

Office of the
ZONING BOARD OF APPEALS



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Dec. 20, 2016

A TRUE COPY ATTEST:

Sandra C. Wright
TOWN CLERK

TOWN OF SHREWSBURY
Richard D. Carney Municipal Office Building
100 Maple Avenue
Shrewsbury, Massachusetts 01545-5338

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SHREWSBURY, MASS

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

APPLICANT: SMART GROWTH DESIGN, LLC (the "Applicant")
PROPERTY: 440 and 526 Hartford Turnpike (the "Property")
DEVELOPMENT NAME: The Pointe at Hills Farm
DATE: November 28, 2016

*OWNER: HARTFORD REALTY TRUST
OF SHREWSBURY
DEED REF: BOOK 8104
PAGE 312*

*TRUST
REF: BOOK 8104
PAGE 299*

I. PROCEDURAL HISTORY

1. An application for a so-called Comprehensive Permit was received by the Shrewsbury Zoning Board of Appeals (the "Board") on or about November 6, 2015. The application was for 280 apartment units in eight (8) residential structures on two noncontiguous sites. The application sought the construction of 180 units in five (5) residential structures on approximately 10.4 acres of land located at 440 Hartford Turnpike ("Phase 1"), and also sought the construction of 100 apartment units in three (3) residential structures on approximately 8.9 acres of land located at 526 Hartford Turnpike ("Phase 2"). Phase 1 and Phase 2 collectively contain approximately 19.3 acres of land (collectively, the "Project").
2. The Board's hearing on the Application was duly opened on December 14, 2015, and was continued to December 28, 2015, January 25, 2016, February 29, 2016, March 21, 2016, March 28, 2016, April 11, 2016, April 25, 2016, May 9, 2016, May 31, 2016, June 27, 2016, July 25, 2016, August 29, 2016, September 19, 2016, October 17, 2016 and October 31, 2016. The hearing was closed on October 31, 2016.
3. The Project is located on Hartford Turnpike (Route 20), at state highway, and both phases are located within the Limited Industrial Zoning District. Nearby uses consist of a mix of commercial/industrial uses (on Hartford Turnpike) and single-family residential (located off Stoney Hill Road, which abuts the Project).



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4. The Applicant provided various materials, reports and revised plans throughout the course of the public hearing on the Application. A copy of the list of submittals is attached hereto as Exhibit A.
5. During the public hearing, the Applicant was assisted primarily by its senior project manager Wayne Belec from Waterman Design Associates, Inc., its architect Peter Bartash from Cube 3 Studio, LLC, its traffic consultant Nancy Doherty, P.E., from Tetra Tech, Jami Walsh, P.E., and Tom Parece, P.E, from AECOM as its wastewater consultant AECOM, Susan Hunnewell, P.E, from Onsite Engineering, Inc., and its Chapter 40B Consultant Robert Engler from SEB, LLC. The Board utilized the services of Jeffery Walsh, P.E., from Graves Engineering for review of civil engineering and stormwater issues, Jennifer Conley, P.E. from Conley Associates for traffic issues, Iric L. Rex AIA, from Davis Square Architecture for site design issues, Justine Carroll, P.E., from Tata & Howard for water design and capacity issues, and Kent Nichols, P.E., and Hillary Lacirignola P.E., from Weston & Sampson, for sewer design and capacity issues. Wendy Cohen from New Seasons Development, LLC served as the Board's financial review consultant. Paul Haverty, Esq. also represented the Board as its technical consultant through the Massachusetts Housing Partnership Technical Review Consultant. Peer review was thorough and cooperative.
6. During the hearings, there was significant public input at every hearing. The Board of Selectmen declined to support the Project as part of a request for a LIP endorsement, and no letters or comments of public support were submitted during the course of the hearing. The Hills Farm Estates subdivision abutters retained Daniel C. Hill, Esq. of Hill Law to represent them during the course of the public hearing.

II. JURISDICTIONAL FINDINGS

7. 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, Smart Growth Design, LLC, which is a single-purpose entity created for the purpose of this development. Smart Growth Design, LLC has a principal place of business of 625 South Street, Shrewsbury, MA 01545.
 - b. The Applicant has received a written determination of Project Eligibility from MassHousing dated June 17, 2015, a copy of which was provided to the Board with the original application.
 - c. The Applicant has included a copy of a Purchase and Sale Agreement dated

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September 8, 2014, extended on May 31, 2016, and further extended to December 31, 2016, thus the Applicant has shown evidence of site control sufficient to qualify as an applicant for a Comprehensive Permit.

- d. The Applicant has agreed to execute a Regulatory Agreement, in a form consistent with the one submitted as part of its application package, that limits its annual distributions in accordance with Chapter 40B and the regulations and guidelines adopted thereunder by DHCD.
8. The Town of Shrewsbury 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 Shrewsbury constituted 6.2% of the total year-round units in the Town, based on the most recent decennial census. 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 one and one half percent (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 Shrewsbury 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 Shrewsbury has an approved Housing Production Plan pursuant to 760 CMR 56.03(4), but has not achieved certification of such plan.
 - e. The Town of Shrewsbury has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
 - f. The Project does not constitute a Large Project pursuant to 760 CMR 56.05(6).
 - g. The Applicant's comprehensive permit application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

