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NORFOLK ZONING BOARD OF APPEALS
DECISION ON THE APPLICATION OF POWERHEAD, LLC FOR A COMPREHENSIVE PERMIT UNDER G.L. c. 40B, §§ 20-23

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TOWN CLERK
NORFOLK

PETITION NUMBER:	2015-05
APPLICANT:	Powerhead LLC (the "Applicant")
LOCATION OF PROPERTY:	106-108 Main Street, Norfolk, Massachusetts
DATE:	February 4, 2016
DECISION:	Approved, with Conditions

I. PROCEDURAL HISTORY

1. On September 16, 2015, Powerhead, LLC (the "Applicant") submitted a Comprehensive Permit Application to construct "Boyde's Crossing," with 40 single-family condominium units, including 30 two-bedroom units and 10 three-bedroom units (the "Project"), on 9.01 acres of land located at 106-108 Main Street, shown on the Norfolk Assessors Maps as Map 14, Block 56, Lot 7 and Map 14, Block 56, Lot 8 (the "Property" or "Site"). The deeds to the Property are recorded with the Norfolk County Registry of Deeds at Book 32352, Page 533, and Book 32373, Page 118.

2. The Property has an access easement to the MBTA Commuter Rail Station located at 9 Rockwood Road in Norfolk. The easement is recorded with the Norfolk County Registry of Deeds at Book 33591, Page 236.

3. The Property is located in the Business B-1 District (Outside Core) between Main Street and the MBTA railroad. Portions of the site are comprised of wetland resources.

4. The Zoning Board of Appeals ("Board") held a duly noticed public hearing on October 8, 2015, and continued the public hearing on November 23, 2015, December 16, 2015, January 28, 2016, and February 4, 2016. The Board closed the public hearing and voted to grant this Comprehensive Permit, with conditions, on February 4, 2016.

5. To evaluate the Applicant's plans, documents, and testimony, the Board sought technical assistance and comments from Town staff and other boards and commissions. The Board also retained outside consultants to review the Applicant's traffic study, site plan, plans for stormwater management, and architectural and landscape design. In addition, the Board received comments from abutters and other interested parties at the public hearing.

6. The Board retained Weston & Sampson, 100 Foxborough Blvd., Suite 250, Foxborough, MA 02035, as peer review consultants for site civil engineering, building and landscape design, architecture and traffic. Weston & Sampson was represented by Laurence F. Keegan, Jr., P.E. The Applicant funded these services in accordance with the Board's rules and regulations and 760 CMR 56.05(5).

7. Sitting for the Board and present throughout the public hearing process were Michael Kulesza, Chair; Robert Luciano, Christopher Wider, Joseph Sebastiano and Donald Hanssen.

8. Exhibit A contains a list of documents and submittals the Board received during the public hearing.

II. GOVERNING LAW

9. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations promulgated by the Department of Housing and Community Development ("DHCD"), 760 CMR 56.00 et seq. (the "Regulations").

10. The Act promotes regional distribution of low or moderate income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has low or moderate income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census or (b) which is on sites comprising 1 ½ percent or more of the town's total land area zoned for residential, commercial, or industrial use, or (c) if the application results in the commencement of low and moderate income housing construction on sites comprising more than .3 percent of such total area or 10 acres, whichever is larger, in one year.

11. DHCD's Regulations expand the definition of what constitutes satisfaction of the statute to include regulatory safe harbors to include such methods as "recent progress" toward the statutory minima or compliance with a DHCD-approved housing production plan, all as described in 760 CMR 56.03(4) through 56.03(7).

12. The Board's decision on a Comprehensive Permit must balance the regional need for low- or moderate-income housing against the Town's long-range planning goals, local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the proposed housing, the surrounding neighborhood, or the Town as a whole.

III. FINDINGS

The Board makes the following findings in connection with this application:

13. The Applicant has complied with all rules and regulations of the Town of Norfolk as they pertain to the application for a Comprehensive Permit.

14. 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 is a limited dividend organization, Powerhead, LLC, which has a place of business at 32 Norfolk Avenue, South Easton, MA 02375.

(b) The Applicant received a written determination of Project Eligibility from MassHousing dated September 21, 2015, a copy of which was provided to the Board with the Comprehensive Permit application.

(c) The Applicant has site control by virtue of: i) a written Purchase and Sale Agreement, dated February 18, 2015, between Bisher I. Hashem, Trustee of the Herring Run Realty Trust u/d/t July 3, 2014 as "Seller," and Powerhead, LLC, 32 Norfolk Avenue, South Easton, MA 02347 as "Buyer"; ii) a deed running to Powerhead LLC, recorded with the Norfolk County Registry of Deeds Book 32352, Page 533; and iii) an Easement Deed running to Powerhead, LLC, recorded with the Norfolk County Registry of Deeds at Book 33591, Page 236.

15. The Town of Norfolk 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 Town of Norfolk had 111 low or moderate income housing units, which comprised 3.6 percent of the total year-round units in the Town (3,112 units) based on the most recent decennial census. Thus, the Town does not meet the 10 percent statutory minimum.

(b) Existing affordable housing units are on sites which comprise less than one and one half percent 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 Norfolk 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 Norfolk does not have a current, approved Housing Production Plan pursuant to 760 CMR 56.03(4).

(e) The Town of Norfolk has not achieved sufficient 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).

16. The development, as proposed, will adequately provide for stormwater drainage, sanitary sewer services and water services, and other appurtenant utilities and amenities, and it will not be a threat to the public health and safety of the occupants of the development, the neighborhood, or the Town. The project's sustainable design features will further reduce the Project's impact on the environment and the vicinity of the Site.

17. The Board finds that the conditions imposed in Section V of this Decision are necessary in order to address Local Concerns as defined in 760 CMR 56.02. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic, the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.

