repaving of both sidewalks and the extension of the existing sidewalk. The sidewalks along both sides of Burns Avenue and Burns Avenue Extension shall be consistent with the existing sidewalk on Burns Avenue and shall be a minimum of five (5) feet wide. Internal sidewalk in Project to provide connection to existing sidewalk along Burns Avenue.
- F.8 The Roadway from Burns Avenue Extension to each unit shall be designed and constructed to Town construction standards and in accordance with the Final Plans, excluding the waivers granted by the Board.
- F.9 The reconstruction and extension of Burns Avenue and Burns Avenue Extension is critical to the Project having adequate access. If the Applicant is found to lack the legal right to construct and/or use Burns Avenue and Burns Avenue Extension for access to the Project, this approval shall be rendered invalid.
- F. 10 A stop sign shall be installed along the internal roadway of the Project at the proposed 90-degree bend in the roadway at the end of Burns Avenue to force drivers traveling along the main internal roadway to stop before entering Burns Avenue, subject to review and approval by the Fire Department for site access.
- F.11 ADA complaint ramp shall be installed at the end of the sidewalk in front of proposed Unit 1.
- F.12 Applicant shall maintain the sight distance at the Pleasant Street and Burns Avenue intersection by trimming vegetation within the Town way. The sight distance shall be maintained under the Town Engineer’s supervision.
- F.13 Applicant shall install a stop sign at the Burns Avenue approach to its intersection with Pleasant Street.
- F.14 All stop signs to be installed shall be consistent with the current Manual on Uniform Traffic Control Devices standards and guidelines.

- F.15 Applicant shall install ADA compliant wheelchair ramps with detectable warning panels at the sidewalk transitions to the driveway pavements surface at the Pleasant Street/Burns Avenue intersection.
- F.16 Applicant shall install a marked crosswalk and a stop bar across the Burns Avenue approach to Pleasant Street, if permitted by the police department. The crosswalk shall be 10 feet wide and the crosswalk pavement markings shall be parallel lines (width at one foot). The stop bar shall be installed a minimum of four feet behind the crosswalk.
- F.17 The Applicant shall install two black on yellow, static "Thickly Settled" signs with supplemental "Notice" plates on Pleasant Street in both the north bound and south bound directions at locations agreed upon with the Town Engineer and Safety Officer.
- F.18 The Applicant shall grant the Town of Walpole an easement allowing Town snow plow access and snow plowing, snow storage, and/or snow removal operations in, through, and around the hammerhead paved area at the end of Burns Avenue.

G. Police, Fire, and Emergency Medical Conditions

- G.1 Sprinkler systems shall be installed in buildings with more than two dwelling units.
- G.2 A Standby generator and pump room/building shall be installed to maintain the operation and good working condition of the sprinkler system to be installed in the dwelling units.
- G.3 Pursuant to the Massachusetts Comprehensive Fire Safety Code, 527 CMR 1, 18.1.1.5, Applicant shall submit to the Fire Department a fire apparatus access plan signed and stamped by a registered professional engineer which shows to the fire chief and deputy chief's satisfaction that there is a turning radius in and out of the Project sufficient for fire truck access and clearance of the bucket portion of the aerial apparatus of the truck, and that the proposed hammerhead at the end of Burns Avenue be included in the turning radius analysis, and be designed so as to provide sufficient turnaround diameter for fire truck and fire truck apparatus. The plan must also show compliance with 18.2.3.4.8, to the fire chief and deputy chief's satisfaction, which prohibits use of the opposite travel lane in the design of all new fire apparatus access roads.

