

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

PETITION NUMBER: 2017-11
APPLICANT: Lakeland Hills, LLC (the "Applicant")
LOCATION OF PROPERTY: 144 Seekonk Street, Norfolk, Massachusetts
"Property" or "Site")
DATE: September 23, 2020
DECISION: Approved, with Conditions

2020 SEP 24 4:12 PM 12: 24

TOWN CLERK
NORFOLK

I. PROCEDURAL HISTORY

1. On September 5, 2017, Lakeland Hills, LLC (the "Applicant") submitted a Comprehensive Permit Application to construct a housing development under General Laws Chapter 40B, consisting of two components: a 76-unit townhouse development of units "for sale," and 28-unit rental project under the same "Lakeland Commons."
2. The project site consists of approximately 21.22 acres of land located at 144 Seekonk Street in Norfolk, being the land shown on Land Court Plan 43114 filed in the Norfolk District of the Land Court (the "Project Site"), and which said land is currently owned by Edward B. O'Harte and Sandra A. O'Harte.
3. The Project Site is located in the Town's R-3 zoning district. In the R-3 district, lots must have a minimum lot size 55,000 square feet, and minimum frontage of 200 feet.
4. On September 17, 2017, the Board opened the public hearing, but immediately invoked the provisions of Chapter 40B regulation 760 CMR 56.05(3) and stayed the commencement of the Board's public hearing on the application until there were no longer three comprehensive permit applications pending before the Board. The public hearing was re-opened on June 5, 2019 and continued sessions were held on July 31, 2019, September 4, 2019, October 2, 2019, October 30, 2019, December 18, 2019, January 29, 2020, March 18, 2020, April 1, 2020, April 22, 2020, May 20, 2020, June 24, 2020, July 1, 2020, and July 29, 2020. The Board held a deliberation session on August 19, 2020 and voted to grant this Comprehensive Permit, with conditions.
5. To evaluate the Applicant's plans, documents, and testimony, the Board received technical assistance and comments from Town staff and other boards and commissions. The Board also retained outside consultants to review the Applicant's traffic memorandum, site plan, plans for stormwater management and architectural design and landscape design. In addition, the Board received comments from abutters and other interested parties at the public hearing.
6. The Board retained Tetra Tech, Inc. as peer review consultant for civil engineering and hydrology. The Board retained Kim Hazarvartian, P.E. for traffic peer review

- consulting. The Board also retained the BETA Group and Marta Nover for wetlands peer review consulting and Glenn S. Fontecchio, Architect to review the current Project design. The Applicant funded these services in accordance with the Board's rules and regulations and 760 CMR 56.05(5).
7. The Board also retained special counsel Daniel C. Hill, Esq. of Hill Law to provide the Board with technical expertise and guidance regarding the Chapter 40B review process.
 8. In April, 2019, the Norfolk Conservation Commission initiated an investigation into potential violations of the state Wetlands Protection Act and the Norfolk wetlands bylaw on the Project Site. The Commission obtained an administrative search warrant and its consultant, Patrick Garner, surveyed the site for wetland alterations. A second site evaluation was conducted by Marta Nover on behalf of the Board on October 3, 2019. Following Ms. Nover's subsequently-filed report, the Commission declined to take enforcement action.
 9. On December 7, 2018, while the hearing stay was still in effect, the Applicant modified its development plans by merging the two project components, reducing the total number of units to 96 from 104, and converting all of the rental units to homeownership units.
 10. On or about October 23, 2019, the Applicant revised its plans, which resulted in a further reduction of units to 84 homes.
 11. On March 31, 2020, the Developer submitted a revised site plan, reducing the density to 44 units and making other substantive changes to the design of the Project and its utility infrastructure (the "Revised Project"). The Developer's 44-unit plan was presented to the ZBA during a continued session of the public hearing held on April 1, 2020.
 12. Sitting for the Board and present throughout the public hearing process were Christopher Wider, Chair, Michael Kulesza, Donald Hanssen, Joseph Sebastiano and Devin Howe.
 13. The minutes and exhibits from the public hearing are available for public inspection in the office of the Town Clerk.

II. GOVERNING LAW

14. 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").

III. FINDINGS

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

15. 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 duly organized Massachusetts limited liability company, having a place of business located at 84 Cleveland Street, Norfolk, MA and has agreed to become a limited dividend entity pursuant to the Act.
 - (b) The Applicant received a written determination of Project Eligibility from MassHousing dated July 12, 2017, a copy of which was provided to the Board with the Comprehensive Permit application. A supplemental project eligibility letter was issued by MassHousing October 25, 2018.
 - (c) The Applicant has site control by virtue of a deed dated August 7, 2015, filed with the Norfolk Registry District of the Land Court as Document 1,335,223.
16. The Board finds that as of the date of the Applicant's application to the Board, 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).
17. The Applicant is proposing a loop road to access the 44 housing units from Seekonk Street. The loop road will be constructed in substantial conformity with the road design standards in the Norfolk Subdivision Rules and Regulations, and is expected to be accepted as a public way. Stormwater utilities will comply with the state Stormwater Management Standards, and will be maintained by a homeowner association comprised of the owners of the future homes in the Project, rather than by the Town. Similarly, street lights will be installed and perpetually maintained by the homeowner association. The condominium units will be served by a common septic system in the rear of the Project Site; the single-family homes will each have their own separate system. The Applicant will extend municipal water service up Seekonk Street to the loop road, and then down the loop road to serve the homes. Most of the land interior to the loop road, which is topographically and geologically diverse, will be preserved in its natural state, available for passive recreation by the future homeowners. The stormwater management system and other civil design elements of the Project were extensively reviewed by Sean Reardon, P.E. of Tetra Tech, Inc. during the public hearing. Project impacts on wetland resources were thoroughly vetted by Marta Nover of the BETA Group.

A. Traffic Impacts and Public Safety

18. Much of the ZBA's focus of its public hearing in 2019 centered on the safety and operation of the roadway intersection with Seekonk Street, and the risks associated with the long dead-end road.
19. The Town's Subdivision Rules and Regulations require that any development containing more than 25 lots shall have at least two points of access/egress. The Rules and Regulations also prohibit dead-end roads in excess of 500 feet. The proposed Project does not conform to those requirements.

20. With respect to sight distances, the Project initially did not satisfy the stopping sight distance and intersection sight distance standards published by AASHTO (American Association of State Highway and Transportation Officials) in its *Policy on the Geometric Design of Highways and Streets*. The Norfolk Subdivision Rules and Regulations cites the AASHTO *Policy* as the “referenced standard” in its “Design Standards” section (§ 4.1.4).
21. Specifically, the minimum required stopping sight distance (“SSD”) under AASHTO criteria for the Project’s intersection at Seekonk Street is 305 feet, based on a 40 MPH measured design speed on Seekonk Street. Under the 84-unit plan filed in October, 2019, the Project met this SSD threshold for southbound vehicles (approaching the Project Site from the north), but not for northbound vehicles. The maximum *available* SSD for northbound vehicles based on the 84-unit plan was 286 feet.
22. The minimum required intersection sight distance (“ISD”) under AASHTO for this intersection is also 305 feet. ISD is measured from a point in the project’s roadway that is 14.5 feet back from the edge of the paved surface of Seekonk Street. See, AASHTO, § 9.5.3.2.1. The 84-unit plans indicated that the ISD threshold was not met in either direction. Due to the curvature of the road, an exiting vehicle could see a northbound vehicle at a distance of 335 feet south of the driveway, but not at 305 feet, and presumably not at 200 or 100 feet either. ISD must be maintained for its entire length.
23. AASHTO also has a “left turn sight distance” standard, which for this intersection was 323 feet. The purpose of this calculation is to ensure that a southbound vehicle on Seekonk Street can see an oncoming northbound vehicle far enough away in order to make a safe turning decision into the Project Site. Due to the curvature of the road, there was only 248 feet of available southbound left turn sight distance based on the intersection alignment shown on the 84-unit plan.
24. At the January 29, 2020 hearing, the Applicant suggested that the sight distance calculations should be based on a 36 miles per hour design speed on Seekonk Street, based upon traffic speed data collected by the Applicant on November 5, 2019 near the Project Site entrance, and the Applicant proposed to install driver “feedback signage” on Seekonk Street to warn drivers when they are travelling at speeds above the posted speed limit. The ZBA expressed skepticism with the effectiveness of this approach and insisted on the Applicant using the more conservative 40 MPH design speed. The Town also commissioned a survey of this section of Seekonk Street, to verify the locations of the boundaries of the right-of-way.
25. On February 11, 2020, the Applicant’s traffic engineer proposed a design change to the alignment of the intersection, shifting the location 32.5 feet north of the previously-proposed intersection location. As a result of this modification, SSD was satisfied in both directions, with vegetation clearing in the Seekonk Street right-of-way. However, ISD was still not satisfied looking south. While the driver can see 305 feet down the road, his sight line would be obstructed between 123’ and 186’ from the intersection. ISD looking north was also still deficient. Notably, however, ISD was now met in both

direction when measured from 10 feet back. Left turn sight distance was still not satisfied, although it was better with the new intersection location (287 feet versus 249 feet - 323 feet is required).

26. On March 28, 2020, The Applicant further reduced the density of the Project to 44 units, to mitigate the public safety risks. To address the left-turn sight distance deficiency, the Applicant secured an easement from the owners of 141 Seekonk Street, to allow for perpetual vegetation clearing to accommodate the required left turn sight distance standard of 323 feet. The ZBA finds that the Applicant made significant improvements to the design of the Project and agreed to conditions that substantially mitigates the public safety concerns with this intersection.

