

**DRAFT – REVISED BY APPLICANT TO INCLUDE APPLICABLE PROVISIONS
OF 59 NORTH MAIN TEMPLATE**

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

Applicant: Baystone Sherborn, LLC (“Applicant”)

Development Name: Coolidge Crossing

Application For: Comprehensive Permit under G.L. Chapter 40B, §§20-23
for the construction of a 120-unit rental housing community
and accessory amenities at 84 and 86 Coolidge Street,
Sherborn (the “Site”)

Property Address: 84-86 Coolidge Street, Sherborn, MA

Assessor’s Map: Portions of Map 5, Parcel 54 and Map 5, Parcel 55

Board of Appeals: Chair: Richard S. Novak
Members: Ron Steffek and Jonathan Fitch
Voting: Richard S. Novak, Ron Steffek and Jonathan Fitch

Date: June __, 2021

For the reasons stated below, the Sherborn Zoning Board of Appeals approves with conditions the application of Baystone Sherborn, LLC, for a Comprehensive Permit for the Project, which consists of one hundred twenty (120) rental units of housing, accessory clubhouse, surface parking to such residential use, and such customary accessory uses as depicted on the approved plans of record, pursuant to the Massachusetts Comprehensive Permit Law, G.L. c. 40B, §§20-23 (hereinafter, "Chapter 40B" or the "Act"), the regulations promulgated by the Department of Housing and Community Development ("DHCD") at 760 CMR 56.00, et seq. (the "40B Regulations"), the guidance set forth in the DHCD's Comprehensive Permit Guidelines, as amended (the "40B Guidelines"), the Town of Sherborn Zoning Bylaw (the "Zoning Bylaw") and the Rules and Regulations of the Sherborn Zoning Board of Appeals (the "Board" or "ZBA").

FINDINGS OF FACT

Introduction and Jurisdictional Findings

1. The Applicant, Baystone Sherborn, LLC is a Massachusetts limited liability company having a registered address at 21 Center Street, Weston, MA 02493.

2. On August 17, 2020, together with the written support and endorsement of the Sherborn Select Board, the Applicant submitted a Project Eligibility application under the Local Initiative Program (“LIP”) to the Department of Housing and Community Development, proposing to develop 120 multifamily rental units at the Property, together with residential accessory uses inclusive of parking, landscaping, a clubhouse and recreational areas, to be known as Coolidge Crossing and permitted under Chapter 40B. Thirty (30) units (25%) of the rental units will be designated as affordable rental units with rents at or below 80% of Area Median Income, adjusted for household size, as determined by the Subsidizing agency.

3. The Project Site is located at 84-86 Coolidge Street and is comprised of 15.2± acres of land. Access to the site is located directly on Coolidge Street, a public way. The Site is located within the Residence A (RA) Zoning District as defined under the Sherborn Zoning Bylaw. The Property is more completely shown on the “Site Plans” (as defined below).

4. On October 14, 2020, the DHCD issued a written determination of Project Eligibility, ruling that the Project is fundable by a Subsidizing Agency under a low- or moderate-income housing program, namely the LIP program, within the meaning of Section 56.04(1)(b) of the 40B Regulations.

5. On October 15, 2020, the Applicant submitted a complete Comprehensive Permit Application to the Board of Appeals (the “Board”). The Application included, *inter alia*, plans for the Project, including civil engineering, environmental, drainage and stormwater management, and a traffic report prepared by the Applicant’s professional consultants.

6. Pursuant to the Act and the Regulations, an applicant for a comprehensive permit must fulfill three initial jurisdictional requirements:

- a. The applicant must be a public agency, a non-profit organization, or a limited dividend organization;
- b. The project must be fundable by a subsidizing agency under a low- and moderate-income housing subsidy program; and
- c. The applicant shall “control the site.”

7. The Applicant has satisfied the jurisdictional prerequisites to submit an application for a Comprehensive Permit to the Board, as required under Section 56.04(1) of the 40B Regulations, and as evidenced by the issuance of a written determination of Project Eligibility issued by the DHCD, dated October 14, 2020.