- G.4 Posted no parking restrictions on internal Project roadway with appropriate markings and signs shall be provided, along with posted no parking restrictions on Burns Avenue opposite the entrance to the Project.
- G.5 Applicant shall work with the Fire Department concerning the location of the fire hydrants.
- G.6 Although the Project does not involve a subdivision, the Project will function as such and the Board is concerned over the fact that the proposed dead-end roadway serving the Project exceeds the 750-foot maximum dead-end roadway length required under the Town's subdivision regulations. This raises fire access/public safety concerns as the deputy fire chief noted to the Board during the public hearing. The Applicant is encouraged to consider modifications to the Comprehensive Permit plans which would satisfy the 750-foot maximum length requirement, including reduction of the number of buildings and dwelling units if this would improve safety conditions. This would not only address fire safety concerns, but would also enhance open space components of the site plan and would lessen the impact of the Project on the existing neighborhood.

H. Water, Septic, Stormwater and Utilities

- H.1 The Applicant shall be responsible for the design and install of the utilities servicing the Project.
- H.2 All water infrastructure shall be installed in conformance with the Town of Walpole's requirements. The Applicant shall consult with the DPW Water and Sewer Department prior to the commencement of construction.
- H.3 Fire hydrants shall be placed as shown on the Approved Plans in locations approved by 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.4 The service size for the domestic water service should be verified by the Water Department and information on the fire service size and requirements should be verified by the Fire Department. 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.5 All water and sanitary sewer improvements necessary to serve the Project must be completed, and interim as-built plans must be submitted to and approved by the DPW Water / Sewer Department, before any occupancy permits for the Project may be issued.
- H.6 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 Utilities shall be installed underground from the last existing pole on Burns Avenue. Utilities shall be defined as electric service lines, telephone lines, water service lines, sewer lines, CATV lines, municipal conduit and the like.
- H.9 The Walpole Conservation Commission Conditions:
 - a. The Applicant shall comply with all terms and conditions of the Order of Conditions for the Project issued by the Conservation Commission on November 4, 2019. No work may proceed pursuant to this Comprehensive Permit until all appeals have been exhausted and the Order is recorded in the Norfolk Registry of Deeds.
 - b. All terms and conditions of the Order of Conditions issued on November 4, 2019 are expressly incorporated as conditions to this Comprehensive Permit and shall remain enforceable conditions under the Comprehensive Permit notwithstanding the result of any appeal. Should appeal of the Order of Conditions result in elimination or modification of any condition of the Order of Conditions and the Applicant seeks to modify the Project based thereon, any such modification must be approved by the Board in accordance with 760 CMR 56.05(11).
 - c. Any fill used in the Project shall be clean fill, and shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or part of any of the foregoing.

I. Completion of Infrastructure:

I.1 As security for completion of the infrastructure shown on the Final Site Plans, including, but not limited to the roadways including the entire paving of Burns Avenue, 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, and subject to the following:

- a. No occupancy permit for a dwelling unit shall be issued until: (1) the entirety of Burns Avenue and the roadway shown on the Final Plans providing access to the subject buildings has been installed, excepting the final course of pavement; and (2) all other Infrastructure necessary to serve the building, as approved by the Board’s peer review engineer or the Building Inspector has been constructed and installed so as to adequately serve said building. The final infrastructure for the Project, including, but not limited to, final course of pavement shall be installed prior to the issuance of occupancy permits 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 Inspector. Alternatively, if the Applicant desires to obtain such final occupancy permits for the final dwelling unit before the completion of said Final Infrastructure, it shall deposit monetary security 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 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 Walpole Building Inspector that occupancy permits may be issued.

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 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 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.
- J.4 This Decision prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site, except during construction.
- J.5 There shall be private curb side pick of trash and recycling at the end of each unit's driveway. 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.
- J.6 Prior to the issue of any occupancy permits, 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 Inspector, a copy of the Condominium Trust and Condominium Master Deed which shall include an adequate plan for the operation and maintenance of Burns Avenue Extension. Burns Avenue Extension 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's Association obligation shall include snow removal of Burns Avenue Extension. The condominium documents shall include bylaws prohibiting cars from parking on any portion of Burns Avenue and on the Project roadway.
- J.7 The Applicant shall be responsible for sweeping, removal of snow, and sanding of the internal roadways and Burns Avenue Extension permitting access to residents and emergency vehicles during construction and until the Condominium Association has been legal established and has assumed said responsibilities.