B. Natural Resource Protection and Open Space Issues

27. As noted above, the ZBA expressed concerns, echoed by BETA's peer review comment letters, with the Project's impacts on the stream and bordering vegetated wetlands on the Project Site as well as on the overall hydrology of the Site.
28. An internal wetland system exists in a narrow southeasterly configuration through the center of the Site. The hydrology source of the wetland system originates from groundwater discharge and runoff from the adjacent upland areas. BETA reported that it observed a stream generally in the area of the proposed roadway from proposed Station 26+50 to 24+00. BETA advised that an isolated vegetated wetland (IVW) on the Site is hydraulically connected to the downgradient bordering vegetated wetland (BVW) at least once a year. BETA also observed a ponded area that may meet the definition of a vernal pool under the Norfolk Wetlands Bylaw, but that additional study was required to verify this. BETA noted that the 84-unit design would result in clearing most of the Site, including substantial area within the 100-foot buffer zone to the vegetated wetlands.
29. BETA opined that the construction of the roadway and grading would negatively impact these wetland resource areas. Clearing and grading associated with 84-unit design would have significantly and permanently altered the 100-foot buffer zone to these resource areas. Buffer zones on the Site play a significant role in wildlife habitat protection, as the area is vegetated with hard mast tree species, fruit-producing shrub species, and flowering vegetation. Many studies document that amphibians, reptiles, birds and mammals regularly use upland buffer zones for nesting, feeding, over-wintering and reproducing.
30. Buffer zones are also critical to protecting water quality, particularly where slopes adjacent to the wetlands are generally around 20 to 30%. Buffer zones help control the rate at which water enters and leaves a wetland system and regulates stream base flows during dry times. The Site's steep topography and varied subsurface soil conditions are features that provide and maintain the hydrology required to support the wetland system and the potential vernal pool habitat. As such, BETA opined that the 84-unit design would result in significant changes to the current watershed to the BVW, IVW and stream system. The proposed construction of impervious surfaces within the

drainage area to the BVW on the Site would have likely prevented groundwater recharge that currently provides baseflow to the BVW. This could result in lowered water levels and drying of any vernal pool and its habitat in the BVW.

31. All of the direct abutters to the Project Site are served by private drinking water wells, which could be impacted by the predicted hydrological changes, and from groundwater pollution from the Project's septic systems.
32. With the reduction of density from 84 units to 44 units, and the associated re-design of the roadway and stormwater utilities, the concerns raised by BETA were substantially addressed by the Applicant.
33. The substantial reduction of density and the commensurate reduction of wastewater generated by these homes also addressed the ZBA's concerns with groundwater quality impacts associated with the proposed septic systems. The common septic system for the condominium units is in the rear of the Site, downgradient from the wells of the abutters, and from the potential vernal pool.
34. As noted above, the re-designed Project also protects a large tract of land interior to the loop road, which is the watershed to the adjacent wetland systems and potential vernal pool. This land will be permanently restricted with a conservation restriction.
35. 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.

IV. DECISION

36. 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. Approved Plan

- A.1. Except as may be provided for in the conditions of approval set forth herein, this Decision permits the construction, use, and occupancy of no more than forty-four (44) housing units in sixteen (16) single-family detached buildings and fourteen two-family (duplex) buildings on the Site, as shown on the 44-unit plan dated March 31, 2020 and presented to the ZBA on April 1, 2020 (the "Approved Plan").

- a. The approved schematic duplex housing plans are as follows:
 - Red Unit, Lakeland Commons Townhouses, dated 9.8.16, prepared by Brian Donahue Architects
 - Pink Unit, Lakeland Commons Townhouses, dated 9.8.16, prepared by Brian Donahue Architects

- Duplex Unit, Lakeland Commons Townhouses, dated 3.31.17, prepared by Brian Donahue Architects
- Schematic 2,696 Duplex Unit Plan, undated
- One-car garage, Duplex Unit Plan, undated
- Two- car garage, Duplex Unit Plan, undated

b. The approved schematic single-family home plans are as follows:

- The Beacon
- The Berkeley
- The Charles
- The Dartmouth
- The Fairfield
- The Norton
- The Liverpool
- The Woolton

A.2. No portion of the Site shall ever be used as vehicular access to any other land. The roadway shown on the 44-Unit Plan shall never serve any uses other than the 44 housing units shown on the plan and any uses accessory thereto.

A.3. Before the commencement of any construction or any site clearing activities other than site clearing and activities in connection with any additional soil testing, surveying, and the like (the foregoing defined as “Construction Activities”) the Applicant shall submit to the ZBA final comprehensive permit site plans and those additional plan and submission requirements described in this Section B for review by the ZBA and its consulting engineer, Sean P. Reardon, P.E. (or if he is unavailable, another licensed professional engineer that does not present a conflict of interest with the Applicant based on prior dealings) (“Consulting Engineer”) to ensure that such plans and submissions required herein are consistent with the 44-unit plan dated March 31, 2020 and presented to the ZBA on April 1, 2020 (the “Approved Plan”) and this Decision. Upon such finding of consistency, said plans shall be approved and endorsed by the ZBA and shall be thereafter referred to as the “Final Plans”. The ZBA shall render a decision under this condition within thirty (30) days of the Applicant’s complete submittal of its proposed Final Plans meeting all permit conditions.

A.4. The Project shall be constructed in conformance with the Final Plans. No additional bedrooms or any other structures or infrastructure except that which is shown on the Final Plans shall be created without further approval of the ZBA in the form of an amendment to this Decision pursuant to Section I below. Minor changes to the 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 or bedrooms contained in the residential buildings) shall be submitted to the ZBA, who shall have the authority to approve such changes as insubstantial changes. If the ZBA determines that the proposed changes are substantial pursuant to Section I below, it shall so notify the Applicant and the Applicant shall proceed in accordance with 760 CMR 56.05(11).

- A.5. The Applicant made a late change to its plans, to provide a buffer to a neighbor at 14 Stop River Road, as depicted on the plan attached as Appendix A.5.a, as well as a minor modification to the road layout as shown on Appendix A.5.a. Specifically, the Applicant has proposed a no-disturb zone within the area designated as “Parcel C” on Appendix A.5.a, which shall remain in its natural vegetated state, provided that the Applicant may enter Parcel C to maintain the vegetation therein consistent with good forestry practices, which may include the cutting of dead and decaying trees. The Applicant may also temporarily alter the natural vegetation within Parcel C during construction if necessary to complete construction of improvements outside of Parcel C, provided that any altered vegetation shall be restored to its pre-disturbed state and where restoration is not feasible, to a state reasonably consistent with the goal of maintaining Parcel C as natural buffer zone to any development on the remaining portion of the Site. Parcel C shall be identified on the Final Plans and on any plans recorded in connection with the development of the Site as a “No-Build/No-Disturb” area.
- A.6. The Applicant shall install a 6-foot high fence along the property line between the Site and the lot known and numbered as 150 Seekonk Street, provided that the end of such fence at Seekonk Street shall be set back 4’ from the layout of Seekonk Street in order to provide sufficient sight distances. Additionally, the Applicant shall install shrubs along the property line between the Site and 150 Seekonk Street near the roadway intersection to shade any headlight glare from vehicles exiting the Property, provided that such plantings do not interfere with sight distances.

B. Submission and Final Permitting Requirements

- B.1. Prior to or with the submission of the proposed Final Plans, the Applicant shall deliver to the ZBA a check for \$10,000 to be used for the ZBA to retain outside experts for review of the Final Plans as required under these conditions and construction monitoring as provided herein. Said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, § 53G and shall only be used for technical reviews and inspections associated with this Project (“Escrow Account”). The Escrow Account shall be replenished to \$10,000 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.
- B.2. Appropriate signage shall be shown on the Final Plans that includes all interior directional and traffic signage as well as unit/building location signage.
- B.3. All street lighting shown on the Final Plans site shall incorporate glare cutoff shields that direct the light onto the Project roadways and the Project site as shown on the Applicant’s site-lighting plan referenced above.
- B.4. Any walls visible from Seekonk Street shall be constructed from fieldstone, or fieldstone veneer. No retaining wall shall exceed six feet height from finish grade.
- B.5. 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.

- B.6. All gas, electric, telephone, internet and cable utilities shall be installed underground, and the location of all utilities 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.
- B.7. Fire department approved fire hydrant locations shall be shown on the Final Plans.
- B.8. The ZBA's approval of the Final Plans pursuant to Condition A.3 shall start with a referral of the plan and documentation submittal to its Consulting Engineer, consistent with the documentation described in Section B.9. The ZBA's approval of the Final Plan shall be contingent upon the Consulting Engineer making the following findings:
 - a. the Applicant's fully-engineered site development plans, including all components of the stormwater management system, the condominium wastewater system(s), the common utilities system, and the preliminary leaching field size and siting for the single-family units, are in compliance with all applicable federal, state and local laws (excluding those that are waived herein) including, whether they are applicable or not, the state stormwater management standards, policies and guidelines set forth in 310 CMR 10.05(6)(k)(1)-(10) and the state Stormwater Management Handbook published by the state Department of Environmental Protection (DEP), Volumes I – III (the "SMR"), which in the event of any disagreement, compliance with the SMR may be demonstrated by issuance of an Order of Conditions or Superseding Order of Conditions for the Project;
 - b. the construction of the Project's roadways, buildings, structures, utilities and all other infrastructure is feasible and can be carried out in accordance with generally-accepted construction industry practices;
 - c. there is not a substantially better site development plan for the layout and configuration of lots, building, roads, utilities and other infrastructure on the Site than what is shown on the Approved Plan in schematic form and in the Final Plans submitted for review in detailed form: (i) for safer vehicular and pedestrian access, including emergency vehicle access, to and within the Site, (ii) greater protection of public health, safety, and natural resources, and (iii) to preserve open spaces. The Applicant shall submit to the ZBA and the Consulting Engineer all documentation customarily required to demonstrate compliance with the same, including but not limited to the state Stormwater Management Handbook, and any supplemental information that may be reasonably requested by the Consulting Engineer, consistent with the requirements of Section B.9. The Consulting Engineer shall make its determination within thirty (30) days of the Applicant's submission of the Final Plans

and any supplemental information that may be reasonably requested.

- B.9. The Final Plans submission from the Applicant shall include plan sheets that contain sufficient information and detail for the Consulting Engineer to make an informed decision, and shall at a minimum contain the same plan sheets as the Applicant's November 27, 2019 plan set. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor, a Registered (Civil) Engineer, the Registered Building Architect and the Registered Landscape Architect of record.
- B.10. The final submitted plans shall include a plan showing the layout of proposed erosion control devices during construction. 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"), if applicable; otherwise, these details shall be submitted to the Board with its proposed Final Plans. 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.
- B.11. The Final Plans shall include construction sequencing and management plans including, 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 construction sequencing plan may be incorporated in the SWPPP in connection with the Project's NPDES Permit (defined below), if required. The Applicants' construction sequencing plan may allow for and the Board does hereby permit, subject to satisfaction of the remaining pre-Construction Activity requirements, the Applicant to obtain all foundation permits (i.e. concrete construction only) and commence foundation construction prior to construction of 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.
- B.12. The Final Plans shall include a stormwater management system operation and maintenance plan which shall be referenced in the Condo Trust (defined below) and HOA Trust (defined below) documents.
- B.13. This Decision shall be noted on the endorsed Final Plans and both this Decision and the final site layout plan from the Final Plans shall be recorded at the Norfolk Registry of Deeds. Proof of recording shall be forwarded to the ZBA before issuance of a building permit.
- B.14. Before the Applicant begins any Construction Activities (defined above) it shall have satisfied the following additional pre-construction requirements:
 - a. At least fourteen (14) days before the start of Construction Activities, the Applicant shall provide notice to the ZBA and the direct abutters of the

anticipated construction start date.