18. The Board finds that granting certain waivers from local bylaws and regulations is acceptable even though granting any waivers may have an adverse impact on Local Concerns. Nevertheless, the Board finds that the Local Concerns affected thereby do not outweigh the regional need for affordable housing.

19. The Board acknowledges concerns raised by some neighbors and other interested parties about the Project's potential impact on nearby properties. Such concerns include lighting and drainage. However, no specific public health or safety issues were identified by elected officials or department heads of the Town, and the concerns raised by abutters during the public hearing were adequately addressed as part of the peer review process. The Board finds that despite concerns from abutters, the Project addresses local and regional housing needs.

20. The Board finds that construction of 40 single-family condominiums at 106-108 Main Street will be "Consistent with Local Needs" within the meaning of G.L. c. 40B, § 20, and 760 CMR 56.02, and will allow the Town of Norfolk to increase its supply of low- and moderate-income housing to 3.9 percent.

IV. 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 under Chapter 40B for the development described herein, subject to the conditions set forth below.

V. CONDITIONS

A. General

A.1. The holder of this Comprehensive Permit is Powerhead LLC. The Site is defined as that property containing approximately 9.01 acres of land situated at 106-108 Main Street as shown on a Plan of Land prepared by Outback Engineering for Powerhead LLC, dated February 12, 2015, revised through August 31, 2015. The Project is defined as all features shown on the plans listed below in Condition A.3 or as otherwise required by this Comprehensive Permit.

A.2. The Applicant shall be a limited dividend organization as required by Chapter 40B, and it and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.

A.3. 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.3, which for 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 Town Planner, who shall have the authority to approve such changes as immaterial changes, with input from the Board's peer review engineer as needed. If the Town Planner determines that the proposed changes constitute a substantial change with reference to the commentary and examples set forth in 760 CMR 56.07(4)(b), he shall so notify the Applicant and the Applicant shall proceed in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following:

a. A set of plans entitled, "Boyde's Crossing, a Residential Development Located in Norfolk, Massachusetts," dated February 12, 2015, with revision dates set forth below, prepared by Outback Engineering Incorporated, including the following 9 sheets:

	Sheet Title	Dated (and Revised Through)
Sheet 1	Cover Sheet	February 12, 2015; August 31, 2015
Sheet 2	Existing Conditions	February 12, 2015; August 31, 2015
Sheet 3	Preliminary Layout	February 12, 2015; August 31, 2015
Sheet 4	Preliminary Grading and Utilities	February 12, 2015; August 31, 2015; December 8, 2015
Sheet 5	Detail Sheet	February 12, 2015; August 31, 2015; December 8, 2015
Sheet 6	Water Details	February 12, 2015; August 31,

		2015
Sheet 7	Septic System Details	February 12, 2015; August 31, 2015
Sheet 8	Drainage Details	February 12, 2015; August 31, 2015
Sheet 9	Detail Sheet	February 12, 2015; August 31, 2015

b. A set of 12 drawings prepared by Outback Engineering Incorporated and entitled Boyde's Crossing, a Residential Development Located in Norfolk, Massachusetts, dated February 12, 2015, revised through November 11, 2015, and including 3 additional detail sheets and an Affordable Unit Distribution Plan, dated September 3, 2015.

c. Architectural Plan Set, provided by BKA Architects, Inc., consisting of three sheets, dated February 13, 2015, including preliminary schematic floor plans and elevations for:

Unit A (2-3 Bedroom Options)
Unit B (2-3 Bedroom Options)
Unit C (2-3 Bedroom Options)

d. Fencing Plan, Boyde's Crossing, Norfolk, MA, prepared by Ryan Associates, with the latest revision date of December 22, 2015.

e. Landscape Plan, Boyde's Crossing Comprehensive Permit, prepared by Ryan Associates, with the latest revision date of December 22, 2015.

f. Typical Unit Planting Plan, Boyde's Crossing Comprehensive Permit, prepared by Ryan Associates, with the latest revision date of December 22, 2015.

g. Lighting Plan, Boyde's Crossing Comprehensive Permit, prepared by Ryan Associates, with the latest revision date of December 22, 2015.

A.4. The Project shall include 40 townhouse-style condominium units, consisting of 30 two-bedroom units and 10 three-bedroom units, for a total of 90 bedrooms.

A.5. There shall be a minimum of 103 parking spaces, consisting of 40 garage spaces and 63 general or driveway spaces, including 3 parking spaces accessible for people with disabilities.

A.6. All residential units approved under this Comprehensive Permit shall be for homeownership only, in perpetuity, and shall not be converted to rental units without approval as a substantial modification of this Comprehensive Permit

under 760 CMR 56.05(11).

A.7. The Applicant shall be responsible for managing the installation, operation, and maintenance of all aspects of the Project until all units have been conveyed. At such time, the operation and maintenance of common facilities within the Project shall be the responsibility of the condominium trust as provided herein. The Applicant shall establish a condominium trust pursuant to G.L. c. 183A, to maintain and repair all common areas, including but not limited to the road maintenance, stormwater management system, wastewater disposal systems, landscaping, and all other improvements within the Site. The condominium trust shall adopt rules and regulations consistent with this Decision and a copy shall be provided to the Board and Town Counsel for review prior to the issuance of any building permit. At minimum, the condominium trust shall provide for the following:

a. Vehicle parking within the Site shall be limited to marked parking spaces only. "No-parking" signs shall be installed and maintained throughout the Site so as to prevent parking outside of designated parking spaces.

b. The condominium trust shall be responsible for enforcing parking rules and shall fine units and unit owners for any violation of parking rules and regulations adopted by the condominium trust from time to time.

c. The condominium trust shall be responsible for snow storage and removal of snowfall that exceeds the capacity of the designated snow storage areas on the Site.

d. Maintenance of the fence installed per the Applicant's approved fencing plan prepared by Ryan Associates, with the latest revision date of December 22, 2015.