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Burns Avenue Development, LLC
48 Burns Avenue, Walpole, MA
January 8, 2020
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- J.8 The Project entrance way, the private portion of Burns Avenue, interior roads, and drainage systems associated therewith shall remain private, and the Town shall not have any legal responsibility for the operation and maintenance of such.
- J.9 The landscaping 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. Dead or diseased plantings shall be replaced within six (6) months in accordance with growing and weather conditions.
- J.11 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 is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), 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.

DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of thirty-two (32) home ownership condominium units pursuant to Chapter 40B, §§ 20-23, for the development described above.

SIGNATURE PAGE TO FOLLOW

RECORD OF VOTE

The Board of Appeals voted, at its public meeting on 1/6/2020 to grant a Comprehensive Permit subject to the above-stated Conditions, with this decision as attested by the signatures below.

Members in favor:

John Lee

SM

Robert A. Fitzgerald

Paul J. Munn

Mary Jane Coffey

Filed with the Town Clerk on 1/13, 2020.

Elyse G. Gagny
Town Clerk

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.

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Exhibit "A" – Waivers

Pursuant to the Waiver List revised and submitted to the Board, the Applicant has requested, and the Board has granted, waivers from the Walpole Zoning Bylaws and other local by-laws and regulations as specified in the attached Exhibit A. No waivers are granted from requirements that are beyond the purview of G. L. c. 40B, §§20-23, and no waivers have been granted other than those set forth in Exhibit A. No waiver of permits or inspections fees are granted.

708302v2/WALP/0297

Exhibit A - Waivers

Zoning Bylaw Waivers				
Bylaw Section	Requirement	Requested Waiver	ZBA Decision	Waiver Number
Section 5 Use Regulations				
5-B.3.d.ii	Dwelling for occupancy by more than three (3) families provided that such dwelling is located on a lot having an area of at least thirty thousand (30,000 square feet with an additional ten thousand (10,000) square feet for each dwelling unit in excess of three (3) to be accompanied;	Allow six (6) buildings with 32 units with occupancy for up to six (6) families per building and having approximately 4,100 square feet for each dwelling unit	Granted	A
5-B.3.d. iii	Dwelling for occupancy by more than three (3) families provided that a fifty (50) foot buffer zone shall be required where the adjacent lot has a single family dwelling or is vacant;	Ten (10) foot buffer zone requested	Conditionally granted to allow for 10-foot buffer as depicted on Approved Plans behind Buildings 1, 2 and 7, with arbor vitae screening trees planted by Applicant along property line, and maintained in perpetuity by the condominium association	B
5-B.3.d. iiiii	Dwelling for occupancy by more than three (3) families provided that if there is to be more than one (1) principle building on a lot, there shall be a minimum of 10,000 square feet of lot area per dwelling unit, regardless of how many buildings are on the lot or how many units are in a building.	Allow up to six (6) principle buildings on a lot with approximately 4,100 square feet of lot area per dwelling unit	Granted	C
5-D.2	Activities Prohibited	Allow tree clearing and stripping of topsoil and site work to commence upon approval of the Comprehensive Permit and expiration of any appeal periods	Conditionally granted as allowed after submission and approval of final signed and stamped civil engineering, landscaping, and architectural plans.	D
5-D.3.E	Activities approved as part of any Site Plan Review application	Allow activities as required and shown on the plan	Denied, as procedurally unnecessary	E
5-D.4.A	Activities associated with a residential use that will involve the excavation or filling of one hundred (100) cubic yards of each or more per year except those listed in Subsection 5-D.3.C	Allow excavation and /or filling activities required for the development, as shown on the plan without special permit	Denied, as procedurally unnecessary	F
5-F.E	Authorization for temporary building or structure for greater than 180 days	Allow 36' x 10' construction trailer/sales office for a period of 36 months during construction of the project without a Special Permit	Conditionally granted to allow 36' x 10' construction trailer/sales office for a period of 36 months during construction of the project without a Special Permit as long as complies with existing zoning and with a maximum of 5 building permit renewals	G
Section 6 Dimensional Regulations				