- b. Obtained a National Pollutant Discharge Elimination System (“NPDES”) stormwater permit for the Project, if applicable.
- c. Received final approval from MassHousing and provided evidence of the execution and recording of a Regulatory Agreement to govern the affordability and profit limitation requirements set forth under Section D of this Decision or as otherwise required by the Subsidizing Agency.
- d. Recorded this Comprehensive Permit with the Norfolk Registry of Deeds, at the Applicant’s expense and provide proof of the same to the Board.
- e. Obtained all approvals from the Norfolk Board of Health and/or Massachusetts Department of Environmental Protection (“MassDEP”) that may be required under any statute, code or regulation affecting public health for the Condominium’s common on-site septic systems, not otherwise preempted by Chapter 40B or expressly waived under this Decision.
- f. Obtained a Water Connection Permit and Street Opening Permit for the Project from the Norfolk Department of Public Works, which approvals will be subject only to technical review of compliance with non-waived regulations;
- g. Obtained all approvals for the Project from the Norfolk Conservation Commission or MassDEP required under any statute, code or regulation under its jurisdiction not otherwise preempted by this Decision or Chapter 40B;
- h. Obtained the ZBA’s approval of the Applicant’s Construction Management Plan, which shall address the following topics at a minimum:
 - i. Hours of construction

Construction and installation of the roadway and municipal services shall only occur Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m., and Saturday 8:00 AM to 5:00 PM, and there shall be no construction activity on State or Federal holidays, provided that during the months of June through August, Construction Activities may continue until 7:00 p.m.
 - ii. Truck routes

number of truck trips
hours of operation for truck trips
size of and specification of trucks, and plans to mark truck with identification placards
 - iii. Trash and debris removal

- iv. Construction Phasing and Schedule (critical path)
 - timing and phasing of construction
 - site clearing; construction of roadways and utilities; buildings, etc.
- v. Communications
 - (Emergency Contacts)
- vi. Noise and Dust Control
 - Control Plan
 - Mitigation Measures
 - Monitoring
 - Reporting
 - Tree removal (chipping, etc.)
 - Public street cleaning and repair
- vii. Blasting (if necessary)
 - Blasting Plan
 - Identification of petitioner's blasting consultant (if required by Fire Chief)
 - Selection of independent blasting consultant (if required by Fire Chief)
 - Selection of blasting contractor
 - Pre- and post-blast survey (scope and content)
 - Insurance coverage
 - Blasting limits
 - Notification to all abutters, and abutters to abutters within 300 feet of the Project Site of blasting schedule a minimum of two weeks prior to blasting activities.
 - Road closures (if necessary)
 - School bus conflicts (limits on hours)
- viii. Construction Staging
 - Staging areas
 - Site office trailers
 - Storage trailers/containers
 - Open storage areas
 - Delivery truck holding areas
 - Re-fueling areas
- ix. Traffic and Parking (during construction)
 - On-site locations
 - Off-site locations
 - Snow removal

Police details
Warning signs

(the “CMP”);

B.15. Before the issuance of any building permit for the construction of any unit proposed for the Project (i.e. above-ground wood-frame construction) the Applicant shall satisfy the following requirements:

- a. Submit to the Building Inspector architectural plans for the unit to be constructed, 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. The Architectural Plans may vary from the Approval Plans based on market demand and market conditions.
- b. Obtain and file with the Board any additional approvals required for the septic system required to serve such unit under state or federal law, including but not limited to a Disposal System Construction Permit under Title 5 (310 CMR 15) for such proposed septic system(s). For the sake of clarity, all on-site sewage disposal systems shall be permitted and constructed in accordance with the requirements of Title 5. The Final Plans shall show the preliminary layout of the proposed individual septic systems that will serve each individual single-family home to be conveyed in the subdivision, which layout shall include a preliminary leaching field location and size, tank design, and associated piping. The Final Plans shall include permit ready design plans for the shared septic system intended to serve the duplex condominium units.

C. General Conditions

- C.1. 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). This Condition shall not prohibit an individual homeowner from renting their home for a term of three months or longer. Short term rentals (i.e., Air BNB) shall be prohibited.
- C.2. The Applicant shall be responsible for managing the installation, operation, and maintenance of all aspects of the Project until all units have been conveyed, except for the common roadway and associated drainage infrastructure, which shall be managed by the Applicant and its successors-in-title until such time as the same may be accepted by the Town of Norfolk as a public way. The operation and maintenance of common facilities associated with the duplex housing units within the Project shall be the responsibility of the condominium (“Condo Trust”) as provided herein. The Applicant shall establish a Condo Trust pursuant to G.L. c. 183A, to maintain and repair all common areas, including but not limited to the roads, stormwater management system, wastewater disposal systems, landscaping, and other improvements within the Site. The

Condo 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 occupancy permit as described below. At a minimum, the Condo Trust's Master Deed and rules and regulations shall provide for the following:

- (i) 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.
- (ii) The Condo 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.
- (iii) The Condo Trust shall be responsible for snow storage and disposal of snowfall that exceeds the capacity of the designated snow storage areas in the common Condominium areas. Snow shall not be stored or piled on top of septic systems and leaching fields.

- C.3. Any common facilities within the Project that are not otherwise managed by the Condo Trust, including the bus shelter, shall be managed by a homeowners association ("HOA") comprised of the remaining homes in the subdivision, which shall operate and maintain the remaining common facilities pursuant to the requirements applicable to the Condo Trust in Section C.2. The HOA shall be responsible for the maintenance of the stormwater management facilities that are outside the boundaries of the roadway right-of-way and outside the boundaries of the condominium parcel, but the Town of Norfolk may (but is not obligated to) perform whatever maintenance or repairs it deems necessary in its sole, subjective opinion. To this end, the Applicant shall convey an access easement to the Town of Norfolk in a form acceptable to Town Counsel.
- C.4. Street lights shall be provided on the proposed roadway as shown on the Site Plans, and within the layout of the right of way of the roadway. The street lights shall be perpetually maintained by the HOA with a separate electric meter.
- C.5. Pursuant to the List of Approved Waivers attached hereto as Exhibit A, the Applicant has requested and the Board has granted waivers from the Norfolk Zoning Bylaw and other local by-laws and regulations necessary to construct the Project as shown on the Approved Plans. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§ 20-23. The Applicant shall otherwise comply with any applicable bylaw or regulation in effect as of the date of the filing of this comprehensive permit application with the ZBA (September 5, 2017) that is not expressly waived herein.
- C.6. To the extent that additional waivers are subsequently determined to be required with respect to improvements that are otherwise shown on the Final Plans, such waivers shall be governed by 760 CMR 56.05(11), and can be granted administratively by the Board. Any subsequent substantial changes to 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).

- C.7. The Applicant shall copy the ZBA 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.
- C.8. 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.
- C.9. The provisions of this Decision 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 Property, this Decision 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.
- C.10. Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.
- C.11. The Applicant shall pay all fees typically imposed by the Town of Norfolk for single-family or multi-family construction projects, except as otherwise expressly waived by this Decision. The Applicant shall pay all required fees for all such building permits, including any fees customarily charged for inspections and permits, except as otherwise waived by this Decision. The Project shall conform to all requirements of the Norfolk Department of Public Works for utility connections, including the payment of all connection and service fees, unless waived hereunder.
- C.12. 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.
- C.13. If, at any time after the date of this Decision, the Applicant's subsidizing agency rescinds or revokes its project eligibility determination for the Project, this comprehensive permit shall be deemed null and void and have no further effect unless Applicant secures an alternative project eligibility determination letter.
- C.14. The Project's roadway shall be constructed pursuant to the road construction profiles shown in the Applicant's November 27, 2019 plan set and consistent with the road layout shown in the Approved Plan, subject to the conditions and waivers of this Decision regarding turn radii and other features and subject to any changes required by this Comprehensive Permit, including Section A.
- C.15. The Applicant may petition the Town of Norfolk to accept the Project's roadway as a

public way, in accordance with the following procedures. The Applicant shall submit to the Board an application for Determination of Completeness, which shall include the plans and documents required for the “final release of performance guarantee” under Section 3.4.6.2 of the Planning Board’s Subdivision Rules and Regulations, plus the following: (i) the fee set forth in Appendix (e) for acceptance of new roads (\$1,000 plus \$1/linear foot); (ii) Norfolk Good Standing form signed by the Town Treasurer, indicating that the Applicant has no outstanding financial obligations to the Town; (iii) draft deed for the conveyance of the road and utilities and easements approved by Town Counsel; (iv) evidence that the items on the Form K checklist have been completed in all material respects, to the extent applicable; (v) written evidence of construction completeness (road and utilities) from the Board’s peer review engineer; (vi) draft newspaper notice for the Board’s public hearing on the application, plus the newspaper publication fee; (vii) written evidence from Fire Department of compliance with state Fire Prevention Code; and (viii) Certificate of Compliance under state Wetlands Protection Act. Upon receipt of complete application, and after two weeks’ notice by publication, the Board shall convene a public hearing on the application and render a determination of completeness or incompleteness (See, Section 3.4.6.3). The roadway shall not be presented to the Board of Selectmen (road commissioners) or Town Meeting unless and until the Board has made a Determination of Completeness. The required As-Built Acceptance Plan shall conform to Section 3.4.7 of the Subdivision Rules and Regulations.