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III. FACTUAL FINDINGS

9. The Project is located on two separate, non-adjacent parcels of property at 440 Hartford Turnpike, and 526 Hartford Turnpike, which a state highway known as Route 20.
10. During the course of the public hearing, the Applicant voluntarily reduced the number of units in Phase I of the Project to 156 units, and also reduced the number of units in Phase II of the Project to 92 units, reducing the total number of units to 248. As a result of this reduction, a residential structure was eliminated from each phase. The Applicant also reduced the maximum number of stories for any structure in the Project from four (4) stories to three (3) stories.
11. The Applicant's original proposal for access and egress for Phase I of the Project included a single driveway on Hartford Turnpike and a single driveway on Stoney Hill Road (West). This proposal included a new left turn lane on the Hartford Avenue westbound approach to Stoney Hill Road and a deceleration lane on the eastbound approach to the Phase I driveway on Hartford Turnpike.
12. The Board heard further testimony from the Applicant and its traffic consultant Nancy Doherty, P.E., of Tetra Tech addressing other alternatives for addressing access and egress for Phase I of the project. These alternatives included:
 - a. Installing a traffic signal at the intersection of Stoney Hill Road (East) and Hartford Turnpike. In order to meet the traffic warrant to allow a traffic signal at the Stoney Hill Road (East) intersection, the Applicant indicated that the Massachusetts Department of Transportation ("MassDOT") would require that no left turns be allowed at Stoney Hill Road (West), thus funneling all traffic to Stoney Hill Road (East). This proposal would limit egress onto Hartford Turnpike from Phase I to a right turn out.
 - i. The Shrewsbury Board of Selectmen submitted a letter to the Board rejecting the alternative which included installation of a traffic signal at the intersection of Stoney Hill Road (East) and Hartford Turnpike and turn restrictions at Stoney Hill Road (West) and Hartford Turnpike.
 - ii. The Board also heard testimony from residents on Stoney Hill Road strongly objecting to any turn restrictions at the intersection of Stoney Hill Road (West) and Hartford Turnpike.
 - b. Full access to Phase I via a driveway on Hartford Turnpike (right turn in and left turn in), but which would limit egress onto Hartford Turnpike from Phase I to only a right turn out. This proposal would allow only emergency access to and from Phase I via a driveway on Stoney Hill Road.

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- c. Partial access to and egress from Phase I via a driveway on Hartford Turnpike which would be limited to a right turn into Phase I and a right turn out of Phase I. This proposal would allow only emergency access to and from Phase I via a driveway on Stoney Hill Road.
13. The Board found that the proposal for access and egress for Phase I, which provided a driveway on Hartford Turnpike allowing a right in and right out, and emergency access only via Stoney Hill Road, was the alternative that best balanced their safety concerns with the concerns about the impact of introducing traffic from Phase I onto Stoney Hill Road (West).
14. The Applicant's original proposal for Phase II of the Project would have site access via a single driveway on Hartford Turnpike and a single driveway Stoney Hill Road (East).
15. The Board found that the proposal for access and egress for Phase II which provided a driveway on Hartford Turnpike allowing full access (right in/left in) and full egress (right out/left out), and allowing emergency access only to and from Stoney Hill Road, was the alternative that best balanced their safety concerns with the concerns about the impact of introducing traffic from Phase II onto Stoney Hill Road (East), and allowing emergency access only to and from Stoney Hill Road.
16. The Board also engaged in extensive peer review of the impacts of the Project on the municipal water system.
17. The Board, through its consultants, the Town Engineer Jeff Howland, P.E., and Water and Sewer Superintendent Robert Tozeski, identified a concern with an existing vinyl-lined AC water main within Hartford Turnpike. The Board was informed that replacement of this water main is on the Town's FY2018 Capital Plan, and that the cost will be approximately \$700,000. The line is currently flushed and sampled two times per year, with results forwarded to DEP, and replacement is warranted.
18. The Board's review of the municipal sewer system revealed several capacity issues that would either be created or exacerbated by the proposed Project.
19. The Board heard evidence from its sewer consultants that the slope of the existing pipe under Route 9 near South Street is flat, and that it is likely that no increased flow to this pipe is available, and that any additional flow to this pipe would likely compromise its capacity. It was determined that this pipe needs to either be replaced or an auxiliary pipe be installed, otherwise flow from the Project would exceed the existing capacity of the pipe. The Board heard evidence from its

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consultant that the pump station at Stoney Hill Road cannot accept any additional flow without exceeding its capacity.

20. In addition to the capacity issues at the Stoney Hill Road pump station, the Board also identified capacity concerns with the Quail Hollow, and Cherry Street pump stations. Proposed flows from the development will require improvements to all three pump stations.
21. In addition to the gravity sewer main under Route 9, the additional wastewater from the proposed development will cause the pipeline capacity of certain downstream gravity sewer segments to be exceeded. Including the gravity sewer main under Route 9, approximately 2,615 linear feet of sewer main requires upgrades and approximately 15,000 linear feet of sewer main requires cleaning and TV visual inspection.
22. The Applicant's engineer estimated that the cost of the necessary sewer upgrades is approximately \$2,860,000 (the specific upgrades are detailed below in Section H). The Applicant also provided a calculation to the Board finding that the upgrades necessitated by the Project amount for forty-two percent (42%) of the necessary upgrades, while the remaining fifty-eight percent (58%) are necessitated by existing capacity issues within the municipal sewer system that will need to be corrected irrespective of whether the Project is constructed.
23. The Board's sewer consultant informed the Board that the municipal sewer system is currently functioning within appropriate parameters, with no issues requiring immediate upgrades. The Board's sewer consultant acknowledged that certain improvements are part of long-term planning for the Town, but that there are no immediate plans to conduct any upgrades of any of the portions of the sewer system discussed above. The Board's sewer consultant provided its opinion that one hundred percent (100%) of the necessary upgrades to the municipal sewer system are attributable to the Project.
24. The Board, by and through its consultant Wendy Cohen, conducted a *pro forma* review to determine the financial impact upon the Project if the Applicant was required to pay one hundred percent (100%) of the sewer infrastructure improvements. The completed review from Ms. Cohen showed that the 248-unit Project would realize a Return on Total Cost ("ROTC") of 3.9% paying 48% of the sewer improvements, and would realize an ROTC of 3.8% paying 100% of the sewer improvement costs. Ms. Cohen also determined that the uneconomic threshold for the Project, as set by the *pro forma* approved by the Subsidizing Agency in issuing the Project Eligibility Letter is 5.19% ROTC. The calculations from Ms. Cohen were made without any consideration of any fee waivers for the Project.