A.8. Pursuant to the List of Approved Waivers attached hereto as Exhibit B, the Applicant has requested, and the Board has granted, waivers from the Norfolk Zoning Bylaw and other local by-laws and regulations. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23. No waivers are specifically granted from permit or inspection fees.

A.9. The Applicant shall comply with all local regulations of the Town of Norfolk and its boards, commissions, and departments unless specifically waived in Exhibit B or as otherwise addressed in these conditions.

A.10. 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.11. The Applicant shall copy the Town Planner 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.12. Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval under relevant state and/or federal law by the Building Commissioner or other Town Departments, the Building Commissioner or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Commissioner or applicable Department Head, the thirty-day time period shall not begin unless and until the Applicant is in compliance with its escrow obligations under Section C.1(a).

A.13. 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 loan 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 Powerhead, LLC during construction of the Project.

A.14. 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.15. The sidewalks, driveways, roads, utilities, drainage systems, sanitary sewer system, water system and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Norfolk 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.

A.16. 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 Requirement

B.1. At least 10 units in the Project shall be low- or moderate-income units listed on DHCD's "Subsidized Housing Inventory" (SHI) and shall remain affordable in perpetuity by deed riders in form and substance acceptable to MassHousing.

B.2. The Applicant shall be responsible for maintaining records sufficient to comply with DHCD Guidelines for the sale of such units to income-eligible households.

B.3. The low- or moderate-income units shall be evenly dispersed throughout the Project, as may be determined by MassHousing upon Final Approval. The low- or moderate-income units shall be indistinguishable from the exterior from the market-rate units in the Project.

B.4. In accordance with DHCD's Guidelines for G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory, ("Chapter 40B Guidelines"), updated December 2014, and to the extent allow by law, preference for the sale of up to 70 percent of the units shall be given to Norfolk residents under the Local Preference policy set forth in the Chapter 40B Guidelines.

B.5. The Applicant shall obtain approval from MassHousing of an affirmative marketing plan and lottery procedures prior to making any of the units available for sale, and shall ensure that the Project complies with the DHCD's fair housing requirements. The Board suggests that the local lottery agent be utilized for this purpose.

C. Submission Requirements

C.1. Prior to any construction on the Site, whether or not pursuant to a foundation permit or building permit, as further described below, the Applicant shall:

a. Deliver to the Board a check for $5,000 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. The escrow account shall be replenished to $5,000 anytime the balance in the escrow account falls below $2,500. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project. Said funds may be used by the Board to hire civil engineering, traffic engineering, or other professionals in accordance with 760 CMR 56.05(5).

b. Submit to the Town Planner for review and administrative approval Final Engineering Drawings and Plans ("Final Plans") that conform to the requirements of this Comprehensive Permit and the Approved

Plans referred to in paragraph V.A.2 and incorporate the conditions set forth in said plans and in this Decision. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. The Final Plans shall be submitted to the Town Planner 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"). Upon receipt of the Final Plans, the Town Planner shall promptly forward them to the Board for review.

c. Applicable sheets of the Final Plans shall signed and sealed by the Professional Land Surveyor, the Registered (Civil) Engineer of record, the Registered Building Architect and the Registered Landscape Architect of record. The final submitted plans shall show the layout of the erosion control devices. An erosion control and construction management plan showing the construction methods, scheduling, phasing, winter stabilization measures, and location of necessary water pollution and erosion control methods shall be submitted as part of the Applicant's Stormwater Pollution Prevention Plans ("SWPPP"). The plans shall show the location of the storage areas and designation of temporary stump storage or spoils material area, in accordance with local and state regulations.

d. Submit to the Norfolk Conservation Commission, for review and final acknowledgement of consistency with this Decision, final and detailed stormwater management plans and improvements in accordance with the DEP Stormwater Management Standards.

e. Submit to the Board, Town Planner, Building Commissioner, Fire Chief, Police Chief, and Director of Public Works, construction sequencing and management plans including, but not limited to, dust and noise control measures, tree removal, fill delivery schedules, stockpiling areas, truck routes, trash and debris removal, hours of construction, construction staging, traffic and parking during construction, and like matters. The detailed construction sequencing plan may be incorporated in the SWPPP in connection with the Project's National Pollutant Discharge Elimination System ("NPDES") Permit and may incorporate the construction sequencing described in Section C.2(i) below.

f. Other than site work and other such work as may be authorized in writing by the Town Planner, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Town Planner, 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 Town Planner 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 have been approved.

g. Submit to the Town Planner approval of proposed fire lane and hydrant locations by the Fire Department.

h. The Applicant shall participate in the pre-construction meeting described in Section D.1 below.

C.2. Subject to agreement set forth in this decision between the applicant and the Board with respect to foundation permitting and construction in compliance with Section C.2(i) below and further subject to Section C.3 below, prior to the issuance of a building permit for the Project, the Applicant shall:

a. Record this Comprehensive Permit with the Norfolk Registry of Deeds, at the Applicant's expense, and provide proof of the same to the Building Commissioner and Town Planner.

b. Submit to the Town Planner evidence of Final Approval from MassHousing, as required by the Chapter 40B regulations.

c. Submit to the Town Planner a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project.

d. Submit the condominium trust to the Town Planner for review by the Board and Town Counsel (see Condition A.7).

e. Submit to the Building Commissioner final Architectural Plans, consistent with the Approved Plans, prepared 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 required by the State Building Code.

f. Obtain and file with the Building Commissioner a copy of all federal, state, and local permits and approvals required for the Project, including but not limited to a Disposal System Construction Permit from the Norfolk Board of Health for the proposed septic system and an Order of Conditions from the Norfolk Conservation Commission under the Massachusetts Wetlands Protection Act and applicable state regulations. The Board's engineer shall approve the maintenance schedule for the stormwater system consistent with the requirements of the State Wetlands Protection Act.

g. Submit to the Water Department plans which provide that all units shall be connected to the public water system through an onsite water main, as provided above. Prior to the issuance of any building permit, the Applicant shall provide certification from the Water Department to

the Building Commissioner that proposed utility connection engineering plans have been approved.

h. Submit the proposed fire protection systems, including fire alarm and fire sprinkler systems, for review and approval by the Norfolk Fire Department to ensure compliance with the State Building Code.

i. The Applicant's engineer shall submit a detailed construction sequencing plan, which may be incorporated in the Applicant's SWPPP. Subject to satisfaction of the remaining conditions in this Section C.2, the Applicant's construction sequencing plan may allow for obtaining all foundation permits (i.e., concrete construction only) and commencing foundation construction prior to constructing the project roadways and site infrastructure, provided that the Applicant's engineer certifies that appropriate measures will be taken to protect the project site from undue erosion and sedimentation prior to any foundation excavation.