D. Affordability Requirements

- D.1. At least 25% of the units within the Project shall be made available for purchase by households whose aggregate income is no greater than 80% of the area median income, adjusted for household size, as published by the Department of Housing and Urban Development (“HUD”) for the Primary Metropolitan Statistical Area as determined by HUD (the “Affordable Units”) or as otherwise required by the Subsidizing Agency for the Project.
- D.2. Sale Prices. The initial sale prices for the Affordable Units shall be governed by the Chapter 40B Guidelines promulgated by DHCD and consistent with guidelines established by the Subsidizing Agency.
- D.3. Selection of Buyers for Affordable Units. The Applicant shall obtain the Subsidizing Agency’s approval of a Buyer Selection Plan for the sale of the Affordable Units prior to putting the Affordable Units on the market. Buyers shall be selected through a fair lottery process (the “Lottery”), acceptable to the Subsidizing Agency. The Board shall be provided with contact information for the Lottery Agent, be provided a copy of the buyer selection plan, and be notified of the scheduling of lotteries.
- D.4. To the maximum extent permitted by law and the Subsidizing Agency, first preference for the purchase of 70% of the Affordable Units shall be given to households that meet one or more of the following “Norfolk Connection” preference criteria:

- a. at least one member of the household is a legal resident of the Town of Norfolk at the time of the Affordable Unit lottery application deadline. A person shall be deemed a "Resident" if that person has been registered as a Norfolk resident with the Norfolk Town Clerk pursuant to G.L. c. 51, § 4 and would be considered a resident under the United States Census Bureau's residency guidelines;
 - b. Municipal Employees: Employees of the municipality such as teachers, janitors, firefighters, police officers, librarians and town hall employees;
 - c. Employees of local businesses, employees or businesses located in the municipality; or
 - d. Households with children attending Norfolk schools.
- D.5. The selection of purchasers for the Affordable Units, including the administration of the Lottery, shall be administered by a consultant retained by the Applicant, subject to the Subsidizing Agency's approval. The Lottery shall be implemented pursuant to a Lottery Plan developed by the lottery consultant and approved by the Subsidizing Agency. If acceptable to the Subsidizing Agency, disputes concerning income qualification and Norfolk Connection qualification shall be resolved in the first instance by the Monitoring Agent and a party aggrieved by qualification-related decision of the Monitoring Agent may appeal the decision to MassHousing for a final determination. The provisions of this section are intended to complement and not to supersede any applicable requirements of the Subsidizing Agency, fair marketing regulations of the Department of Housing and Community Development, the Massachusetts Commission Against Discrimination, MassHousing, or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.
- D.6. Phasing-in of Affordable Units. The affordable units shall be constructed on a schedule that provides substantially for the construction of at least one affordable unit for every three market-rate units, provided that under no circumstances may more than four (4) certificates of occupancy be issued for market rate units until at least one certificate of occupancy is issued for an affordable unit. 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. If an individual with a physical disability is a member of a household that has been selected to purchase an affordable unit through the lottery, the Applicant shall ensure that that unit is fully accessible under the Americans with Disabilities Act standards, at the Applicant's cost.
- D.7. Perpetual Affordability Restriction. Before the issuance of any occupancy permit, a Regulatory Agreement acceptable to the Subsidizing Agency shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) Affordable Units in the Project will be sold and resold subject to a Deed Rider acceptable to the Subsidizing Agency, and (b) the Project Owner's profit shall be limited to 20% of the total development cost of the Project as defined by the applicable

regulations of the Subsidizing Agency. The Deed Rider shall be attached to and recorded with the Deed for each and every Affordable Unit in the Project at the time of each sale and resale and the Deed Rider shall restrict each such affordable unit pursuant to this Decision in perpetuity.

- D.8. Nothing in this Section D shall supersede or alter the requirements of the Subsidizing Agency for this Project with respect to the matters described herein.

E. Project Construction

- E.1. The Applicant and the site general contractor shall attend a preconstruction conference with the Building Inspector, Town Planner, Consultant Engineer and other Town Department heads as the Building Inspector 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.
- E.2. The Applicant shall permit representatives of the ZBA to observe and inspect the Site and construction progress until such time as the Project has been completed. The Board or its appointed agents may conduct periodic inspections during the construction of the Project, to ensure compliance with the terms of this Decision and for consistency with generally-accepted construction and engineering practices for individual lot development, the installation of roadways, stormwater management facilities, utilities, and other common development infrastructure. Inspections during the construction phase shall be conducted at the expense of the Applicant, from funds deposited in the Escrow Account. The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the Project in accordance with the CMP. All units shall be clearly marked with signage at the frontage at the time of permit issuance.
- E.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.
- E.4. Construction activities shall be conducted in compliance with the town by-laws which state that 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. Such regulations shall also 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. Violations of this Section shall be subject to a fine of three hundred dollars (\$300) for each violation in accordance with applicable law.

- E.5. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. During construction, the Applicant shall provide means to secure the front entrance to the Site at appropriate times to protect against unauthorized entry or vandalism, 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.6. 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.
- E.7. 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.
- E.8. Gravel for roadways and soil material to be used as backfill for roadway construction shall be tested at the expense of the Applicant by a firm reasonably acceptable to the ZBA's Consulting Engineer. Testing of said backfill shall be performed in conformance with standards and frequencies reasonably established by the ZBA's Consulting Engineer. Protocols for installing subsurface utilities in conventional subdivision shall be complied with, except as specifically waived herein.
- E.9. The Applicant and its successors are responsible for the sweeping, removal of snow and sanding of the Project's roads and driveways permitting access to residents, emergency vehicles, and others during construction and until the roads have been formally accepted as public ways. The final coat of pavement on the roadways shall be installed after the binder course has endured a full winter season. The Applicant shall promptly clean any debris or dirt deposited on Norfolk streets as a result of the Project and shall periodically sweep adjacent streets as necessary to remove construction-related dirt and debris.
- E.10. Construction vehicles and vehicles of construction workers shall be parked on the Site, and off Seekonk Street at all times, unless otherwise authorized by a police detail.

- E.11. Blasting - Any rock blasting shall be performed by a licensed blasting professional, who shall first obtain all required permits from the Norfolk Fire Department. All blasting and removal of debris shall be performed in accordance with state regulations and local Fire Department requirements, and the Applicant shall provide evidence thereof to the Fire Chief.
- a. Selection of the Blasting Contractor. A blasting contractor, acceptable to both the Applicant and the Norfolk Fire Department, shall be selected after review of the qualifications of such contractor.
 - b. Independent Blasting Consultant. If required by the Fire Chief, an independent geotechnical-blasting consultant shall be selected and paid for by the Applicant, subject to the approval of the Norfolk 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 Norfolk Fire Department, determine the blast limits throughout the blast period, and shall consult with the Norfolk Fire Department as needed throughout the blasting period.
 - c. Pre-blast Survey. Before any blasting on the Site, the Applicant shall conduct a pre-blasting survey that shall include video-recording of the foundations of all direct abutters to the Project, and shall provide copies of that survey to the ZBA, Fire Chief and each abutter upon request.
 - d. Insurance Coverage. The blasting contractor shall carry comprehensive public liability insurance in the amount of not less than \$1,000,000 for property damage in respect of any one occurrence and \$2,000,000 aggregate. A certificate shall be submitted to the Norfolk Fire Department by the contractor documenting that the required coverage will be in force for the duration of the blasting at the site. If there is a general contractor or developer associated with the blasting, each shall carry a minimum of \$1,000,000 of comprehensive liability insurance.
 - e. Blasting Limits. The Commonwealth of Massachusetts blasting limits shall be observed. However, if, based upon the recommendation of the independent blasting consultant, the Norfolk Fire Department feels that a lower limit is necessary to protect the site and the abutting residential neighbors, that lower limit shall be in effect.
 - f. Notification. Not less than two weeks before the commencement of any period of blasting, the Applicant shall notify the immediate abutters within 200 feet of the blast area, stating when the blasting period shall begin. Notification under this provision and under any other provision in the Comprehensive Permit shall be by the following three methods: (1) phone or in person; (2) by email; and (3) by letter. Such notification shall include an explanation of the warning

procedures for blasting, including soundings. The Applicant shall send another letter notifying the same abutters that the blasting period has been completed. In addition, the Applicant shall notify the Fire Department 30 minutes before each blast, and a Fire Department detail is required for every blast, who shall be certified by the Fire Academy regarding the requirements of the state blasting regulation.

- g. No perchlorate shall be used during blasting at any time.
- E.12. Protection of Neighborhood Water Supply Wells – Prior to any blasting on the Site, the Applicant shall implement a Well Monitoring Plan and Protocol (“WMPP”). The WMPP shall measure the impact of any blasting on the quality or quantity of water in documented potable water wells of located within 800 feet of any blasting charges location. The WMPP must include notification of any property owner with a potable water well registered with the Norfolk Board of Health within 800 feet of anticipated blasting charge location(s) at least 30 days prior to any blasting activity. Notice must include a description of the anticipated blasting and clear guidance to well owners on process for requesting pre-blasting baseline well sampling. The Applicant shall be responsible for carrying out the WMPP for any such well owner that wishes to participate. If results of the WMPP indicate that the Water Well Performance Standard (“WWPS”) set forth below has been exceeded for any participating well owner, the Applicant shall, at its own expense and within 14 days of confirmation of an exceedance, be obligated to commence remediation, which shall either be the installation a new private potable drinking water well or providing a town water connection at the owner's option, which remediation shall be completed expeditiously..
- E.13. Water Quality – For those well owners participating in the WMPP, a baseline water quality sample shall be collected from each well and shall be submitted for laboratory analysis by a qualified independent laboratory for the following constituents: Alkalinity, Chloride, Color, Nitrate Nitrogen, Nitrite Nitrogen, Odor, pH, Sediment, Sulfate, Turbidity, Total Dissolved Solids, Perchlorate, Hardness, Arsenic, Calcium, Copper, Iron, Magnesium, Manganese, Radon, Sodium, Lead, Total Coliforms. This same water quality analysis shall be completed between 10 and 20 days after conclusion of all blasting activity on the Site. If requested by the well owner, additional water quality analyses shall be completed twelve (12) months after completion of all blasting activities. The costs for the water quality testing shall be borne by the Applicant. The data collected from the water quality testing shall be reported to the Board of Health within 15 days of completion of the chemical analysis. The WWPS for each constituent shall be the state drinking water standards, or in the absence of such standards, the federal Clean Water Act standards.
- E.14. Water Quantity – For those residences participating in the WMPP, a baseline 6-hour pump test production rate (or reasonable equivalent) shall be determined, either by installers records, Board of Health records, or by pre-blast testing. This same water quantity analysis shall be completed between 10 and 20 days following

the conclusion of all blasting activity on the Site. If requested by the well owner, additional water quantity analyses shall be completed twelve (12) months after completion of all blasting activities. The costs for the water quantity testing shall be borne by the Applicant. The data collected from the water quantity testing shall be reported to the Board of Health within 15 days.