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- 25. On October 18, 2016, the Shrewsbury Conservation Commission closed its hearing on the Notices of Intent filed by the Applicant for the Project. Orders of Conditions were issued by the Conservation Commission on November 7, 2016, one in MADEP File #285-1737 (Phase I) and one in MADEP File # 285-1742 (Phase II). As noted in Order #285-1737, Special Condition #28, the drainage pipe labeled D-100 shall be installed where shown on Plan Sheet C1.02 unless Town Meeting fails to grant an easement for the drainage pipe. Should the Town Meeting fail to grant said easement, the improvements shall be constructed as shown on the exhibit entitled "The Pointe at Hills Farm- Phase I Grading & Drainage Exhibit, 440 Hartford Turnpike, Shrewsbury, MA, Prepared by Waterman Design Associates, Inc., Prepared for Smart Growth Design, LLC, dated October 17, 2016" referenced in Condition A.2 contained herein. The Applicant shall request, at a time of its determination, but prior to the issuance of the final occupancy permit, that the Board of Selectmen put the matter on the Town Meeting Warrant for acceptance.
- 26. The Board finds that granting a Comprehensive Permit, with the conditions and waivers contained below, is consistent with local needs.

IV. DECISION AND CONDITIONS

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 248 rental apartment units pursuant to Chapter 40B, §§ 20-23, for the development described herein, subject to the conditions set forth below.

CONDITIONS

Upon Motion, duly seconded, the Board voted 4-1 to grant a Comprehensive Permit to the Applicant for the proposed Project, subject to the following Conditions:

General

- A.1 The holder of this Comprehensive Permit is defined as a limited dividend entity, Smart Growth Design, LLC. The site is defined as those properties located at 440 and 526 Hartford Turnpike, Shrewsbury, Massachusetts, containing a total of approximately 19.43 acres. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit.
- A.2 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.2, which for

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purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Inspector of Buildings who shall have the authority to approve such changes as immaterial changes. If the Inspector of Buildings determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, she shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this decision or seek modification in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following:

Site Plans-Comprehensive Permit for The Pointe at Hills Farm in Shrewsbury, Massachusetts (Worcester County), Prepared by Waterman Design Associates, Inc., Prepared for Smart Growth Design, LLC, dated November 6, 2015 and revised June 24, 2016, and further revised September 20, 2016;

The Pointe at Hills Farm- Phase I Grading & Drainage Exhibit, 440 Hartford Turnpike, Shrewsbury, MA, Prepared by Waterman Design Associates, Inc., Prepared for Smart Growth Design, LLC, dated October 17, 2016. The Exhibit provides an alternative to the grading and drainage improvements shown on Plan Sheet C1.02 of the Site Plans which are intended to address the icing conditions on the sidewalk located within the town right of way. As noted in Order #285-1737, Special Condition #28, the drainage pipe labeled D-100 shall be installed where shown on Plan Sheet C1.02 unless Town Meeting fails to grant an easement for the drainage pipe. Should the Town Meeting fail to grant said easement, the improvements shall be constructed as shown on the Exhibit: and

Permanent Highway Improvements, Grading, Drainage, Utility & Sidewalk Easement Plan of Land in Shrewsbury, Massachusetts (Worcester County), Prepared by Waterman Design Associates, Inc., Prepared for Smart Growth Design, LLC, dated 11/10/15 and recorded at the Worcester District Registry of Deeds in Plan Book 916, Plan 98.

- A.3 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.

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- A.4 The Project shall consist of not more than two hundred and forty-eight (248) rental apartment units in six (6) structures not exceeding fifty feet (50') in height (as measured in accordance with the Town of Shrewsbury Zoning Bylaw), and other related residential amenities, all as shown on the Approved Plans. The Project shall consist of twenty-five (25) three-bedroom units, one hundred and four (104) two-bedroom units, ninety-nine (99) one-bedroom units, and twenty (20) studio units for a total of four hundred and two (402) bedrooms. Upon submittal of the Final Plans, the Applicant shall include revised architectural plans accurately depicting the approved bedroom count. Affordable units shall be interspersed evenly throughout the various residential structures.
- A.5 There shall be a minimum of two hundred and thirty-seven (237) outdoor parking spaces and twenty-four (24) indoor (garage) parking spaces (inclusive of required handicap spaces) in Phase I of the Project and a minimum of one hundred and fifty-two (152) outdoor parking spaces and zero indoor (garage) parking spaces (inclusive of required handicap spaces) for Phase II of the Project.
- A.6 All residential units approved under this Comprehensive Permit shall be rental apartment units.
- A.7 Pursuant to the Waiver List revised and submitted to the Board at the September 19, 2016 hearing, the Applicant has requested, and the Board has granted, waivers from the Shrewsbury Zoning Bylaw and other local by-laws and regulations as specified in Exhibit B attached hereto. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23. The Board has voted to grant a waiver of fifty percent (50%) of applicable sewer connection, sewer I & I, water connection and water conservation fees, in return for the Applicant designing and constructing all necessary water and sewer upgrades discussed above. No other permits or inspections fee waivers are granted. Any subsequent revision to the 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). To the extent that additional waivers are subsequently determined to be required with respect to improvements that are otherwise shown on the Approved Plans, such waivers shall be deemed an insubstantial change to the Comprehensive Permit under 760 CMR 56.05(11), and can be granted administratively by the Board.
- A.8 The Applicant shall comply with all local regulations of the Town of Shrewsbury and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.

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- A.9 The Applicant shall copy the Board 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.10 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.11 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any conventional loan construction financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph. The Board shall receive notice of any change in the principals of Smart Growth Design, LLC during construction of the Project, except if said change is as a result of the exercise by the Project lender of any rights under the applicable Loan Documents.
- 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 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 Shrewsbury 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.

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- A.14 Pursuant to the decision of the Shrewsbury Conservation Commission dated November 7, 2016, regarding the stormwater design, the Applicant shall seek approval from Shrewsbury Town Meeting for permission to install a culvert under Stoney Hill Road for stormwater runoff. If the Applicant is unable to obtain the approval of Town Meeting authorizing the installation of the culvert under Stoney Hill Road, the Applicant must revert to the stormwater design as previously proposed on Sheet C1.02 of the Site Plans. These improvements are intended to address the icing conditions on the sidewalk located within the town right of way. The site plans illustrate that the area upgradient of the area subject to icing is to be regraded to direct stormwater runoff into a drop inlet drainage structure. The structure is connected to a closed pipe and manhole drain system conveying the stormwater to a record easement located to the south side of Stoney Hill Road (#424 Hartford Turnpike).