C.3. Upon satisfaction of the conditions set forth in Section C.2, the Applicant may apply for and obtain building permits (i.e. wood construction) for construction of the first fifteen (15) units in the Project (the "Initial Units"). Subject to the agreement between the applicant and the board to obtain all foundation permits and commence and continue all foundation construction as provided in C.2(i) above, *and* prior to the issuance of a building permit for the sixteenth (16^{th}) unit in the Project, the Applicant shall either:

(i) Complete construction of: a) all Project roadways (excepting only the top coat of pavement *which will be bonded prior to the issuance of a building permit for the 16th unit*), b) all utilities (except CATV), c) all stormwater management and erosion control facilities, and d) the community center in the Project;

or

(ii) Provide a performance guarantee in an amount set by the Town Planner with input from the Board that is reasonably sufficient to complete the items listed in Section C.3(i) above that remain incomplete at such time. *The guarantee shall also include the cost for the top coat of pavement for the entire development if such pavement is not installed at the time of placing said guarantee.* The guarantee shall be in a form acceptable to the Town Planner with input from the Board. The performance guarantee will be reduced from time to time as completion of such items progresses and shall be released upon approval by the Town Planner and the Conservation Commission Agent with input from the Board.

C.4. Prior to issuance of a certificate of occupancy for any unit in the Project, the Applicant shall:

a. Provide affidavit(s) to the Board, signed by the Applicant's civil engineer certifying that the following have been completed: a) the garages on the roadways serving the Initial Units, b) Project roadways serving the Initial Units (excepting only the top coat of pavement, which will be bonded prior to the issuance of a building permit for the 16th unit), c) all utilities serving the Initial Units (except CATV), d) all stormwater management and erosion control facilities serving the Initial Units, e) septic systems serving the Initial Units (with certificate of completion from the Board of Health), f) all fencing adjacent to the Initial Units, g) all Project lighting serving the Initial Units, and h) the community center in the Project.

b. Obtain acceptance from the Building Official and Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms serving the unit for which the Applicant seeks a certificate of occupancy.

c. The Applicant shall install the fencing adjacent to the unit for which the Applicant seeks a certificate of occupancy, as shown on the Applicant's fencing plan revised through December 22, 2015 and referenced in Section A.3 above.

C.5. Prior to issuance of the final certificate of occupancy and release of bond, the Applicant shall:

a. Submit to the Department of Public Works, in paper and digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all utilities, rim and invert elevations, roadway, sidewalk and associated construction. 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 as specified in the Norfolk Subdivision Regulations 3.4.7. As-built Acceptance Plans.

b. Submit to the Building Commissioner acceptable as-built plans for all buildings in the Project.

D. Project Design and Construction

D.1. The Applicant and the site general contractor shall attend a preconstruction conference with the Building Commissioner, Town Planner, Consultant Engineer and other Town Department heads as the Building Commissioner may determine. Such meeting will allow the development team to meet and discuss with Town officials regarding construction milestones, timing of

inspections and coordination between the parties involved.

D.2. 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.

D.3. During construction, the Applicant shall conform to all unwaived local regulations and all state and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to communicate with and 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.

D.4. No person or persons shall cause, allow or permit the operation of equipment or machinery associated with site work, construction or demolition between the hours of 7:00 p.m. and 7:00 a.m., Monday through Saturday, and all hours on Sunday, and State holidays without the expressed approval of the Board of Selectmen, and the issuance of a work permit by the Chief of Police. Such regulations shall not apply to domestic equipment such as lawnmowers and power saws or activities defined by 310 CMR 7.10. Violations of this Section shall be subject to a fine of three hundred dollars ($300) for each violation.

D.5. Appropriate signage shall be shown on the Final Plans that includes all interior directional and traffic signage as well as unit/building location signage.

D.6. The location of all utilities, including but not limited to underground electric, telephone, and cable, shall be shown on the Final Plans, unless such utilities are designed and installed by third-party service providers, in which case, such utilities shall be shown on as-built plans as required herein. All transformers and other electric and telecommunication system components shall be included on the Final Plans.

D.7. Construction activities shall be conducted in compliance with the town by-laws which state Working hours must comply with town bylaws Article X, Section 35 Site Work Construction Equipment and Regulation of the use of Construction Equipment, as amended. A. No person or persons shall cause, allow or permit the operation of equipment or machinery associated with site work, construction, or demolition, or the operation of motor vehicles including dump trucks, trailer trucks, tractor units with flatbed trailers or other types of truck equipment, for the specific purpose of loading or unloading equipment, machinery or goods, materials, substances or fluids, including trash, rubbish, or recyclable collection vehicles used to collect household waste between the hours of 7 p.m. and 7 a.m., Monday through Saturday, and all hours on Sunday and all hours on the following Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day,

Thanksgiving Day and Christmas, without the express approval of the Town Administrator and the issuance of a work permit by the Chief of Police. Such regulation shall not apply to utility companies, private contractors, or municipal workers who are making emergency repairs or deliveries that maintain or restore utility and necessary services under the direction of the municipality or utility company, but such work shall require prior notice to the Police Department. (updated 11/2013) Updated through Annual Town Meeting May 12, 2015. Such regulations shall not apply to or include domestic equipment used by the homeowner or resident of the property such as lawnmowers, leaf blowers, power or chain saws, snow blowers, and other similar equipment and machinery including snowplowing and snow clearing by private contractors, or those activities defined by 310 CMR 7.10. C. Violations of this Section shall be subject to a fine of three hundred dollars ($300) for each violation.