- E.15. All proposed roadway and utility constructions, grading and appurtenant work shall be constructed pursuant to the Final Plans, consistent with the roadway construction designs shown in the Approved Plans. All proposed roadway and utility constructions, grading and appurtenant work shall continue to be described in complete detail to readily enable peer review and construction. A note shall be placed on each pertinent sheet of the Plans stating that the Project is the subject of a comprehensive permit under G.L. c. 40B, § 20-23, that the roads and ways within the Project in some cases may, and in other cases may not, conform to the standards and requirements of the Planning Board's Subdivision Rules and Regulations.
- E.16. The Applicant shall install vertical bituminous, concrete or granite curb at the edge of the paved surface between the road and the sidewalk to provide protection for pedestrians. Granite curb shall be provided at least at all Seekonk Street intersection radii. Granite curb inlets shall be installed at all catch basins located along the roadway curbing.

F. Open Space

- F.1. The land interior to the loop road designated on the Final Plan the "Open Space Parcel" shall remain in its natural vegetated state, except for (i) any temporary clearing, and grading necessary to construct the Project described in this Decision and as shown on the Approved Plan; (ii) any temporary construction-period staging and stockpiling of equipment or materials that the ZBA's Consulting Engineer confirms is unavoidable (meaning that there are no viable alternative locations for the same).
- F.2. Applicant shall execute and convey a perpetual conservation restriction encumbering the Open Space Parcel. The restriction shall be conveyed to the Norfolk Conservation Commission and shall be in form acceptable to the Town's counsel and eligible for perpetual enforcement. The Applicant shall convey the restriction at least prior to the issuance of the final certificate of compliance under the Wetlands Protection Act by the Conservation Commission for the roadway and related infrastructure, and at least prior the issuance of the 40th occupancy permit for residential units within the Revised Project. If the Conservation Commission declines to accept the restriction, then the restriction shall be conveyed to a land trust or non-profit organization acceptable to the Select Board. Alternatively, the Applicant may convey the fee in said restricted land for nominal consideration to the Conservation Commission or to acceptable land trust or non-profit organization provided that intent of this condition to preserve the land in its natural state in perpetuity is effectuated. The Applicant and its successor may maintain trees and vegetation within this area consistent with good forestry practices as approved by the Conservation Commission.

G. Public Safety and Fire Protection

- G.1. The Project roadway's entrance from Seekonk Street shall be as shown on the sight distance plans prepared by Phillip Cherry, P.E., WSP, dated February 11, 2020 (the "Sight Distance Plans"), which shifted the location of the roadway north by 32.5 feet in order to maximize sight distances.
- G.2. To maximize available sight distances at the intersection of the Project's roadway and Seekonk Street, the Applicant shall, prior to the issuance of the first building permit, clear vegetation within the Seekonk Street Right-of-Way in areas shown to be within the sight lines in front of the Project Site and in front of the properties located at 141 Seekonk Street, and 150 Seekonk Street. Specifically, all vegetation within the Right-of-Way shall be removed that is located within the sight lines for: (a) stopping sight distance, as shown on Sheet 1 of Sight Distance Plans; (b) intersection sight distance as measured from 10' and 14.5' from the edge of the paved surface of Seekonk Street as shown on Sheets 2 and 4 of said Plans; and (c) left-turn sight distance as shown on Sheet 5 of said Plans.
- G.3. Prior to removing vegetation within the Seekonk Street right of way under this condition, the Applicant shall notify the DPW and Police Department of its proposed scope of work and schedule for work, and shall perform all such work under the supervision of the DPW Director and in accordance with any direction or conditions of the DPW Director. If the Norfolk Police Chief determines that a police detail is required, the detail shall be provided at the Applicant's expense. Further, prior to performing any such work, the Applicant shall stake the boundaries of the Right-of-Way on the ground adjacent to 141 and 150 Seekonk Street, and shall subsequently notify the owners that the property boundaries have been staked and that trees, branches and other vegetation on the "street-side" of the boundaries may be removed pursuant to these conditions. The property boundaries shall be staked on the ground to conform to the survey plan prepared by Dunn & McKenzie, Inc. for the DPW dated January 3, 2020, which plan was submitted for the record. Prior to any tree removal within the right-of-way of Seekonk Street, the Applicant shall identify and tag all trees within the right-of-way that it determines must be removed to ensure adequate sight distances, or for any other reason.
- G.4. To maximize the "left turn" sight distance for vehicles travelling south on Seekonk Street, also known as "Case F" in the publication *A Policy on the Geometric Design of Highways and Street* published by the American Association of State Highway and Transportation Officials (AASHTO), the Applicant shall clear vegetation within the left turn sight line on the property known and numbered as 141 Seekonk Street, as shown on the plan prepared by Philip Cherry, P.E. dated May, 2020 and as described in Mr. Cherry's May 6, 2020 technical memorandum to the ZBA. After clearing, all stumps and other debris shall be removed off site, and the Applicant shall add a layer of loam and hydroseed. The Applicant shall prepare a sight line easement instrument and exhibit for this area within the Case F sight line on 141 Seekonk Street to be conveyed to the Town of Norfolk in a form acceptable to Town Counsel, and the Applicant shall obtain a signed and notarized easement from said owner of 141

Seekonk Street prior to the issuance of the first occupancy permit. Additionally, to compensate the 141 Seekonk property owner for the disturbance on its property, the Applicant shall install a 6-foot tall fence along the property boundary between 141 Seekonk Street and 143 Seekonk Street (outside of the sight line area).

- G.5. As recommended by Mr. Cherry in his February 11, 2020 letter to the ZBA (page 3), the Applicant shall install the following signs and lamps: (a) Speed Feedback Sign at a location approximately 450 south of the Project entrance facing northbound traffic; and (b) a “W1-10” sign to notify northbound Seekonk Street drivers of the location of Project intersection; and (c) a street light at the intersection of the Project roadway and Seekonk Street to ensure that Seekonk Street drivers can see vehicles turning in or out of the Project roadway during periods of low visibility or at night. The cost of the sign and lighting equipment and materials shall be borne by the Applicant. The specific types, forms, and models of said signs and street light and any related materials shall be subject to the approval of the DPW Director and the Police Chief. The Applicant shall coordinate the installation of the sign and shall perform all such work under the supervision of the DPW Director and in accordance with any direction or conditions of the DPW Director.
- G.6. Prior to the issuance of the first occupancy permit, the Applicant shall deposit the sum of \$25,000 with the Town of Norfolk in its G.L. c. 44, § 53A “gift fund” to be held in escrow to fund any future improvements that might further improve traffic safety on Seekonk Street in the area of the Property, including without limitation, additional brush clearing, pavement markings, speed humps, signage and the like, in the ZBA’s discretion in consultation with the Department of Public Works (“DPW”) and Chief of Police. If the funds are not spent within five years of the date of the issuance of the final occupancy permit for the Project, the funds shall be deposited into the Town’s sidewalk fund, as mitigation for additional traffic that will be generated by the Project.
- G.7. The numbering system and the identification of the dwelling units shall be subject to the approval of the Fire Chief and shall be shown on the Final Plans. Street names shall be subject to the approval of the Select Board.
- G.8. Pursuant to Fire Chief’s Memorandum to the ZBA dated May 21, 2019, prior to the commencement of Construction Activities the Applicant shall submit to the Consulting Engineer a full-engineered site plan signed and stamped by a registered professional engineer that provides a “swept path” analysis, demonstrating that all Norfolk Fire Department apparatus can successfully negotiate the proposed roads within the Project. See, 527 CMR § 18.1.1.3. Further, given the varying changes in topography from Seekonk Street to the proposed development, the plan shall also stipulate that no angle of departure issues are present which could damage fire apparatus.
- G.9. Pursuant to Fire Chief’s Memorandum to the ZBA dated May 21, 2019, prior to the commencement of any Construction Activities, the Applicant shall provide documentation that sufficient available water pressure and flow for fire protection purposes within the Project Site (“fire flow”) is available or can be achieved through pumps that the Applicant will install at its expense. All new hydrants shall be supplied

by a water main of a minimum size of either eight inches in diameter for dead-end mains or a minimum of six inches for circulating mains, and be capable of delivering a minimum 1,000 gpm fire flow at a residual pressure of 20 psi over and above average maximum demands at the farthest point of the installation. Refer to Mass Comprehensive Fire Safety Code Chapter 18.5. Proof of compliance with this requirement shall be provided to the Fire Chief and the Board prior to commencement of Construction Activities.

- G.10. Pursuant to the Fire Chief's Memorandum dated April 22, 2020, prior to the commencement of any Construction Activities, the Applicant shall demonstrate compliance with all of the state Fire Code sections itemized on the Norfolk Fire Department's Access and Water Supply Site Plan Checklist, which was submitted for the record.
- G.11. There shall be no on-street parking on any roadway or common driveway in the Project. Pursuant to General Laws Chapter 90, Section 18, this Comprehensive Permit authorizes the Town of Norfolk, through its Police Chief, to enforce this condition in addition to enforcement by the Condo Trust and Home Owner's Association as applicable.
- G.12. There shall be a minimum fire access width of 10 feet between all structures and between structures and the property boundary of the Site, as shown on the Approved Plans. Said areas shall be free of obstructions as shall be determined and enforced by the Fire Chief under the state Fire Prevention Code, consistent with the Approved Plans. This condition shall be referenced in the deed to each individual housing unit, and in the Condo Trust's Master Deed.
- G.13. The minimum driveway length for individual housing units shall be 19 feet as measured from the outermost point on the structure abutting the driveway to the closest street or sidewalk pavement. The Applicant shall obtain the Fire Chief's approval of hydrant locations throughout the Project.
- G.14. No building permit for above-ground building construction in the Project shall be issued until the base coat of pavement for the portion of the roadway serving that building and appropriate turn-around for fire apparatus has been installed. Notwithstanding the foregoing, the Applicant may apply for and obtain foundation permits pursuant to Section B.11 prior to the installation of the base coat of pavement, provided that the Applicant obtains written confirmation from the Fire Chief that the roadway in its current condition that provides access to the lots where foundation work is proposed is acceptable to the Fire Department for emergency vehicle access.
- G.15. In accordance with NFPA § 8.7.2.3, all underground water lines and hydrants shall be installed and operational prior to the issuance of any building permits for construction of combustible structures.

H. Surety & Covenants

- H.1. As security for the completion of the infrastructure related to the Project as shown on

the Final Plans, including, but not limited to, the roadway, sidewalks, parking areas and common areas, recreational areas, drainage facilities, utilities, landscaping, and any other specific infrastructure shown on the plans (the "Infrastructure"), the release of occupancy permits for all housing units and the sale of all housing units in the Project shall be subject to the following restrictions.