Should Town Meeting not authorize the easement for the culvert installation, the area upgradient of the area subject to icing is to remain unchanged and vegetated with no mitigation.

- A.15 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

B. Affordability

- B.1 Sixty-two (62) of the two-hundred and forty-eight (248) units in the Project shall be low- or moderate-income units, meaning they shall be rented to, and occupied by, households whose income is no more than eighty percent (80%) of the area median income, as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD. Affordable units shall be dispersed throughout the Project in accordance with guidelines of the Subsidizing Agency, and shall be evenly dispersed within Phases I and II (twenty-five percent (25%) of the units in each phase must be affordable), except for fluctuations based on changes of income allowed which are allowed by the Regulatory Agreement with 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 All of the Project's affordable units shall be restricted for lease to households earning no more than the maximum allowable area median income of DHCD or any substitute Subsidizing Agency. The units shall be maintained as affordable in perpetuity, which for the purposes of this Decision shall mean for so long as the Property does not comply to applicable zoning requirements without the benefit of this Comprehensive Permit.

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- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the rental of any units, and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements.
- B.4 The maximum number of affordable units allowed by law and applicable subsidy program, but no more than seventy (70%) percent of the units, shall be reserved for present residents of Shrewsbury or employees of the Town of Shrewsbury or teachers employed by the school district serving Shrewsbury. A lottery shall be established in a form approved by the Subsidizing Agency and/or the Project's monitoring agent to effectuate this local preference, with an approved secondary lottery for all other applicants. The Applicant shall assist the Town in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence. If the Board or its designee does not provide such information within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or DHCD, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above.

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, traffic engineering, legal counsel, accounting, and/or other professionals that the ZBA deems reasonably necessary to ensure compliance with the

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conditions hereof.

- b. Obtain a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA). The Board shall also be provided a copy of the SWPPP submitted along with the NPDES filing.
- c. Provide the Board with evidence of compliance with pre-blasting activities requirements, if blasting is necessary. The pre-blast survey shall be offered to all property owners with structures located within 500 feet of the phase upon which the blasting is proposed.
- d. Determine the volume of cuts/fill needed for the project and provide such information to the Board, signed by the Registered (Civil) Engineer of record. The cuts/fills will be submitted and reviewed as part of the submittal of Final Plans.
- e. Submit to the Board for review and administrative approval 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, and the Registered Landscape Architect of record. Final Architectural Plans shall be stamped by a Registered Architect. The Final Plans shall be submitted to the Board at least forty-five (45) 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").

At a minimum, the Final Plans shall be in accordance with the comments from the peer review consultants 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 forty-five (45) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.

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- f. Submit to the Building Inspector a construction mitigation plan including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, and like matters. 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 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 forty-five (45) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- g. Submit to the Board for its administrative approval, a landscaping plan with the Final Plans, signed and sealed by a Registered Landscape Architect, depicting the following:
 - i. Overall planting plan that includes a demarcation of clearing and the limits of work;
 - ii. Planting plans for drives showing shade trees and lighting fixture locations;
 - iii. Plans of walkways in open space and recreation areas;
 - iv. Prototype planting plans for each building that include shade trees, ornamental trees, shrubs, and groundcovers;
 - v. Prototype screening plans for dumpsters, depicting plantings and fencing;
 - vi. Planting details for coniferous and deciduous shade trees, ornamental trees, and shrubs;
 - vii. Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;
 - viii. Tree protection and preservation plans; and
 - ix. Construction details.

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All plantings shall consist of non-invasive, drought-tolerant species. Plantings installed along drives and walkways shall also be salt-tolerant. All plantings shall be Asian Longhorn Beetle ("ALB") resistant. All clearing shall be done by an ALB certified contractor. The final landscaping plans shall preserve the existing tree cover to the greatest extent practicable. The Applicant shall consult with the direct abutters to the Project prior to submittal of the landscaping plan, to obtain input on types and sizes of plantings for screening. Such consultation is intended to be advisory only, and the ultimate approval on landscaping rests with the Board administratively as otherwise provided in this Condition. If no written response or comments have been given to the Applicant by the Board concerning the Final Plans within forty-five (45) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved. Twelve (12) months after completion of plantings, the Applicant shall remove and replace any dead or diseased plantings and trees serving as screening.

- h. Obtain from the Shrewsbury Conservation Commission an Order of Conditions for all work within jurisdictional areas pursuant to G. L. c. 131, § 40 (the "Wetlands Protection Act") and 310 CMR 10.00 *et seq.* (the "WPA Regulations"). Such Orders shall be recorded at the Worcester District Registry of Deeds and evidence of such recording shall be submitted to the Conservation Agent prior to the commencement of work.
- i. The Applicant shall be required to file a building permit application to authorize the commencement of construction of the approved residential structures for each phase within twelve (12) months of the commencement of site development/site clearing activities for such phase.

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

- a. Record this Comprehensive Permit with the Worcester District Registry of Deeds, at the Applicant's expense, and provide proof of such recording with the Shrewsbury Building Inspector.
- b. Submit to the Board and the Building Inspector evidence of Final Approval from the Subsidizing Agency (MassHousing), 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; provided, however, since the construction lender and

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Subsidizing Agency will often not close and/or execute such documents until the issuance of building permits, the Building Inspector is authorized to issue the building permits in escrow to the closing attorney who shall release them only upon the Applicant satisfying the requirements of this condition and paying any applicable building permit fees; and in addition, the Building Inspector is hereby authorized to execute and deliver to the Applicant a "Will Issue" letter confirming that building permits will issue upon satisfaction of the requirements of this condition.

- d. Submit to the Building Inspector final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Inspector may request.
- e. Submit to the Board's peer review engineer for administrative approval of the Operation and Maintenance Plan for the stormwater system. Review of this plan shall be paid for by the applicant.
- f. Obtain and file with the Building Inspector a copy of all federal, state, and local permits and approvals required for the Project.
- g. Obtain all necessary building, electrical, plumbing, and associated permits for the Project required by state law.
- h. Submit evidence of permits from the Shrewsbury Conservation Commission for any construction work that will occur in areas subject to its jurisdiction.
- i. Obtain all necessary permits for access to the Property from the Massachusetts Department of Transportation ("MassDOT"), including a State Highway Access Permit.