8. At the time of the filing of the Comprehensive Permit Application, the number of SHI Eligible Units in the Town of Sherborn constituted approximately 2.3% of the Town's total housing units, as reported in DHCD's Subsidized Housing Inventory of the City (as of April 4, 2020). There was no information submitted as a part of the record demonstrating that the Town has met the statutory minima set forth in G.L. c. 40B §20 and 760 CMR 56.03(3), in that: (1) low and moderate-income housing units in

Gloucester do not exceed 10% of its total housing units; (2) low and moderate income housing is not located on sites comprising one and one-half percent or more of the total land area zoned for residential; commercial or industrial use, and (3) the development of affordable units consistent with this application will not result in the commencement of construction of such housing units on sites comprising more than three-tenths of one percent of such land area, or ten acres, whichever is larger, in one calendar year.

9. Subject to the conditions imposed by this Decision, the Project is “consistent with local needs” within the meaning of Chapter 40B, Section 20, and Section 56.02 of the 40B Regulations (760 CMR 56.02).

Procedural History

10. An application for a Comprehensive Permit was received by the Town of Sherborn Zoning Board of Appeals (“Board”) on or about October 15, 2020. Through its application, the Applicant proposes the development of 120 rental housing units as distributed among three (3) multifamily buildings across the Site, 25% of which (30 rental housing units) will be made available to low- and moderate-income families, together with residential amenities to include a clubhouse, fitness center, pool and associated recreational accessory facilities, on-grade parking and landscaping (the “Project”).

11. The Board’s public hearing on the Application was duly opened on November 10, 2020, and was continued to the following dates: December 10, 2020, January 28, 2021, February 25, 2021, March 31, 2021, April 14, 2021, April 28, 2021 and May 12, 2021. The public hearing was closed on May 12, 2021.

12. The Site is located in the RA Zoning District under the Sherborn Zoning Bylaw. A portion of the Site at 84 Coolidge Street is currently occupied by a deteriorated, uninhabitable single-family dwelling, which will be removed as part of the redevelopment of the Site. Further, a portion of the 86 Coolidge Street also contains another existing house with frontage on Coolidge Street, which existing dwelling will remain on its own lot (to be carved out from 86 Coolidge Street) and not a part of the 40B Project.

13. The Applicant provided various materials, reports, studies, and revised plans throughout the course of the public hearing on the Application.

14. During the public hearing, the Applicant was represented by Roy MacDowell and Todd MacDowell of Baystone Sherborn, LLC; its counsel, Stephanie Kiefer and Brian Vaughan, of Smolak & Vaughan, LLP; its project engineer, Matt Leidner, P.E., of Civil Design Group, LLC; its architect Rob Schaefer, of R.A. Schaefer & DM White; its landscape architects, Thom Minor and Pat Kelly of Hawk Design; its traffic engineers, Robert Michaud and Dan Dumais, MDM Transportation Consultants, and also supported by its affordable housing consultant, Brian Engler, of SEB Housing.

15. The Board utilized the peer review services of Tetra Tech to review civil engineering, stormwater management, traffic and wetlands impacts.

16. Throughout the public hearing, there was significant public input from other local boards, including the Planning Board, the Conservation Commission, the Board of Health, the Select Board as well as from residents of Meadowbrook Road and legal counsel, representing certain of the Meadowbrook Road residents.

II. FACTUAL FINDINGS

Location of Project

1. The Project is located on 15.2± acres of land at 84-86 Coolidge Street, Sherborn, Massachusetts, and consists of portions of the parcels on Tax Map 5, Parcels 54 and 55. As presently configured, 84 and 86 Coolidge are approximately 22 total acres in size. A small portion of the rear of the present-day 84 Coolidge Street lot will not be included within the Site, as it is to be retained by Pulte Homes for a proposed project under the Elderly Affordable provisions of the Sherborn Zoning Bylaw, which will be subject to the jurisdiction of the Planning Board. An existing house, in deteriorated and uninhabitable condition, presently exists on 84 Coolidge Street and is proposed to be razed as part of the Project. With respect to 86 Coolidge Street lot, the existing lot includes a single-family home that is not included within the Project and instead will be divided out as a separate free-standing parcel, with adequate frontage on Coolidge Street. The Application materials and plans submitted to the Board plainly establish the Project boundaries, depicting the 15.2± acre Site.
2. The Site abuts a Town Forest, with walking trails, known as Peter's Hill to the south and abuts town-owned land to the east, abutting Rockwood Road, which land provides a connection to the Town's recreation fields (Laurel Farms). Across Coolidge Street is the Sweet Meadow Farm, an active farm and farm stand. To the north of the Site is 104 Coolidge Street, which has separate frontage on Coolidge Street and to the northeast, are two single-family homes located off Rockwood Road.
3. The Site is approximately 1.5 miles from the West Natick MTBA commuter rail station and approximately the same distance from grocery (Roche Brothers) and pharmacy (Walgreens), located on Route 135 in Natick; and within the same distance to a CVS pharmacy and Sherborn downtown village.
4. The Site has more than 400 feet of frontage on Coolidge Street and extends back more than 950 feet. Aside from the existing deteriorated single-family house on the Site, the balance of the Site consists largely of open field or woodland. Wetland areas have been delineated to the west and north of the Property, and such delineations have been reviewed and approved previously by the Sherborn