- a. Prior to issuance of a certificate of occupancy for any unit in the Project, the Applicant shall:
 - (i) Install: (1) all stormwater management infrastructure serving such unit; (2) the base and binder course for the Project roadway as shown on the Final Plans associated with such unit; and (3) all infrastructure and improvements described herein and as shown on the Final Plan so as to adequately serve said unit including any necessary temporary turn arounds for emergency access.
 - (ii) Submit the proposed Condo Trust (defined below) documents to the Board for review by the Board and Town Counsel to ensure consistency with this Decision.
- b. No more than half of the certificates of occupancy for the Project shall issue until:
 - (i) All the infrastructure and improvements shown on the Approved Plan (except the final coat of pavement on the roadway) shall be fully installed. The final coat of pavement shall not be installed until after the binder coat has endured a full winter season.
 - (ii) If, in Applicant's reasonable judgment, weather circumstances preclude the installation of plantings to complete landscaping before the issuance of the final occupancy permit, the Applicant shall post a bond or a deposit with the ZBA an amount equivalent to 1.5 times the reasonably expected cost of the plantings to ensure completion by the Applicant as soon as weather allows, and in no event later than the first growing season following the issuance of the final certificate of occupancy.
- c. Prior to the issuance of the final certificate of occupancy, the Applicant shall submit to the Board an "As-Built Plan" in paper and CAD format, showing all pavement, building locations, stormwater management structures and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. The plans shall be signed by a registered land surveyor and civil engineer, certifying that the Project as built conforms and complies with the conditions of this Comprehensive Permit. The purpose of this provision is to facilitate the Consulting Engineer's review of the Project

for compliance with this Decision before the final occupancy permit is issued. Elevations must be to a known datum (NAVD 1988). The Applicant shall also submit to the Building Inspector as-built plans for all buildings in the Project. An accurate as-built utilities plan and profile, showing actual in-ground installation of all utilities, shall be submitted to the Department of Public Works after completion of construction.

- H.2. The Applicant may propose a Tri-Party Agreement with its construction lender as an alternative means of providing security for the completion of the Project's infrastructure. The ZBA's engineering consultant shall review the construction costs and recommend adjustments based on best practices and prevailing wage recruitments. Any such agreement shall be subject to legal review by the ZBA's counsel, and subject to the ZBA's approval.
- H.3. Prior to the commencement of Construction Activities (defined above), the Applicant shall post cash, a bond or enter into a Tri-Party Agreement with its construction lender in the amount of \$25,000 to provide surety to the Town in the event that the Project Site is disturbed, cleared, grubbed, etc. and abandoned in a state with insufficient erosion control, site stabilization or interim stormwater management. The surety shall be released by the Board upon completion of the roadway to base gravel course and all other Infrastructure (or posting of financial surety for the completion of the roadway and infrastructure).

I. Water, Wastewater, Utilities

- I.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, except as waived.
- I.2. Utilities shall be installed underground by the Applicant (or applicable utility service provider) using methods standard to those installations. Utilities shall be defined as electric service lines, gas, telephone lines, water service lines, CATV lines, municipal conduit and the like.
- I.3. The Applicant shall maintain and repair the drainage structures and stormwater management system within the Project Site until such time as the Applicant transfers title to the roadway and infrastructure to the Town.
- I.4. Snow shall not be stored or piled on top of septic systems and leaching areas

J. Amendments

- J.1. Any proposed amendment to this Decision or substantial change to the Approved Plans shall be governed by 760 CMR 56.05(11).
- J.2. No structure constructed under this Comprehensive Permit shall be altered, reconstructed, extended, or changed unless authorized by the ZBA by a special permit pursuant to applicable sections of the Zoning Bylaws, as may be amended. Upon such

an application for a special permit, the ZBA shall determine, in the first instance, whether such alteration, reconstruction, extension or change is “substantial” or “insubstantial.” An alteration to a residential structure shall generally be presumed to be an insubstantial change to this Comprehensive Permit. For all special permit applications for such insubstantial changes, the ZBA shall employ the standards of review set forth under Section F.4 of the Zoning Bylaw pertaining to changes to pre-existing, nonconforming structures, as may be amended. Requests for substantial changes shall be treated as requests to amend this Comprehensive Permit. Notwithstanding the foregoing, this Paragraph shall not apply to the original construction of structures by the Applicant, but shall only apply to subsequent alteration, reconstruction, extension, and change to such structures.

- J.3. The terms alteration, reconstruction, extension, and change shall have the same meaning under the Massachusetts Zoning Act, G.L. c. 40A, § 6 as applied under the Norfolk Zoning Bylaws.

K. Expiration Date

- K.1. If Construction Activities authorized by this Comprehensive Permit have not begun within three (3) years of the date on which the permit becomes final, the permit shall lapse. The permit shall become final on the date that the written decision is filed in the office of the town clerk if no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of. Extensions may be issued by the Board upon written request by the Applicant pursuant to 760 CMR 56.05(12)(c).

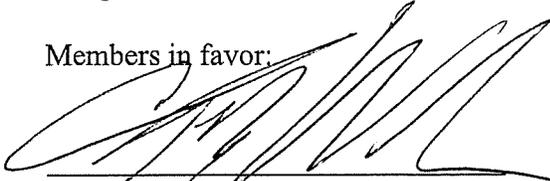
VI. APPLICANT’S REQUESTED WAIVERS

The Applicant has requested waivers from the By-Laws of the Town of Norfolk, the Town of Norfolk Zoning Bylaws, the Rules and Regulations Governing the Subdivision of Land, and other local rules and regulations. The Applicant’s requested waivers are set forth in its Application, as supplemented through the public hearing process. The ZBA’s grant of waivers shall be subject to the terms and conditions imposed by this Decision, and to the extent that any waiver is inconsistent with a term or condition set forth elsewhere in this Decision, such term or condition shall govern. No grant of any waiver shall be deemed to waive compliance with any condition of approval of this Decision.

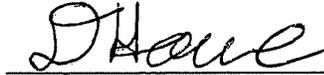
VII. RECORD OF VOTE

The Board of Appeals voted 5-0 at its public meeting on August 19, 2020, to grant a Comprehensive Permit subject to the above-stated Conditions, with this decision as attested by the signatures below.

Members in favor:



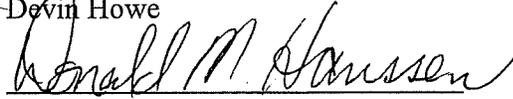
Christopher Wider



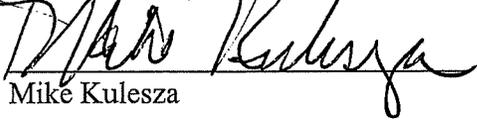
Devin Howe



Joe Sebastiano



Don Hanssen



Mike Kulesza

Dated : September 23, 2020

Filed with Town Clerk on _____, 2020

Town Clerk

Notice: Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, § 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.

2020 SEP 24 PM 12: 24

TOWN CLERK
NORFOLK

Applicant: Lakeland Hills, LLC
Project: Lakeland Hills

LIST OF WAIVERS

Lakeland Hills

The Applicant has requested waivers from the General By-Laws of the Town of Norfolk, the Town of Norfolk Zoning Bylaws, the Rules and Regulations Governing the Subdivision of Land, and other local rules and regulations. The Applicant's requested waivers were set forth in its Application, as supplemented through the public hearing process. The ZBA's grant of waivers shall be subject to the terms and conditions imposed by this Decision, and to the extent that any waiver is inconsistent with a term or condition set forth elsewhere in this Decision, such term or condition shall govern. No grant of any waiver shall be deemed to waive compliance with any condition of approval of this Decision.

*Applicant: Lakeland Hills, LLC
Project: Lakeland Hills*

A. BY-LAWS OF THE TOWN OF NORFOLK (UPDATED THROUGH MAY 10, 2016, AS AMENDED (GENERAL BYLAWS))				
BY-LAW/REG.	TITLE	DESCRIPTION	REQUESTED	DECISION
Article VII Section 1	Earth Removal Bylaw	Earth Removal Requirements	Earth Removal Application, Permit, Fees, Bonds, Procedures, Requirements. No earth shall be removed from any parcel of land or contiguous parcels under common ownership within the Town to another parcel either within or without the Town without a special permit except as otherwise provided in Section 1.B.1. A special permit for removal of 500 or more cubic yards of earth may be granted by the Board For projects requiring subdivision approval, site plan approval or a special permit from the Planning Board, the earth removal permit shall be considered and approved as a component of the subdivision approval, site plan or special permit. No separate earth removal permit is necessary.	Waived. To be governed by Comprehensive Permit Decision.
Article VII Section 2	Wetlands Protection Bylaw Town of Norfolk and Wetlands Protection Regulations	The Wetland Protection Bylaw and Regulations protect wetland resource areas to a greater degree than the state Wetlands Protection Act (the "State Act"), specifically, by regulating activity within 100 feet of a wetland resources area (the "100-foot Buffer").	Procedures, jurisdictional requirements, applications, fees, costs, regulations, policies and enforcement	The Bylaw and Regulations are Waived and the Project shall comply with requirements of the State Wetland Protection laws, except that the procedural requirements of Section 9 and Sections 14(1-4) of the Regulations governing peer review and submission requirements shall be applied to any applications filed with the Conservation Commission under the State Wetlands Protection Act. Fees for Project review under the Bylaw and Regulations are waived, but the Applicant shall pay an application fee for its Notice of Intent under the Act.

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Project: Lakeland Hills*

Article VII Section 4	Scenic Road Bylaw	Tree removal	Public hearing and written consent.	Waived, if applicable, subject to the conditions in this Comprehensive Permit Decision. See, Condition G.3.
Article VII Section 5 See also, Subdivision Regs Sections 5.12 6.6.21	Street Lighting	Street light electricity funding.	Payment of 300 months of electricity for street lights.	Waived, subject to the conditions in this Comprehensive Permit Decision.
Article VII Section 7	Post-Construction Stormwater management	Storm-water hearing, plan, inspections and permit.	Storm water permit	Waived, provided that stormwater management will comply with MassDEP's Stormwater Management Regulations, handbook and related technical guidance, as provided in this Decision, and will also be managed under a US EPA – NPDES Stormwater Construction General Permit (CGP) for Massachusetts. Further, this comprehensive permit decision requires ZBA review and approval of final stormwater management plans and calculations prior to construction.
Article VII Section 8	Property Stabilization Bylaw	To protect against erosion and sedimentation, and to limit adverse impacts to adjacent properties.	All properties that have been cleared of trees, shrubbery, grass, topsoil and/or any other natural features shall be considered an "Unstabilized Property" which shall require a special permit under this by-law if such property remains in an unstabilized state for more than 60 days. This By-law shall apply to all Unstabilized Properties even if such property is the subject of a permit for construction, earth removal, improvement or alteration of any type.	Waived, subject to the conditions of this comprehensive permit decision.