Exhibit A - Waivers

6-B.C	Allow a building to be nearer to the line of a street than the "required setback distance" or nearer to the side lines of its lot than the "required side yard width" or nearer to the rear line of its lot than the "required rear yard depth" as specified in the chart in Section 6-B for General Residence District	Allow front setback distance of Building One to be twenty-five (25) feet	Denied as waiver appears unnecessary under Approved Plans	H
6-B.C	Allow a building to be nearer to the line of a street than the "required setback distance" or nearer to the side lines of its lot than the "required side yard width" or nearer to the rear line of its lot than the "required rear yard depth" as specified in the chart in Section 6-B for General Residence District	Allow rear yard setback of twenty (20) feet	Denied as waiver appears unnecessary under Approved Plans	I
6-B.C	Allow a building to be nearer to the line of a street than the "required setback distance" or nearer to the side lines of its lot than the "required side yard width" or nearer to the rear line of its lot than the "required rear yard depth" as specified in the chart in Section 6-B for General Residence District	Allow exterior decks or steps to be within five (5) feet of any side yard setback	Denied	J
Table 6-B.1	Table of Dimensional Regulations	Waive compliance with dimensional requirements in a General Residence Zone (THIS IS A BLANKET WAIVER REQUEST - STANDARDS OUTLINED BELOW)	Deny blanket waiver	
Table 6-B.1 - GR	Required Lot Area (square feet) 15,000	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	K
Table 6-B.1 - GR	Required Lot Frontage (feet) 100	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	L
Table 6-B.1 - GR	Required Maximum lot coverage by structures 30%	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	M
Table 6-B.1 - GR	Maximum Lot coverage by structures and other impervious surfaces 50%	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	N
Table 6-B.1 - GR	Minimum usable open sapce (square feet) 40%	Waive compliance with dimensional requirements in a General Residence Zone	Denied	O
Table 6-B.1 - GR	Minimum frontyard setback (feet) 30	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	P
Table 6-B.1 - GR	Minimum sideyard setback (feet) 10	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	Q
Table 6-B.1 - GR	Minimum rear yard setback (feet) 30	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	R
Table 6-B.1 - GR	Maximum building height (feet) 35	Waive compliance with dimensional requirements in a General Residence Zone	Denied as Approved Plans show compliance	S

Exhibit A - Waivers

6-C.4	Number of Buildings per Lot	Allow six (6) principle buildings to be constructed for use as a dwelling for up to six (6) dwellings per building to be located on a lot without a special permit	Granted for 6 buildings and 32 total units	T
6-C.4.A. 3	Minimum thirty foot setback from any building to any adjacent property line	Allow ten (10) foot setback from any building to any adjacent property line	Conditionally granted to allow for 10-foot buffer as depicted on Approved Plans behind Buildings 1, 2 and 7, with arbor vitae screening trees planted by Applicant along property line, and maintained in perpetuity by the condominium association	U
6-C.4.A. 4	Buildings shall be a minimum of thirty feet apart		Conditionally granted to allow for 12 foot setback as depicted on Approved Plans, otherwise denied	V
6-C.4.A. 6	Maximum number of dwelling units not to exceed one dwelling unit for every 10,000 square feet of lot area on a single lot	Allow thirty-six (36) dwelling units with one unit for every 3,908 square feet of lot area on a single lot	Granted to allow thirty-two units	W
Section 7 - Sign Regulations				
7.3.G	Real estate signs of ten (10) square feet or less in surface area for property currently for sale, rent or lease	Permit real estate sign of not more than thirty (30) square feet in surface area for property currently for sale, rent or lease	Conditionally granted to allow for requested square footage on for sale signs, otherwise denied.	X
Section 10 Special Conditions				
10-E.2	Applicability - Common driveway for no more than three lots or dwelling units from more than one access point if necessary	Allow common access driveway for thirty-six (36) dwelling units in seven (7) buildings from one access point without a special permit	Denied as inapplicable	Y
10-E.5.A.-M	Design Standards	Permit Design Standards as shown on the plans (THIS IS A BLANKET WAIVER REQUEST, STANDARDS OUTLINED BELOW)	Denied as inapplicable	
10-E.5.A	The location and construction of Common Driveways shall minimize soil disturbance, vegetation removal, and drainage impacts, and preserve existing trees of over twelve (12) inches in caliper and other natural features of special significance to the greatest practicable extent.	Permit Design Standards as shown on the plans	Denied as inapplicable	Z
10-E.5.B	Common Driveways shall have a minimum surface width of sixteen (16) feet, exclusive of two foot shoulders on either side cleared of brush and trees. The Planning Board may require one -foot wide Cape Cod berms and/or swales to direct drainage and infiltrate runoff	Permit Design Standards as shown on the plans	Denied as inapplicable	AA