D. Construction Completion/Certificate of Occupancy

- D.1 Prior to issuance of a certificate of occupancy for any portion of the Project, the Applicant shall:
- a. Submit engineer's interim certification of compliance with utilities plan and profiles (as applicable) to the Shrewsbury Engineering Department.
 - b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Project has been constructed in compliance with the Final Plans in all material respects.

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- c. Obtain acceptance from the Shrewsbury Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units.
- d. Provide surety in the manner acceptable to the Town of Shrewsbury Engineering Department, in an amount determined by the Town of Shrewsbury Engineering Department, site plan approval requirements of the Shrewsbury Planning Board, for the completion of utilities, infrastructure (such as roadway and drainage systems), and landscaping improvements associated with such building phase.
- e. Provide all water and sewer improvements discussed herein necessary to serve the Phase of the Project for which such occupancy permit is requested, and as-built plans depicting such improvements must be submitted to the Town of Shrewsbury Engineering and Water/Sewer Departments.
- f. Obtain a State Highway Access Permit from the Department of Transportation, authorizing the access to Hartford Turnpike for the phase of the Project for which the occupancy permit is requested. A copy of this permit must be filed with the Town of Shrewsbury Engineering Department and Building Inspector.

D.2 Prior to issuance of the final certificate of occupancy, 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.

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- c. Submit to the Board all information relating to the retention of 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.

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.
- E.2 The Applicant shall comply with the blasting guidelines required by applicable Massachusetts state law, rules, and regulations. 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. The blasting on site shall comply with the following requirements:
 - i. Any rock blasting shall be performed by a licensed blasting professional, who shall first obtain all required permits from the Shrewsbury Fire Department in accordance with the provisions of 527 CMR 1.00 *et. Seq.*, and the Applicant shall provide evidence thereof to the Fire Chief.
 - ii. The blasting company used by the Applicant must present the Fire Chief with evidence that it holds an Explosive User's Certificate, and that the blaster has a valid Certificate of Competency.
 - iii. If required by the Fire Chief, an independent geo-technical-blasting consultant shall be selected and paid for by the Applicant, subject to the approval of the Shrewsbury Fire Department. The consultant shall review the qualifications of the blasting contractor, and review the final blasting plan prepared by the blasting contractor, check the calibration of the seismograph monitors, approve the location and installation of the seismograph monitors, and, if required by the Shrewsbury Fire Department, determine the blast limits throughout the blast period, and shall consult with the Shrewsbury Fire Department as needed throughout the blasting period.
 - iv. The Applicant shall comply with the requirements for pre-blast surveys contained in 527 CMR 1.00, Section 65.9.15, except that the Applicant has agreed to offer pre-blast surveys to property owners of structures located within five hundred feet (500') of any proposed blasting, rather than the two hundred and fifty feet (250') required by the regulations.

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- v. The Applicant shall comply with the requirements contained in 527 CMR 1.00, Section 1.13.10.1.2.4.1(2), which requires general liability insurance in the amount of not less than \$1,000,000 per occurrence, and \$1,000,000 in the aggregate.
 - vi. The Commonwealth of Massachusetts blasting limits shall be observed. However, the Shrewsbury Fire Department may, based upon site-specific circumstances, require a lower limit to ensure compliance with 527 CMR 1.00.
 - vii. No perchlorate shall be used during blasting.
- 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.
- E.5 During construction, 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 mitigation 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.
- E.6 Appropriate signage shall be shown on the Final Plans. The Applicant has not requested any waivers from the Town of Shrewsbury Bylaws regarding signs, and the Board has granted no such waivers.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans.
- E.8 If natural gas is proposed, gas service locations shall be included on the Final Plans.
- E.9 The Applicant shall install lighting on the site which conforms to the Town of Shrewsbury's Zoning Bylaw. Lighting shall be down-lit/shielded to prevent light spillover onto surrounding properties. Management of outdoor lighting shall be the responsibility of the Applicant.
- E.10 Utilities, including but not limited to telephone, electric, and cable, shall be located underground.

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- E.11 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Structural Engineer to the Building Inspector as meeting design specifications, as applicable.
- E.12 Construction activities shall be conducted between the hours of 7 a.m. and 7p.m., Monday through Friday. Work may occur on Saturdays but shall be limited to inside work only, after the buildings have been framed, roofed, and sheathed. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, 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 Engineering 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.
- E.13 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. During construction, the site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. 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.14 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 loaming and seeding exposed areas.
- E.15 All dumpsters serving the Project shall be enclosed and covered.
- E.16 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, properties shall be constructed in an aesthetic manner, specifically, retaining walls shall avoid the use of exposed concrete to the greatest extent practicable.
- E.17 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 areas, the Applicant shall truck the excess snow off-site.

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- E.18 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.19 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.20 The Applicant shall maintain all portions of any public road, whether state or local roads, 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.

F. Traffic Safety Conditions

- F.1 Access and egress to Phase I of the Project shall be consistent with the plan submitted with the May 25, 2016 Tetra Tech letter submitted by the Applicant depicting access via Hartford Turnpike, with turns from the Project onto Hartford Turnpike restricted to right turns only, turns into the Project from Hartford Turnpike restricted to right turns only, and emergency access only via Stoney Hill Road. The Applicant shall use best-efforts to obtain approval from MassDOT for this configuration, and shall copy the Board on all correspondence with MassDOT regarding this matter.
- F.2 Phase II of the Project shall have full access to Hartford Turnpike. Access to Stoney Hill Road to and from Phase II shall be limited to emergency access.
- F.3 The emergency access from Phase I and Phase II of the Project shall be limited to providing vehicular access for emergency vehicles only. Vehicular use of this access shall be limited to emergency and public safety vehicles, and vehicles necessary for occasional maintenance of the emergency access way, including snow plowing. The Applicant shall post signs reading "Do Not Enter - Emergency Vehicle Access Only" on each side of the emergency access gates. The Applicant shall work with the Shrewsbury Police and Fire Departments to coordinate how emergency vehicles will be able to access the emergency access road.