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Article VII Section 10	Trench Safety	Permit	Permit fee	Waived. To be governed by the Comprehensive Permit Decision and OSHA.
Article IX	Signs	Temporary Signs	Permit required.	Waived, provided that one (1) temporary non-illuminated construction sign of no more than thirty-two (32) square feet, and such construction sign must be located in an area which will not obstruct sight lines, as approved by the Building Commissioner, such construction signs to be permitted for a period of time from the commencement until completion of construction.
Article X Section 26	Police Regulations	Driveway Permits	No driveway or other access to a public street shall be constructed or altered at the point of intersection with such street unless a written permit is first obtained from the Highway Superintendent. No building permit shall be issued for the construction of a new building or structure unless such access permit has first been obtained.	Waived, subject to the conditions of this Comprehensive Permit Decision.

*Applicant: Lakeland Hills, LLC
Project: Lakeland Hills*

B. TOWN OF NORFOLK ZONING BYLAWS, AS AMENDED THROUGH MAY 9, 2017, AS AMENDED ("ZONING BYLAW")				
<u>BY-LAW/REG.</u>	<u>TITLE</u>	<u>DESCRIPTION</u>	<u>REQUESTED</u>	<u>DECISION</u>
Section D, Subsection D.1, including D.1.d.	Use Regulations	Basic Requirements and Conformity with Zoning Bylaw.	All applicants for new Residential Dwellings ... hereinafter constructed shall be prohibited from cutting down certain trees within specified distances except as permitted by the Building Commissioner. Permitted uses and uses allowed by the PERMIT GRANTING AUTHORITY shall be in conformity with all dimensional requirements, off-STREET parking requirements, and any other pertinent requirements of this bylaw.	Waived, subject to the conditions of this Comprehensive Permit Decision.
Section D Subsection D.2	Use Regulations	Uses Allowed Within an R-3 Zoning District	D.2.c.1. SINGLE FAMILY DWELLING	Waived, subject to the conditions of this Comprehensive Permit Decision.
Section D Subsection D.3	Watershed Protection District	Conditions or Prohibits Uses within the Watershed Protection Overlay District	Conditions or Prohibits Uses and activities within the Watershed Protection District which includes all streams, brooks, rivers, ponds, lakes, named or unnamed, and other bodies of water shown on the plan entitled "Norfolk, Massachusetts, Planimetric Survey", dated 1964, prepared by New England Survey Services, Inc., Civil & Consulting Engineers, Boston, Mass (scale 1"= 2000') prepared under the direction of the Board of Assessors and used as a base plan for the assessors maps revised through the fiscal year 2002 and kept on file with the Norfolk Board of Assessors.	Waived if applicable, and subject to the conditions of this Comprehensive Permit Decision.

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Section D	Aquifer and Water	Conditions or Prohibits Uses	Conditions or Prohibits Uses and	Waived if applicable, and subject to the conditions of this Comprehensive Permit Decision.
Section D.5.a	FLOOD PLAIN - WETLANDS PROTECTION DISTRICT	Requirements within District.	Standards and requirements.	Waived if applicable, and subject to the conditions of this Comprehensive Permit Decision.
Section E Subsection E.1.a	Intensity Regulations	Basic Requirements	E.1.a. No BUILDING or STRUCTURE hereafter erected in any district shall be built, located or enlarged on any LOT which does not conform to the minimum requirements of this bylaw. No existing LOT shall be changed as to size or shape so as to result in a greater violation of the requirements set forth below.	Waived, subject to the conditions set forth in this Comprehensive Permit Decision.
Section E Subsection E.1.b	Schedule of Dimensional Requirements	E.1.b. Schedule of Dimensional Requirements	The following are the required dimensional provisions for a building located within the R-3 Zoning District: --Min Lot Size (s.f.) = 55,000 --Min. Frontage (in feet) = 200 --Required Circle (in feet) = 200 --Min Yard Setback (in feet) • Front = 50 • Side = 25 • Rear = 25 --Max Lot Coverage = 25% --Max Building Height 2.5	Waived to the extent the Site Plans depict lots for a SINGLE FAMILY DWELLING which does not comply with the dimensional requirements under Section E.1.b. Waived. As per Site Plans. Waived. As per Site Plans.
				Waived, provided that the buildings on single-family lots on the Site shall conform to the following dimensional

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			<p>criteria: The individual house lots shall comply with the following dimensional requirements:</p> <p>Min Lot Size (sf.) = 7,500</p> <p>Min frontage (in feet) = 80'</p> <p>Required Circle is Waived</p> <p>Min Yard Setback (in feet)</p> <ul style="list-style-type: none"> • Front = 20' • Side = 10' • Rear = 20' <p>Max Lot Coverage: No building shall have a footprint exceeding 5000 sf</p> <p>--Max Building Height = 38 Feet</p>
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Section E Subsection E.1.c	Lot Width, Frontage and Setback Line	Specific requirements.	<ul style="list-style-type: none"> Section E.1.c.2 -- The LOT width cannot be less than the required FRONTAGE, and shall be maintained from the FRONTAGE line to the front setback line. No LOT shall be narrower than fifty (50) feet at any point between the FRONTAGE and the rear of the DWELLING. E.1.c.4. The REQUIRED CIRCLE (i.e., A circle with a diameter equal to the required FRONTAGE.), must fit entirely within the LOT No LOT shall be narrower than the required FRONTAGE between the FRONTAGE line and the REQUIRED CIRCLE. E.1.c.5. The front LOT LINE must be located so as to be able to provide primary access to a LOT and the access to a LOT shall be from where the FRONTAGE is measured. 	Waived, to allow the lot configuration and layout shown on the Approved Plans and subject to the conditions set forth in this Decision.
Section E Subsection E.1.e.	Build Factor	Build Factor	<p>A ratio of LOT perimeter to LOT area which limits the degree to which a LOT may have an irregular shape according to the following formula described in Section E.1.a</p> <p>The maximum allowed is 20.</p>	Waived, to allow the lot configuration and layout shown on the Site Plans and subject to the conditions set forth in this Decision.

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B. TOWN OF NORFOLK ZONING BYLAWS, AS AMENDED THROUGH MAY 9, 2017, AS AMENDED ("ZONING BYLAW")				
<u>BY-LAW/REG.</u>	<u>TITLE</u>	<u>DESCRIPTION</u>	<u>REQUESTED</u>	<u>DECISION</u>
Section E Subsection E.1.f.	Continuous Buildable Lot Area	Lot Area Minimum Contiguous Area	At least 60% of minimum LOT AREA shall be contiguous, exclusive of any STREET, of floodplain or wetlands defined under local wetlands bylaw and State Wetlands Protection Act, with the STRUCTURE to be built on such designated contiguous land area.	Waived. LOTS are to be generally as depicted on the Approved Plans.
Section E Subsection E.2.b	Corner Lots or Through Lots	Requirements for Corner Lots or Through Lots	A corner or through LOT shall maintain minimum front YARD setback requirements for each STREET FRONTAGE.	Waived to the extent the Approved Plans depict LOTS which do not comply with the requirements under Section E.2.b.
Section F Subsection F.1	General Regulations	Basic Requirement	All BUILDINGS or STRUCTURES hereinafter constructed, reconstructed, altered, enlarged, or moved, or use of all premises in the Town of Norfolk shall be in conformity with the provisions of this bylaw.	Waived, subject to the conditions in this Comprehensive Permit Decision.
Section F Subsection F.9	Signs	Basic Requirements	<p>--F.9.a.14. No subdivision SIGN, where permitted, shall be erected upon property belonging to the Town of Norfolk, nor on any STREET right of way. A special permit for such a SIGN shall be limited to two years from the date of issuance. Renewal of the Special Permit for an agreed upon duration may be granted after presentation of justification by the APPLICANT.</p> <p>--F.9.b.1.c.6. A residential subdivision shall be permitted one freestanding SIGN bearing the name of the subdivision and not exceeding 8 sq. ft. per side.</p>	<p>The dimensional requirement is waived, provided that the final design and specifications for the proposed sign shall be subject to the Board's approval. The Applicant shall submit a design proposal to the Board prior to the completion of the Project, and the Board shall render a decision within 30 days.</p>

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Section F Subsection F.11	Site Plan Approval	Thresholds, determinations and exemptions from site plan approval requirements.	Thresholds, determinations and exemptions from site plan approval requirements.	Waived. To be governed by the Comprehensive Permit Decision.
Section G Subsection G.2	Building Permit	Preconditions to Building Permit issuance	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 Zoning Bylaw or with a decision rendered by the Board of Appeals.	Waived only to the extent that the Bylaw requires buildings to comply with the Zoning Bylaw, where provisions of the Zoning Bylaw have been waived in the Decision. Constructed buildings shall comply with the Zoning Bylaw, except those provisions waived in this Decision, and shall comply with the conditions of this Decision. All other provisions of Section G.2 shall apply to the Project.
Section G Subsection G.3	Certificate of Occupancy	Conditions regarding Certificate of Occupancy	A certificate of occupancy shall state the STRUCTURE and use of STRUCTURE and land comply in every respect with the provisions of the Building Code and/or the Zoning bylaw of the Town of Norfolk in effect at the time of issuance. A Certificate of Occupancy shall be conditional on the maintenance of full compliance with the provisions of the Zoning Bylaw in effect at the time of issuance, or with restrictions imposed in decision of the Board of Appeals, and shall lapse if such compliance fails.	Waived only to the extent that the Bylaw requires buildings to comply with the Zoning Bylaw, where provisions of the Zoning Bylaw have been waived in the Decision. Constructed buildings shall comply with the Zoning Bylaw, except those provisions waived in this Decision, and shall comply with the conditions of this Decision. All other provisions of Section G.3 shall apply to the Project.