D.8. 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.

D.9. No building areas shall be left in an open or unstabilized condition longer than 45 days. Temporary fencing shall be installed around any open foundations and trenches. Temporary stabilization shall be accomplished by hay bales, straw coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.

D.10. During construction, all truck traffic shall enter and exit from and to the East on Main Street as to avoid the Round-abouts in Town Center.

E. <u>Site Design Conditions</u>

E.1. All street lighting along the Project access drive and the outer perimeter of the Project site shall incorporate glare cutoff shields that direct the light onto the Project roadways and the Project site and away from abutting properties

E.2. The materials used to construct any retaining walls visible from Main Street shall be approved by the Board prior to installation. The proposed fence along the Old Town Hall property shall be the same as other fencing materials along this property line, as shown on the Fencing Plan, dated December 22, 2015.

E.3. The various colors proposed for the buildings shall be reasonably interspersed throughout the development, provided that no two adjacent buildings may be the same color to the extent practicable and the proposed "vibrant blue" will

be limited to no more than 8 buildings and 8 garages.

E.4. In addition to the on-site landscaping proposed by the Applicant, the Applicant shall purchase and plant six (6) arborvitaes (minimum 5 feet tall) or equivalent at the entrance to 105 Main Street, upon written request and permission from the property owner, in order to mitigate light spillover from vehicle headlights exiting the Project site. The planting shall occur concurrent with other Project landscaping for the Initial Units

F. Traffic Safety Condition

F.1. The bus shelter near the site entrance and the decorative entrance walls and entrance signage shall be located, oriented, and constructed to ensure that sight-lines for vehicles exiting the project site are not obstructed, consistent with comments provided by Green International Affiliates, Inc., dated September 23, 2015.

G. Water, Wastewater, Utilities

G.1. The water, septic, and drainage utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town of Norfolk requirements and protocols.

G.2. 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.

H. Miscellaneous Conditions

H.1. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors, and assigns.

H.2. 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), if construction authorized by this Comprehensive Permit has not begun within three years of the date on which this permit becomes final except for good cause, this permit shall lapse. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit or as otherwise provided in 760 CMR 56.05(12)(c).

H.3. This Decision shall run with the land and be binding on the Applicant and/or its successors or assigns and shall be recorded senior to any other liens.

Decision: Boyde's Crossing / 106-108 Main Street, Case #2015-05

RECORD OF VOTE

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

Michael J. Kulesza, Chair

Michael Kulesza, Chairman

Robert Luciano, Vice Chairman

Chris Wider, Clerk

Dated : February 17, 2016
Filed with the Town Clerk on February 17, 2016.

Town Clerk

Notice: Appeals, if any, 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, Norfolk, Massachusetts.

Exhibit A
Submittals Received During Public Hearing Process

- Letter dated January 26, 2016 from the Norfolk Design Review Board;
- Letter dated January 28, 2016 from the Norfolk Fire Department;
- Letter dated December 16, 2015 from Peter N. Diamond, 114 Main Street;
- Outback Engineering Revised Preliminary Site Plans, Sheets 4 & 5 only, last revised 12/7/15
- Preliminary DEP Stormwater Management Form and associated calculations, dated 12/8/15
- Report for MLS #71936096, printed 12/14/15
- Weston & Sampson 12/11/15 Site Plan Review
- Weston & Sampson 11/18/15 Traffic Impact Assessment
- Outback Engineering Preliminary Site Plans, last revised 11/11/15
- Preliminary Drainage Report, Dated 11/11/15
- Waiver list dated 11/11/15
- Design Review Board Comments, 10/28/15
- Ruberto, Israel & Weiner Supplemental Waiver Request , 10/26/15
- Letter of introduction from Lead Counsel for Powerhead, Chris Agostino, 10/9/15
- Memo dated 10/8/15 from Board of Health, regarding Profesisonal Services Corp. (PSC) Preliminary Review
- Undated letter from Powerhead/Stonebridge Homes - invitation to meet with neighbors on 8/5/15
- Letter dated 2/4/16 from Ron Uber, 69 Main Street

Exhibit B
Waivers of Local Regulations[1]

Planning Board Rules and Regulations

3.3.2.21 Waive the impact study and assessment report, where project will be designed in compliance with Title 5 septic system requirements, DEP Stormwater Management Regulations, DEP Wetlands Protection Act and its regulations, and roadway infrastructure will be sufficient to support the proposed project as shown on the plans. Solid waste, snow removal and site/landscape maintenance shall be the responsibility of the condominium association who shall contract these services with professional companies.

4.1.1. Waive requirement for the applicant to observe all design standards of Sections 4, 5 and 6 of Town's land subdivision/site plan approvals.

4.9.2 Waive requirement of providing an emergency/maintenance access easement for any watercourses or streams.

4.9.4. Waive requirement for trees to be planted at 40 foot or lesser intervals on both sides of all streets, where a landscaping plan with appropriate trees and other plantings shall be provided for this condominium project.

4.12.1. Waive requirement that prior to the removal of any trees over four (4) inches in diameter in the right of way and within any tree easement and prior to grading, the developer shall mark all trees proposed for removal and the developer shall plot these marked trees on site plan to be reviewed by the Planning Board. Applicant proposes to show limits of work (and not individual trees) on site plans to be reviewed by the Town Planner, and all trees within these limits shall be flagged for clearing prior to construction.