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- F.4 Access to the Property by construction vehicles shall be via Hartford Turnpike. Construction vehicles may not access the site via Stoney Hill Road during (or after completion of) construction.
- F.5 A sidewalk will be provided along the Phase I site's Route 20 frontage (approximately 500 linear feet).
- G. Police, Fire, and Emergency Medical Conditions**
- G.1 The Applicant shall provide professional property management and maintenance personnel on the premises during normal daytime hours and an emergency contact name and number for tenants and the Shrewsbury Police and Fire Departments.
- H. Water, Sewer and Utilities**
- H.1 The Applicant shall design and install approximately 2,900 linear feet new water main within the Hartford Turnpike Right of Way (off pavement as physical conditions may allow) from South Street to 464 Hartford Turnpike to replace the existing vinyl-lined AC water main that has been identified by the Town as requiring replacement. The Town shall peer review the design of the water main replacement. The Applicant shall provide funds for the Town to hire a peer review engineer to review the design work clerk of the works for such construction.
- H.2 Pursuant to the March 15, 2016 recommendation from Tata & Howard, rather than plastic water main pipe and fittings, the Applicant shall use Class 52 double cement lined ductile iron water main in the Route 20 water main replacement.
- H.3 Water services shall be pressure rated plastic or copper service piping rated at 200 psi, consistent with the Town of Shrewsbury requirements.
- H.4 Water mains shall be a minimum of eight-inch (8") diameter AWWA C900 PVC with rubber gasketed joints throughout the development.
- H.5 The September 20, 2016 plans for the Phase I Hartford Turnpike and Stoney Hill Road water main tie-in show a triple-gate tie-in. The Applicant must also submit revised plans for review and approval showing the existing water main material and size, to allow for the determination of the proper fittings necessary for the connection.

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- H.6 The Plans for the Phase II Hartford Turnpike and Stoney Hill Road water main tie-in shall be modified to show the existing water main material and size, to allow for the determination of the proper fittings necessary for the connection. A replacement gate valve may be required by the Water and Sewer Department at this location, if necessary.
- H.7 Fire hydrants shall be placed at intervals of five hundred feet (500') and isolation valves at intervals of one thousand feet (1,000') with standard waterworks practice. An additional hydrant must be placed near station 7+00 to comply with this requirement. Fire hydrant locations shall be approved by the Shrewsbury Fire Department (the Fire Department has issued a preliminary letter regarding this issue, dated February 22, 2016). If the Shrewsbury Fire Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.8 There is no indication of the size of the water services or the water main going to each building. The service size for the domestic service should be verified by the Water & Sewer 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 & Sewer Department and the Fire Department respectively.
- H.9 Significant improvements to the municipal sewer system are required to allow the connection of the Project, as detailed in the June 28, 2016 letter from Thomas Parece, P.E. of AECOM. These improvements include:

Collection System

- a. Replace the existing 10-inch DI gravity sewer with a 16-inch PVC gravity sewer or extend the Cherry Street Force Main from 2B-25 to 2B-22. The final option will be determined in the field as site conditions dictate. Such determination shall be made in consultation with the Shrewsbury Engineering Department.
- b. Replace the existing 8-inch AC gravity sewer with a 10-inch PVC gravity sewer in pipe segments 2B-11 to 2B-9.
- c. Replace the existing 8-inch PVC gravity sewer with a 10-inch PVC gravity sewer in pipe segments 2E-9 to 2E-8; and 2E-8 to 2E-7.
- e. Replace the existing 10-inch AC gravity sewer with a 12-inch PVC gravity sewer in pipe segments 2B-17 to 2B-16; 2B-16 to 2B-16A; and 2B-16A to 2B-15.
- f. Replace the existing 10-inch AC gravity sewer with a 12-inch PVC gravity sewer in pipe segment 2B-12 to 2B-11.

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- g. Replace the existing 10-inch PCV gravity sewer with a 12-inch PVC gravity sewer in pipe segments 2B-9 to 2B8; and 2B-8 to 2B-7.

Pump Station Improvements:

Quail Hollow Pump Station:

- a. Perform all necessary repairs in order to place Pump No 2 back into service
- b. Conduct a comprehensive review of the pump station and develop a Capital Improvement List of maintenance requirements regarding its useful life
- c. Confirm Preliminary Design upgrades to meet current capacity requirements and its useful life plus capacity for the Project
- d. Prepare final design and perform Pump Station Upgrades
- e. Perform post repairs/upgrade wetwell drawdown tests

Stoney Hill Pump Station:

- a. Conduct a comprehensive review of the pump station and develop a Capital Improvement List of maintenance requirements regarding its useful life
- b. Confirm Preliminary Design upgrades to meet current capacity requirements and its useful life plus capacity for the Project
- c. Prepare final design and perform Pump Station Upgrades
- d. Perform post repairs/upgrade wetwell drawdown tests.

Cherry Street Pump Station:

- a. Address excessive rag buildup problem
- b. Address excessive pump station starts and stops
- c. Conduct a comprehensive review of the pump station and develop a Capital Improvement List of maintenance requirements regarding its useful life
- d. Confirm Preliminary Design upgrades to meet current capacity requirements and its useful life plus capacity for the Project
- e. Prepare final design and perform Pump Station Upgrades
- f. Perform post repairs/upgrade wetwell drawdown tests.

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The Applicant shall perform all of the aforementioned water and sewer upgrades. The waiver of water and sewer fees by the Board is intended as partial contribution by the Town to the completion of these infrastructure improvements. The water and sewer fees are payable at the time of connection to the municipal system. The fifty percent (50%) waiver of fees shall be applied proportionally per phase, meaning that fifty percent (50%) of the fees for Phase I will be waived at the time of the requested connection for that phase, and fifty percent of the fees for Phase II will be waived at the time of the requested connection for that phase.