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C. TOWN OF NORFOLK PLANNING BOARD RULES AND REGULATIONS FOR SUBDIVISION OF LAND AND FOR SITE PLAN APPROVAL AND SPECIAL PERMIT RULES AND REGULATIONS, Last Amended SEPTEMBER 16, 2010					
<u>REGULATION</u>	<u>TITLE</u>	<u>DESCRIPTION</u>	<u>REQUESTED</u>	<u>DECISION</u>	
Section 3.0 Subsection 3.3.2.21	Impacts Studies and Assessments	Preparation of Impact Studies and Assessments as directed by the Board.	Preparation of Impact Studies and Assessments as directed by the Board.	Waived, subject to the conditions set forth in this Decision.	
Section 3.0 Subsection 3.3.2.23.2	Traffic Impact Analysis	Traffic Impact Analysis	Preparation of traffic Impact Analysis based upon scope described in Regulations.	Waived. The Applicant provided a traffic impact analysis which the ZBA accepted as adequate for this Project following review by its technical consultant.	
Section 3.3.5 Subsection 3.3.4.1	Procedure	Review	Board of Health Report on Subdivision	Waived.	
Section 3.3.5 Subsection 3.3.5.5	Approval or Disapproval	Approval or Disapproval	Approval or Disapproval of Definitive Subdivision Plan	Waived.	
Section 4.0 Subsection 4.1.1	General Requirements and Design Standards	General Requirements and Design Standards	Requires compliance with Design Standards under Sections 4.0, 5.0 and 6.0	Waived, subject to the conditions set forth in this Decision.	
Section 4.0 Subsection 4.9.2	Watercourses	Streams and Watercourses	To be provided with emergency /maintenance access easements .	Waived, subject to the conditions set forth in this Decision.	
Section 4.0 Subsection 4.9.4	Trees	Tree Planting Requirements	Tree Planting Requirements	Waived, subject to the conditions set forth in this Decision.	

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Section 4.0 Subsection 4.12.1	Trees	Tree Removal	Prior to 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 a site plan to be reviewed by the Board.	Waived, subject to the conditions set forth in this Decision. See, Condition F.2.
Subsection 14.1	Arrangement	General Roadway Layout	Maximum length of straight segment of residential street shall be 500 feet. Street layouts shall provide for extensions onto adjoining land.	Waived, provided that Final Plans are consistent with Approved Plans. Waived to prohibit extension of ways onto adjoining property.
Subsection 14.2	Access to Primary Streets and Through Streets	Access and Through Streets	No offsets between intersections less than 350 feet. Two points of access required.	Waived to allow one point of access for a subdivision containing 25 or more lots.
Subsection 14.3	Reconstruction of Adjacent Public Ways	Improvements to area roads	Remedial measures to be taken to improve area traffic safety	Waived, subject to the conditions set forth in this Comprehensive Permit Decision.
Subsection 14.5	Reverse Curves	General Roadway Layout	Minimum straight section of 150 feet between, to be addressed on a case by case basis.	Waived, subject to the Conditions in this Comprehensive Permit Decision.
Subsection 14.6	Right of Way Widths and Alignments	General Roadway Layout	Design speed; Minimum Widths; Minimum Radii; Minimum Stopping Sight Distance; Minimum Intersection Sight Distance; Minimum Intersection Spacing; Minimum Grade; Maximum Grade	The minimum roadway curb-to-curb width is waived to 24 feet, and the minimum right-of-width is waived to 40 feet. Maximum roadway grade shall be 10%. The remainder of Subsection 14.6 is not waived.

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Subsection 14.7.3-5	Intersections	Sight Distances	Sight Distance Requirements for Major Intersections	Waived, subject to the conditions set forth in this Comprehensive Permit Decision.
Subsection 14.1.1-12	Sight Distances	Sight Distance Requirements	Local Sight Distance Requirements	Waived with respect to the Project roadway intersection at Seekonk Street only. The requirements of these sections shall apply to the Project roadway within the Site.
Section 4.0 Subsection 4.15	Slopes	Slopes of Excavated Cuts	Excavated cuts shall have a minimum slope of 3:1.	Waived, provided that slopes that are steeper than 3:1 grade shall be designed by a Massachusetts registered civil engineer with suitable reinforcement to prevent erosion. Slopes shall not exceed 2:1.
Section 4.0 Subsection 4.17	Street Cross-Sections	Street Cross-Section Standards	Requires cross-sections to be drawn at 50 foot stations and at all proposed culverts at a scale of 8 feet to the inch.	Waived, final plans to be consistent with November 2019 plan set details.
Section 4.0 Subsection 4.18	Walkways on Existing Roadways; Widths	Walkways on Existing Roadways; Widths	Design Standards	Waived, subject to the conditions set forth in this Comprehensive Permit Decision.
Section 4.0 Subsection 4.19	Stormwater Management System	Stormwater Management System	Stormwater Management System requirements.	Waived, subject to the conditions set forth in this Decision.
Section 5.1.1-2	Basic Requirements	Basic Requirements	Basic Requirements	Waived, subject to the conditions set forth in this Comprehensive Permit Decision.
Section 5.1.4	Staking	Operations & Maintenance	Construction means and methods	Waived, provided that Applicant complies with its construction operations and maintenance plans.
Section 5.2.1	Streets & Roadways	Minimum Widths and Depths of Roadways	Prescribing Minimum Widths and Depths	Waived to allow a 24' paved surface width, and a 40' wide ROW, but the remainder of this

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					Section shall apply to the Project.
Section 5.2.2	Clearing and Grubbing	Operations & Maintenance	Construction Means and Methods	Waived, subject to the Conditions in this Comprehensive Permit Decision.	
Section 5.2.3	Excavations	Earth Removal	Construction Means and Methods	Waived subject to the conditions in this Decision.	
Section 5.2.4	Embankments	Embankment requirements		Waived, as to all lot construction, provided that the work is designed by a Massachusetts registered civil engineer. Denied, as to any common areas with potential for acceptance as public roadway.	
Appendix A	Supplemental Requirements	Fees – Earth Relocation / Removal	Fees and Permits and other Requirements.	Waived as these Fees and Permit Requirements are subsumed within this comprehensive permitting process per Chapter 40B, except that the fee for review of street acceptance plans shall apply (1,000, plus \$1 per linear foot), and the Applicant shall pay the Board's reasonable peer review and inspections costs for reviewing the street prior to its submission to Town Meeting for acceptance.	
Appendix B	Forms	Forms	Completion and / or filing	Waived as these Forms are subsumed within this comprehensive permitting process per Chapter 40B. Forms K, L and M shall be used as a reference.	
Appendix C	Typical Cross Sections	Typical Cross Sections	Typical Cross Sections	Waived, subject to the conditions set forth in this Comprehensive Permit, and the Final Plans containing the same level of detail as the November, 2019 plan set.	

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Appendix D	Typical Details / Figures	Design details and figures	Compliance	Waived, subject to the conditions set forth in this Comprehensive Permit, and the Final Plans containing the same level of detail as the November, 2019 plan set.
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D. TOWN OF NORFOLK BOARD OF HEALTH RULES, REGULATIONS, GUIDANCE, POLICY AND GUIDELINES				
REGULATION	TITLE	DESCRIPTION	REQUESTED	DECISION
Regulations	Regulations for Project Plan and Subdivision Approval	Submittal requirements and fees.	Requirements and fees.	Waived. The Board of Health review process is subsumed within this comprehensive permitting process.
Regulations	Norfolk Board of Health Regulations – Design, Operation and Maintenance of Small Wastewater Treatment Facilities (September 30, 1992).	Design operation and maintenance requirements.	Design operation and maintenance requirements.	Waived. To be governed by State Title 5 Regulations.
Regulations	Norfolk Board of Health Regulations – On-Site Sewage Disposal Regulations	Design operation and maintenance requirements.	Design operation and maintenance requirements.	Waived as to the individual septic systems serving the single-family house lots, and Denied as to the shared septic system serving the condominium, except as provided below.
Regulations	Norfolk Board of Health Regulations – On-Site Sewage Disposal Regulations	Section III.1	Allow groundwater levels to be determined for septic system design at any time of year. Waive all submittal, and approval requirements to the Board of Health where this project is being permitted pursuant to G.L. c 40B and will be subject to a comprehensive permit issued by the Zoning Board of Appeals and apply standards of 310 CMR 15 (Title V).	Waived. To be governed by State Title 5 Regulations.

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Regulations	Norfolk Board of Health Regulations – On-Site Sewage Disposal Regulations	Section III.2	Waive plan requirements for showing road crown and gutter elevations and final elevations at 4 corners of each building, whereas this project is a condominium and it is impractical to show all of these elevations at each unit.	Waived. To be governed by State Title 5 Regulations.
Regulations	Norfolk Board of Health Regulations – On-Site Sewage Disposal Regulations	Section III.3	Waive statement requirement (Engineer will place this statement on as-built plan "I HEREBY CERTIFY THAT THE SUBSURFACE DISPOSAL SYSTEM HAS BEEN CONSTRUCTED IN COMPLIANCE WITH 310 CMR 15.000, THE APPROVED DESIGN PLANS AND THAT ANY CHANGES TO THE DESIGN PLANS HAVE BEEN REFLECTED ON THE AS-BUILT WHICH IS HEREBY BEING SUBMITTED TO THE NORFOLK BOARD OF HEALTH".	Waived. To be governed by State Title 5 Regulations.
Regulations	Norfolk Board of Health Regulations – On-Site Sewage Disposal Regulations	Section III.5	Waive requirement for septic system design for new homes to accommodate a garbage grinder; no garbage grinders are proposed in the system design.	Waived. To be governed by State Title 5 Regulations
Groundwater Supply Protection Regulations	Groundwater Supply Protection Regulations (Revised August 10, 1988)	Regulations and requirements.	Regulations and calculations, including a groundwater impact report, related to septic system nitrate loading.	Waived, subject to the conditions set forth in this Decision.

*Applicant: Lakeland Hills, LLC
Project: Lakeland Hills*

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E. TOWN OF NORFOLK FEE, BOND, SECURITY OR OTHER REQUIREMENTS			
REGULATION	TITLE	DESCRIPTION	REQUIRED
Zoning Board of Appeals	Town of Norfolk Comprehensive Permit Rules of the Zoning Board of Appeals For Application of Comprehensive Permits, as amended (Section 7 of Article II, Norfolk Zoning Board of Appeals "Organization, Rules and Procedures") (the "Local Rules")	Substantive, Procedural and Fee Requirements for Comprehensive Permit Projects.	Section 7(b)(1) requires 20 copies of the complete application be submitted to the Zoning Board of Appeals.
			PROPOSED Waived. Applicant has provided, as requested, 10 sets of application materials, two sets of full-sized plans, and one electronic version of the Application materials, as well as such additional requests to additional copies of all or a portion of the Application materials as may be reasonably requested to expedite review of the Project.