Exhibit A - Waivers

10-E.5.C	No Common Driveway shall be connected or attached to any other driveway. No Common Driveway shall be extended without prior approval of the Planning Board.	Permit Design Standards as shown on the plans	Denied as inapplicable	BB
10-E.5.D	Common Driveways shall be located within an easement which may allow space for installation of water lines and utilities as needed.	Permit Design Standards as shown on the plans	Denied as inapplicable	CC
10-E.5.E	Common Driveways shall be constructed using a minimum twelve (12) inches thick of sorted gravel sub-base. The base course and top course for paved driveways shall each be a minimum one and one half (1 1/2) inches in thickness. Surfacing with bank gravel, pea stone, crushed stone, or another permeable or semi-permeable surface is allowable.	Permit Design Standards as shown on the plans	Denied as inapplicable	DD
10-E.5.F	Common Driveways shall not exceed three hundred (300) feet in length, measured from the street line to the end of the shared portion of the driveway	Permit Design Standards as shown on the plans	Denied as inapplicable	EE
10-E.5.G	No driveway, parking or turning area or other impervious area shall be located above major components of a septic system, including septic tanks, leaching fields, and distribution boxes, except where approved by the Board of Health.	Permit Design Standards as shown on the plans	Denied as inapplicable	FF
10-E.5.H	To provide better traffic safety and reduce the visual impacts of traffic on abutting properties, the Planning Board may require Common Driveways to be set back from lot lines and/or screened with a buffer of trees and/or shrubs.	Permit Design Standards as shown on the plans	Denied as inapplicable	GG
10-E.5.I	Turnarounds for emergency vehicles shall be provided in a design acceptable to the Planning Board, who will distribute a copy of any plans to the Fire Department.	Permit Design Standards as shown on the plans	Denied as inapplicable	HH
10-E.5.J	Sight distances at the entrance of a Common Driveway along the intersecting road shall be at least one hundred and fifty (150) feet along the intersected roadway	Permit Design Standards as shown on the plans	Denied as inapplicable	II
10-E.5.K	Subject to review and approval of the U.S. Postal Service, mailboxes for residential units being served by the Common Driveway shall have a mailbox located along the public right-of-way	Permit Design Standards as shown on the plans	Denied as inapplicable	JJ