- H.11 The Applicant shall make the above-referenced improvements to the municipal sewer system, and such work shall be completed under the Town's Engineer of Record's supervision, to be paid for by the Applicant.
- H.12. The Town, by and through its peer review engineer of record, shall peer review and approve the final design of all improvements to the municipal sewer system before commencement of any work within the municipal sewer system.
- H.13 All water and sewer improvements necessary to serve that particular phase, must be completed, and interim as-built plans must be submitted to and approved by the Engineering and Water/Sewer Departments, before any occupancy permits for the Project may be issued.
- H.14 The water, sewer, and drainage utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town of Shrewsbury requirements and protocols, except as may be waived herein.
- H.15 Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit and the like.

I. Other General Conditions

- I.1 This Decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later. 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. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- I.2 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.

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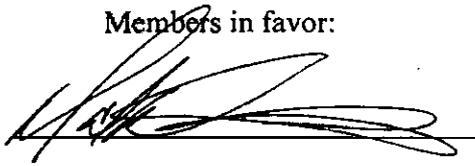
- I.3 The Applicant or its successor and assigns shall be responsible for the operation and regular maintenance of all pedestrian walkways, parking areas, and other common facilities shown or described in the Approved Plans and materials, including, but not limited to, regular snow plowing. The Applicant shall provide a Snow Management Plan as part of the Final Plans, for review and administrative approval by the Board, which shall provide for the efficient removal of snow from the access road, driveways and parking areas.
- I.4 In the event that the Applicant (or its Management Company) fails to maintain the stormwater management system for the Project in accordance with its operation and maintenance plan, the Town may conduct emergency maintenance and/or repair, as it deems necessary, and the Applicant shall, prior to the issuance of any certificates of occupancy, convey such easement or other rights in a form mutually acceptable to the Town and the Applicant as may be reasonably necessary to complete such repair and/or maintenance. In the event the Town is required to perform such maintenance, the Applicant shall reimburse the Town within forty-five (45) for all of its reasonable expenses related to such work.
- I.5 The Project entrance way, drainage systems and all other infrastructure shown on the Final Plans as serving the Project shall remain private, and the Town shall not have, now or ever, any legal responsibility for the operation and maintenance of such infrastructure, including, but not limited to, snow removal and landscaping maintenance.
- I.6 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; (b) have access to, and inspect, examine and make copies of all of the books and records of the Applicant pertaining to the project; or (c) 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.

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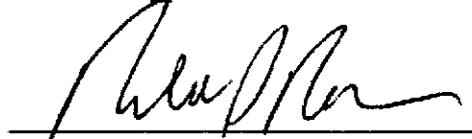
RECORD OF VOTE

The Board of Appeals voted 4-1, at its public meeting on November 28, 2016, to grant a Comprehensive Permit subject to the above-stated Conditions, with this decision as attested by the signatures below.

Members in favor:

	
	_____
	_____

Members opposed:



RECEIVED
TOWN CLERK'S OFFICE
2016 NOV 29 AM 8:08
SHEWSBURY, MASS

Dated: November 28, 2016

Filed with the Town Clerk on November 29, 2016.


Joyce C. Record
asst. Town Clerk

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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, Shrewsbury, 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 "A" – List of Submittals**Application Materials:**

1. Letter from Waterman Design - Waiver Requests October 17, 2016
2. Purchase and Sales Extension - September 30, 2016
3. Letter to ZBA from Waterman Design - September 29, 2016
4. Pointe at Hills Farm Plan Set - September 20, 2016
5. Request for Extension Submitted September 13, 2016
6. Request for Extension Submitted July 25, 2016
7. The Pointe at Hills Farm Revised Sewer Study - June 28, 2016
8. The Pointe at Hills Farm Site Plans - June 2016
9. Letter from Waterman Design Associates to ZBA - June 27, 2016
10. The Pointe at Hills Farm 40B Stormwater Management Report - June 2016
11. Letter from Mr. Zarette 30-day Extension Request - May 31, 2016
12. Pointe at Hills Farm Final Traffic Access Summary Letter Tetra Tech - May 25, 2016
13. The Pointe at Hills Farm 40B Sewer Evaluation - May 5, 2016
14. The Pointe at Hills Farm 40B Water Response to Comments - April 4, 2016
15. Purchase and Sale Agreement Extension - March 25, 2016
16. Pointe at Hills Farm Revised Architectural Plans - March 22, 2016
17. The Pointe at Hills Farm 40B Revised Sewer Evaluation - March 2016
18. The Pointe at Hills Farm 40B Water Evaluation - March 1, 2016
19. The Pointe at Hills Farm Site Design Peer Review Response - March 1, 2016
20. The Pointe at Hills Farm Traffic Peer Review Response - February 18, 2016
21. The Pointe at Hills Farm 40B Application - November 6, 2015
22. The Pointe at Hills Farm 40B Stormwater Management Report - November, 2015
23. The Pointe at Hills Farm 40B Site Plans Sheets 1-8 - November 6, 2015
24. The Pointe at Hills Farm 40B Site Plans Sheets 9-15 - November 6, 2015
25. The Pointe at Hills Farm 40B Traffic Study - November 6, 2015
26. The Pointe at Hills Farm 40B Sewer Evaluation - August 2015
27. The Pointe at Hills Farm 40B Architectural Plans - November 6, 2015

Comment Letters

28. Letter from Board of Selectmen to Chairman Rosen Point at Hills Farm - October 27, 2016
29. Letter from Graves - October 17, 2016
30. Letter from Waterman Design - October 17, 2016
31. Letter from Graves Engineering - October 11, 2016
32. Pointe at Hills Farm Pro Forma Review Report DRAFT - October 11, 2016
33. Letter from Weston and Sampson to Town of Shrewsbury Regarding Sewer Capacity - August 29, 2016
34. Letter from Graves Engineering Peer Review - July 21, 2016
35. Final Sewer Peer Review by Weston and Sampson - July 18, 2016
36. Letter from Mr. Hill to ZBA - June 27, 2016
37. Peer Review Letter from Conley Associates - Traffic June 15, 2016
38. Letter from Mr. Reilly - 5/27/2016
39. Letter to Chairman Rosen from Board of Selectmen - 5/16/2016
40. Letter from Mr. Payne - 5/13/2016
41. Letter to Applicant from ZBA - 5/11/2016
42. Letter from Mr. St. Pierre Regarding Land Purchasing Request Denials - 5/9/2016
43. Letter from Daniel Hill to the ZBA regarding 440 and 526 Hartford Turnpike - 5/9/2016
44. Preliminary Sewer Peer Review Letter from Weston & Sampson - 5/9/2016
45. Letter from Payne's - 5/1/2016
46. Letter from Mr. Pellizzari Regarding Traffic - 4/28/2016
47. Architecture Peer Review Letter from Davis Square - 4/25/2016
48. Letter from Sankaran Regarding Traffic - 4/23/2016
49. Letter from Messick's Regarding Traffic - 4/23/2016
50. Letter to Waterman Design Response to Info Request - Sewer 4/22/2016
51. Letter from Snoddy Regarding Traffic - 4/22/2016
52. Letter from Reyes Regarding Traffic - 4/22/2016
53. Letter from Paravalappil Regarding Traffic - 4/22/2016
54. Letter from Chinnappan Regarding Traffic - 4/22/2016