4.14.6 Waive town's secondary road (serving between 7 and 50 homes) design requirements of 26' paved width, 170' centerline radius, 340' intersection sight distance (for internal roadways), 350' spacing of intersections (centerline to centerline), and other town roadway design standards as may be necessary to construct the private driveway network as shown on the site plans, where this project is a private condominium with lower design speeds. The main entrance drive off Main Street is proposed to be 24', with the main loop driveway to be 20' wide two-way with 40' (and larger) centerline radii at the corners of the site. Waive also minimum grade of less than 1 percent on entry drive only, as may be necessary to design the drainage system in compliance with DEP Stormwater Management Regulations and other town regulations dictating certain required setbacks to wetlands and separation to groundwater.

4.14.8.3 Waive the slope requirement of 2% max. for the first 100' of a road intersection as may be required for final site design. At least the first 50' from intersection shall maintain

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the 2% slope to ensure adequate sight distances and safe access and egress to the development.

4.14.9.1 Waive requirement that paved cul de sacs shall not exceed 500 feet in length from the intersection of the nearest intersecting through street to the farthest end of the paved turnaround. Proposed driveway network has a 350-ft. long main entrance with a looped roadway that is approximately 2010 ft. long.

4.15 Waive requirement of 3:1 slopes along the entrance roadway, where retaining walls and 2:1 slopes may be required to minimize impacts on wetlands.

4.17 Waive requirement for drafting street cross sections at 50' station intervals, where the site plans show a proposed condominium development permitted under MGL Ch. 40B.

4.19.7.1 Waive requirement for no new point source discharge within 100 feet of a bordering vegetated wetland, as drainage systems such as detention basin, water quality swale, rain garden, and overflow pipes discharge within the 100' buffer of the 2 ponds.

4.19.7.2. Waive requirement for a closed stormwater collection system consisting of precast concrete drain manholes, precast concrete catchbasins (5' I.D.), precast concrete water quality structures connected by straight segments of drainline (min. 12"), and cross culverts consisting of straight segments of Class IV reinforced concrete pipe with gasketed joints, where site design may utilize other collection and conveyance methods including use of permeable pavement, other pipe materials and low impact drainage practices in accordance with DEP Stormwater Management Regulations (SMR). Waive also requirement for separator structures having capacity to treat the water quality volume upgradient of all surface stormwater basins and subsurface absorption systems, with bypass capability for larger storms, where permeable pavement and other practices shall be employed to meet DEP SMR.

4.19.7.4. Waive requirement for separate roofwater recharge systems on all homes with capacity to accommodate 1 inch of runoff from roofs. Final drainage design of project shall comply with DEP SMR, and other low impact development practices such as use of rain barrels and stormwater harvesting cisterns will be utilized for landscape irrigation.

4.19.7.5. Waive requirement that basin embankments having a height of greater than four feet between the required freeboard elevation and finished grade exterior to the basin shall require geotechnical testing and an embankment design prepared by a Massachusetts Geotechnical Professional Engineer, and for sections through such embankments be provided showing slopes, impervious cores, and surface armoring. Basins shall be designed in accordance with standard engineering practice according to the DEP SMR.

Waive also requirement for surface stormwater basins and surrounding maintenance access berms be provided on separate lots not part of any building lot, with a 10-foot wide minimum access and maintenance easement extending from the public way to the stormwater basin lot, and a 10-foot wide tree easement with plantings around the berm, where the drainage basins on this project are all part of a single condominium lot to be privately maintained, and landscaping plan will be provided such that easements are not needed.

Waive requirement for the edge of surface stormwater basins (measured at the required freeboard elevation) to be setback 100 ft. from building cellars/basements and 200 ft. from street intersections.

4.19.9.1. Waive requirement to recharge all stormwater onsite, to allow offsite stormwater discharge. Peak rates and volumes will be controlled such that there is no increase from existing conditions.

5.2.1.1 to Waive requirements for 26' wide pavement, 7' grass strip and sidewalks on both sides of a secondary street. Proposed entrance roadway shall be 24' wide with a sidewalk on one side with no grass strip due to presence of wetlands. The driveway loop will be 20' wide, with one sidewalk proposed in locations shown (with other courtyard walkways) as shown on the plans. Waive requirement of a 5' sidewalk. A 4.5' sidewalk is proposed along the roadway edges with concrete curbing.

5.2.1.2 Waive requirement for 15" processed gravel, 4" dense grade, and pavement thickness shown in the table for secondary roads, where permeable pavement may be used.

5.2.3. Waive requirement for an Earth Relocation/Removal Permit when 500 cubic yards or more of earth materials are to be removed from the site or relocated within the site.

5.2.6.3 Waive requirement of a plan showing as-built surface grades at 50' stations of the completed dense grade prior to installing bituminous concrete binder course for Planning Board approval, where this is a private condominium project with no public ways that will be administered by the Zoning Board.

5.2.8 & 9 Waive the use of sloped granite curbing, to allow use of Cape Cod berm in areas shown on plans where there are no sidewalks (where road is superelevated, no curbing will be used), and precast concrete curbing at sidewalks.

5.3.3.3 Waive requirement of curb inlet stones at catch basins, and to allow Cape Cod berm.

5.3.5. Waive requirement to provide field stone masonry ends at culverts per Section 685 of the M.H.D. Standard Specifications, where proposed road box culvert retaining walls shall make use of Redi-Rock precast concrete blocks or similar.

5.7. Waive requirement for retaining walls to be 4-ft. max height and of cemented stone masonry conforming to the relevant provisions of Section 685 of the M.H.D. Standard Specifications, where proposed entrance roadway retaining walls shall be as shown on the plans using Redi-Rock precast concrete blocks or similar.

5.9. and 5.9.1 Waive requirements for street trees to be planted within a grass strip (or in tree easements per Planning Board discretion) at 35-foot or lesser intervals, on both sides of all streets, and other planting and guarantee requirements of the Planning Board where the roadways shall not be accepted by the town. Waive requirement for Planning Board approval of tree species where a landscape plan is to be submitted for Board approval under MGL Ch. 40B.