Exhibit A - Waivers

10-E.5.L	Signage required for emergency response systems shall be provided along the public way at the intersection with the common driveway.	Permit Design Standards as shown on the plans	Denied as inapplicable	KK
10-E.5.M	A permanent storage shed, not to exceed forty (40) square feet in floor area and five (5) feet in height, shall be constructed and used for the temporary storage of household trash and recycling for all lots being served by the Common Driveway. The exterior walls of shed shall be sided in natural wood materials or a cement-fiber material. It shall have no openings directly facing the public way and shall be located directly along the public right-of-way and the entrance to the Common Driveway	Permit Design Standards as shown on the plans	Denied as inapplicable	LL
10-E.6	Surety	No surety required	Denied as inapplicable	MM
Zoning Bylaw Section 11 Flood Plain Protection Overlay District				
11.3.B	No earth or other materials to be dumped, filled, excavated or transferred without special permit	Allow earth or other materials to be dumped, filled, excavated or transferred as required by the development plans	Granted conditionally per requirements of Comprehensive Permit	NN
11.3.B.(2)	Special permit required to permit installation of underground utilities, including water, sewer, electric/cable/gas	Allow installation of water main and sewer main, without a special permit as approved by the Conservation Commission	Denied as procedurally unnecessary	OO
Zoning Bylaw Section 13 Site Plan Review				
13.2. A. (6)	Height and use of all buildings abutting proposed project	Not required to be submitted with application	Conditionally granted concerning application, but not for final approved plans	PP
13.2. A. (8)	Rendering of all elevations of proposed Lighting Plan	Renderings not required with Street Lighting Plan as submitted	Conditionally granted concerning	QQ
13.2. A. (17)			Conditionally granted subject to police and fire review and approval of final plans, and conditioned further that the final plan shall be dark sky compliant and street lights to meet applicable safety requirements	RR
13.2. A. (18)	Landscape Plan	Landscape plan not required with application - landscape plan to be submitted upon approval of Comprehensive Permit	Granted conditionally as to application, but final plans must comply with 9/20/19 Landscape Plan approved by Conservation Commission	SS
13	Fees	No Fees Required	Denied as procedurally unnecessary	TT
Wetlands Protection Bylaw and Regulation Waivers				

Exhibit A - Waivers

1.2	Protected Resource Areas	Protected resource areas shall be as defined in the Massachusetts Wetlands Protection Act and its Regulation at 310 CMR 10.00	Denied	UU
1.3	Bordering Lands (a/k/a Buffer Zone)	Lands within 100 ft. of any of the other resource areas listed shall not be regulated as a resource area, Allow this buffer zone area to be regulated in accordance with the Massachusetts Wetlands Protection Act and its Regulation 310 CMR 10.00	Denied	VV
1.4.1	No Alteration Zone	No Alteration Zone not applicable - this buffer zone area is to be regulated in accordance with the Massachusetts Wetlands Protection Act and its Regulation 310 CMR 10.00	Denied, as Approved Plans show compliance	WW
2.3.2	Fees	Waive all fees required under the Wetland Protection Bylaw Regulations	Denied as procedurally unnecessary	XX
STORMWATER MANAGEMENT AND EROSION CONTROL BYLAW				
4	Applicability	Waive applicability to this development. Stormwater management design shall be in compliance with the Massachusetts DEP Stormwater Management Standards and Stormwater Policy Handbook	Denied	YY
Part III	Stormwater Management Plans	Waive requirement. Stormwater management design shall be in compliance with Massachusetts DEP Stormwater Management Standards and Stormwater Policy Handbook	Denied	ZZ
Part VI	Review Fee Schedule	Waive all by-law filing fees	Denied as procedurally unnecessary	AAA
WALPOLE BOARD OF SEWER AND WATER COMMISSION REGULATIONS				
Walpole Board of Sewer and Water Commission Regulations	Water Entrance Fees	Waive all entrance and system development fees for each unit	Denied	BBB
Walpole Board of Sewer and Water Commission Regulations	Sewer Connection Fee	Waive all residential sewer connection fees for each unit	Denied	CCC
Walpole Board of Sewer and Water Commission Regulations	Fire Sprinkler Service Line	Waive connection fee	Denied	DDD

Exhibit A - Waivers

Walpole Board of Sewer and Water Commission Regulations	Inflow and Infiltration Fee	Waive inflow and infiltration fee for each unit	Denied	EEE
Building Permit Fees				
Building Permit Fees	Fees required for building permit	Waive buliding permit fees	Denied	FFF