55. Letter from Guo Regarding Traffic - 4/22/2016
56. Letter from Senthilkumar Regarding - Traffic 4/22/2016
57. Letter from Shaughnessy Regarding Traffic - 4/22/2016
58. Letter from Cayton Regarding Traffic - 4/21/2016
59. Letter from Dejeu Regarding Traffic - 4/21/2016
60. Letter from Chan Regarding Traffic - 4/21/2016
61. Letter from Meaney Regarding Traffic - 4/21/2016
62. Letter from Reminton Regarding Traffic - 4/21/2016
63. Letter from Dave Mercuri Regarding Traffic - 4/20/2016
64. Letter from Steve Danielson Regarding Traffic - 4/19/2016
65. Letter from Halpern's Regarding Traffic - 4/19/2016
66. Letter from Mohanka Regarding Traffic - 4/19/2016
67. Letter from Steve Danielson Regarding Traffic - 4/19/2016
68. Letter from Kalyan Ramji Regarding Traffic - 4/18/2016
69. Letter from Steve Danielson Regarding Traffic - 4/18/2016
70. Letter from Dale Martin Regarding Traffic - 4/12/2016
71. Weston and Sampson Preliminary Sewer Findings - 3/28/2016
72. Letter from Dale Martin Regarding Sewer Capacity - 3/23/2016
73. Memo from Tata & Howard Regarding Water System - 3/15/2016
74. Letter from BOS to Jonathan Gulliver MADOT - 3/14/2016
75. Letter from Fire Dept to ZBA - February 22, 2016
76. Letter from Dan Hill - January 25, 2016
77. Letter from Payne - January 25, 2016
78. Comment from Steve Danielson - January 25, 2016
79. Peer Review Letter from Conley Associates, Traffic - January 22, 2016
80. Peer Review Letter from Graves Engineering, Site Design - January 22, 2016
81. Letter from Town Manager Daniel Morgado - January 8, 2016
82. Letter from Steve Danielson - December 29, 2015
83. Letter from Dan Hill - December 14, 2015

- 84. Letter from Town Manager Daniel Morgado - December 11, 2015
- 85. Letter from Planning and Economic Development - December 9, 2015
- 86. Letter from Estes Express Lines - December 9, 2015
- 87. Letter from Town Manager Daniel Morgado - December 8, 2015
- 88. Letter from Police Chief Jay Hester - December 7, 2015

Public Presentations

- 89. Applicant's Presentation, The Pointe at Hills Farm - 5/9/2016
- 90. Applicant's Traffic Presentation, The Pointe at Hills Farm - 4/11/2016
- 91. Applicant's Presentation, The Pointe at Hills Farm - 3/28/2016
- 92. Weston and Sampson Sewer Presentation - 3/28/2016
- 93. Applicant's Presentation, The Pointe at Hills Farm - 3/21/2016
- 94. Applicant's Presentation, The Pointe at Hills Farm - 2/29/2016
- 95. Applicant's Presentation, The Pointe at Hills Farm - 1/25/2016
- 96. Applicant's Presentation, The Pointe at Hills Farm - 12/28/2015
- 97. Traffic Presentation by Stoney Hill Resident - 12/28/2015
- 98. Applicant's Presentation, The Pointe at Hills Farm - 12/14/2015

Exhibit "B" – Waiver List

The Applicant has requested the following waivers from the Town of Shrewsbury Zoning Bylaws, Subdivision Rules and Regulations, Wetlands Bylaws and other local rules and fees:

1. Waiver Request from the Town of Shrewsbury Zoning Bylaw:

The Applicant requests a waiver from Section VI – Use of the Shrewsbury Zoning Bylaws, and Section VII N-Route 20 Overlay District, 3 – Use Regulations, to allow a multi-family residential use in a zoning district where such use is not permitted.

The Board voted 5-0 to grant a waiver of Section VI – Use and Section VII N-Route 20 Overlay District, 3-Use Regulations, to allow a multi-family residential use to be constructed on the properties.

2. Waiver Request from the Town of Shrewsbury Water Department and Sewer Department Regulations

The Applicant has requested a waiver of the Town of Shrewsbury Sewer Department Regulations (Fees) and the Town of Shrewsbury Water Department Regulations (Fees), to allow the waiver of fifty percent (50%) of the applicable water and sewer fees and betterments, as discussed in the Comprehensive Permit issued by the Board. Such waiver shall be applied proportionally per phase (meaning fifty percent (50%) of the fee applicable to the portion of the Project for which the connection is sought shall be waived at the time of such requested connection).

The Board voted 5-0 to grant the waiver of fifty percent (50%) of the applicable water and sewer fees and betterments.



TOWN OF SHREWSBURY

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Sandra E. Wright, Town Clerk
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Joyce C. Record, Assistant Town Clerk
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December 20, 2016

TO WHOM IT MAY CONCERN:

This is to certify that the attached Board of Appeals Decision regarding the Comprehensive Permit for "The Pointe at Hills Farm" located at 440 and 526 Hartford Turnpike, was filed with the Town Clerk's Office on November 29, 2016.

No complaint against the decision was received during the twenty day appeal period.

Sandra E. Wright
Town Clerk

ATTEST: WORC. Anthony J. Vigliotti, Register