5.10. Waive requirements for Loaming and Seeding where a landscape plan shall be prepared for this private condominium project with appropriate details provided for ground covers and sequencing of construction. Waive also prohibition on removal of topsoil from the

development where we anticipate the project area will have a surplus of loam that will be transported offsite.

5.12. Waive requirement for Street Light fees to be paid to the town and other street light requirements where the street lights for this project shall be privately owned and maintained by the condominium association. A site lighting plan detailing light specifications shall be provided to the Board for approval.

7.3.1. Waive requirement for dwelling to be constructed and residential use of the subject property to be expanded with a site plan approved by the Planning Board, where the Board will review these plans under a Comprehensive Permit per MGL Ch. 40B. Waivers from all such site plan approval requirements are sought.

7.4.2 Waive requirement for all site plans to be at 1" = 20' scale. A 1" = 40' scale is used for the majority of the site plan set along with smaller scales as needs to provide sufficient detail and clarity of the required work.

7.4.2.2. Waive those provisions of Sections 4 and 5 as necessary, substituting the words "site" for "subdivision" and "applicant" for "subdivider" where site plan approval by the Planning Board and no Special Permits are sought, and this project is permitted under MGL Ch. 40B via a Comprehensive Permit from the Board.

7.4.3.9. Waive requirement for 10-ft. side and rear yard dimension in accordance with the Norfolk Zoning Bylaws, as a 5 ft. side and rear yard is proposed for garage buildings, and porches for units 30, 31 and 39 are closer than 10' to side yards (4' min.).

7.4.3.16. Waive requirements that all storm water drainage shall be contained on site unless otherwise approved by the Planning Board, that Soil Percolation tests shall be conducted in accordance with Subsection 5.3.12.2., that all facilities for accommodating storm water drainage shall comply with the relevant paragraphs of Regulation 5.3, that runoff from all structures shall be accommodated into leaching basins unless otherwise approved by the Planning Board, that all runoff from parking areas, driveways and service areas on the site shall be directed into a dedicated oil-water separator, and that roof runoff shall be discharged into drywells. The applicant requests waivers from all town stormwater management regulations (including all Planning Board, Board of Health and Conservation Commission by-laws and regs) such that the drainage system shall comply with DEP Stormwater Management Regulations.

7.4.3.25. Waive requirement that all waivers required for the project, be shown on the plans, and that such waivers are subject to approval of the Planning Board, where this project is permitted under MGL Ch. 40B and the site plans are subject to Comprehensive Permit approvals by the Board.

7.4.3.27. Waive construction requirements for parking lots and driveways to be the same as that for Secondary Streets, and as may be specifically allowed under the Norfolk Zoning Bylaws, and to allow driveways and parking areas other than bituminous pavement as shown on the plans (permeable pavement proposed).

7.4.3.27.3. Waive driveway and parking area design/construction requirements same as town's secondary street (roadway design of residential subdivisions) with 26' pavement width, 15" gravel, 4" processed gravel and 2 courses pavement totaling 4 1/2". Proposed

driveways and parking areas shall be per the site plans, and similar waivers requested herein, to be approved by the Board per a Comprehensive permit.

7.5 - 7.9: Waive all Site Plan submission, fee, hearing and approval requirements administered by the Planning Board, where the Board will review these plans under a Comprehensive Permit per MGL Ch. 40B.

Earth Relocation/Removal Bylaw

Waivers of all Town of Norfolk Bylaws and Regulations regarding the removal and/or relocation of earth,

Zoning Bylaws, As Amended Through May 2014 – Watershed Protection District

Section D.3.d.1.b.: Waiver to allow structures, land disturbing activities, excavation within 25 ft. of on-site wetlands/streams/ponds, and excavation to create ponding areas/drainage ditches where the entrance roadway (with retaining walls and box culvert) and drainage system will be constructed within 25 ft. of wetlands as shown on the plans.

Section D.3.f.1. – 5.: Waiver to eliminate Special Permit application to Board, and all town's plan submittal and procedural hearing requirements for required work within the Watershed Protection District, where the Board will review these plans under a Comprehensive Permit per MGL Ch. 40B, including but not necessarily limited to waivers to allow:

> D.3.e.1.c - residential construction of dwellings and appurtenant structures after the issuance of an order of conditions from the Norfolk Conservation Commission (retaining walls and box culvert required for entrance road).
>
> D.3.e.1.d - excavation, filling, dumping, transferring of earth materials or the filling, dumping or transferring of any earth material within the district (entrance roadway and drainage system requires earthwork within 25' of the wetlands).
>
> D.3.e.1.e - any use not expressly allowed in Section D.3.c or prohibited in Sect. D.3.d.

Zoning Bylaws, As Amended Through May 2014 – Parking

Section F.7.a.: Waive requirement for Planning Board to make a decision on the adequacy of the parking via a Special Permit, where this project is to be reviewed by the Board and permitted under MGL Ch. 40B.

Section F.7.b.1. and F.7.b.1.a: Waive requirements for off-street parking of 2 spaces per Single Family Dwelling (and 1.5 spaces for other dwellings), where this project will consist of single-family detached condominium units, and will include a mix of garages integral to the dwellings and detached garages. A total of 40 dwellings with 103 parking spaces are proposed, for a ratio of 2.57 spaces per unit; there are a total of 23 drive-under garage spaces built into units, 25 detached garage spaces, 23 driveway spaces, and 44 other off-street parking spaces (includes 3 compact spaces at 8' x 16') provided as shown on the site plans. Town requirement is 80 off-street parking spaces given 40 single-family homes at 2 spaces each (or 60 spaces for a 40-unit multi-family project).

Section F.7.f.: Waive prohibition on counting handicapped parking spaces toward requirement for off-street parking. Three handicapped-accessible spaces are proposed.

Section F.7.i: Waive requirement for travel lane widths as specified in this section, to allow travel lanes at 10 and 12 ft. wide with a mix of parallel and 90◦ parking spaces, as shown on site plans.

Section F.7.j: Waive requirement for bituminous or cement concrete parking spaces and maneuvering aisles, where portions of the site driveways and parking are proposed as permeable pavement that may include porous asphalt or concrete pavers designed with draining subcourses.

Section F.7.n: Waive requirement for parking lots and appurtenances to be constructed according to Planning Board regulations for same, where the project driveways and parking area shall be constructed as shown on the plans and as Planning Board regs may be waived.

Section G.2: No building permit shall be issued until the construction or alteration of a building or structure as proposed, shall comply in all respects with the provisions of this bylaw…

Zoning Bylaws, As Amended Through May 2014 – Site Plan Approval

Section F.11. and its subsections a.-d.: Waive requirements for Site Plan Review and Approval by the Planning Board, where this is a MGL Ch. 40B project subject to a Comprehensive Permit to be issued by the Board.

Zoning Bylaws, As Amended Through May 2014 – Design Review

Section F.12., F.12.c.1, F.12.d.-g.: Waive all requirements for applications to the Design Review Board, where this is a MGL Ch. 40B project subject to a Comprehensive Permit to be issued by the ZBA.

Section F.12.f.1: Waive requirement for a study model or final presentation model.

Zoning Bylaws, As Amended Through May 2014 – Affordable Housing Development

Section H.3.: Waive all requirements for providing affordable housing via a Special Permit issued by the Planning Board, where affordable housing is to be provided for this project as permitted under MGL Ch. 40B subject to a Comprehensive Permit issued by the Board.

Zoning Bylaws, As Amended Through May 2014 – B-1 Business District (Outside Business Core)

Section I.4.a.8: Utilities: To the extent necessary, a waiver is requested to provide rooftop solar arrays (no proposed ground mounted solar arrays) with appurtenant equipment on the proposed homes and garages as part of the sustainable development initiatives that this project is looking to achieve. As required to provide solar energy, waivers are sought that require all utilities to be underground or otherwise centrally located or provided at the rear of buildings and screened from view.

Section I.4.a.10: Waive requirement for the project roadways to comply with the specifications and details per town's subdivision regulations, where this project is a residential development permitted under MGL Ch. 40B and shall be privately maintained. Waiver from town's subdivision construction standards are requested to allow this infrastructure to be built according to the project plans.

Section I.4.a.11: to allow more than 16 bedrooms on a lot where this is not a Planned Multi-lot Development (PMLD) per town Zoning By-law. Project proposes 90 bedrooms that will be permitted as a MGL Ch. 40B development.

Section I.4.b.3.(G): Waive setback requirements to allow bus shelter 5' off Main Street, side and rear yard requirement of 10 ft., to allow garages with approx. 5 ft. setback along side and rear property lines, and porches at units 30, 31 and 39 to be 9', 6' and 5', respectively, from side yard, as shown on site plans.

Section I.6.d: Waive the requirement of linked parking where this is a separate, private residential condominium project, and does not warrant parking connections with adjacent commercial uses.

Section I.7. and I.7.a.: Waive requirement that residential uses be allowed only as part of a commercial site plan, where this is a condominium project with single-family detached homes, with no commercial component, permitted under MGL Ch. 40B.

Board of Health Regulations On-Site Sewage Disposal Regulations, effective March 26, 2015

Section III.1: Waive requirement that maximum groundwater levels must be determined between December 15 and April 30 for a given year when the permit is issued, where this project is relying on numerous soil evaluations conducted per Title 5 (some of which were witnessed by the Health Agent in May 2014 when the prior Board of Health regs were in effect) and a hydrogeological and groundwater mounding assessment conducted by D'Amore Associates.

Section III.2: Waive plan requirements for showing road crown and gutter elevations, final grades at 4 corners of each building, and elevations based on NAVD 88, whereas this project is a condominium and it is impractical to show all of these elevations at each unit and project topo is based on NGVD 1929.

Section III.5: Waive requirement that septic system design for new homes must accommodate a garbage grinder; no garbage grinders are proposed in the system design and shall be restricted by deed for all units within the development.

Section V: Waive variance procedures administered by the Board of Health, where Board is to issue all waivers for this 40B project.

Conservation Commission Wetlands Protection Regulations

A general waiver is sought from all local wetland protection by-laws and regulations such that project shall be file under the State Wetlands Protection Act and its regulations only.

SECTION 2. (1) (b) Waive requirement that lands within 100 ft. of any of the other resource areas listed shall be regulated as a resource area, and to allow this buffer zone area to be regulated per the state Wetlands Protection Act and its regulations, which is 50ft..

SECTION 2. (1) (c) Waive requirement that ephemeral streams be treated as a wetland resource area, and to follow state Wetlands Protection Act and its regulations.

SECTION 3. Waive all town buffer zone performance standards, and follow state Wetlands Protection Act and its regulations.

SECTION 14.(4) waive requirement for Stormwater Management design in strict compliance with the provisions of the "Rules and Regulations for the subdivision of Land and Site Plan Approval of the Town of Norfolk Planning Board, where site design shall be in compliance with DEP Stormwater Management Regulations.

Section 14.(7) Waive all By-law (Municipal) Filing Fees.

Town Bylaw on Post-Construction Stormwater Management of New Developments & Redevelopments

Waive all town bylaw requirements on Stormwater Management Permits, including but not limited to, filings and hearings with the Planning Board, inspections and surety/bonding requirements, final inspections and Certificate of Compliance requirements administered by the Planning Board. Applicant proposes to design and construct the project under MGL Ch. 40B as administered by the Zoning Board, including compliance with DEP Stormwater Management Standards that will be jointly administered by the Conservation Commission under a Notice of Intent filing per the State Wetlands Protection Act and its regulations at 310 CMR 10.00 et seq.