Conservation Commission under currently-valid Orders of Resource Area Delineation. The Site has not been mapped to contain estimated or priority habitat, nor are there any vernal pools or floodplain on the Site.

5. Existing site elevations range from a high of 220 feet toward the rear of the Site, and gradually slope to a low elevation of 169 feet.

Project Design

6. The Project will include three three-story multifamily buildings, two of which will contain 42 dwelling units apiece and a third building to contain 36 dwelling units, all of which will be served by elevator access. The Project also includes a one and a half story community clubhouse building, to feature a chef's kitchen, fitness/yoga studio, co-work/meeting room and a leasing office. There are also six garage buildings to provide residents with an option for covered parking. All buildings will be constructed slab on grade; there will be no basements in any of the buildings.
7. Site access is provided from a full driveway off Coolidge Street. The Project also includes an emergency gated access to the rear of the Project driveway, which would connect to an access road associated with the adjacent property at 104 Coolidge Street. By letter dated February 25, 2021, the Sherborn Fire Chief confirmed that the access drive design provided sufficient access and that access roads to the rear of the buildings would not be necessary. The Fire Chief also confirmed that building permits could issue for the clubhouse building and Building 1 prior to the emergency access road to the rear being constructed, provided that fire hydrants on the Site are installed and operational before vertical construction starts and a hammerhead turnaround is in place.
8. The closest building of the Project to Coolidge Street is the community's clubhouse building, which will be approximately 68 feet back from Coolidge Street. The closest residential building to Coolidge Street will be approximately 153 feet back from the public way.
9. The Project's residential buildings are located to minimize the views from Coolidge Street and also to maximize the views of the open and natural views of the residents; notably Buildings 1 and 2 are located to overlook open fields to the rear and Building 3 is located behind a wooded area to enhance views of the surrounding natural area.
10. The multifamily dwelling units will consist of a mix of one, two and three-bedroom units, ranging in size from approximately 780 square feet to 1,340 square feet. As required, ten (10) percent of the units will be three-bedroom units. The Project includes a total of 42 one-bedroom units, 66 two-bedroom units and 12-three bedroom units. Twenty-five (25) percent of the residential units will be available to households earning no more than 80% of Area Median Income, adjusted for household size. As the Project is rental project, all 120 units

will be eligible for inclusion in the Town of Sherborn's Subsidized Housing Inventory.

11. The Project's buildings have been described as a modern farmhouse architectural style, to complement the existing building styles in the vicinity, with features such as pitched roofs, eaves, gables and double-hung window. Each building will include two entrances and be served by an elevator. Each building will have its own mail/package delivery room for convenience of the residents.
12. Onsite amenities include the community clubhouse building, dog park, and terrace with a grilling area/fire pit.

Civil Engineering, Site Design, and Stormwater Impact

13. The Board engaged in review of potential civil engineering, site design, and stormwater impacts of the Project, with peer review provided by Tetra Tech. The peer review has approved such civil engineering, site design and stormwater management proposed by the Applicant, including the reduction to impervious surfaces by a reduced parking space footprint as described in Civil Design Group's memorandum of April 23, 2021.
14. Within the public hearings, the Approved Plans were updated to include two small wildlife crossings, located between Buildings 1 and 2 and between Buildings 2 and 3 to accommodate wildlife smaller than six inches, as such crossings have been reviewed and approved by the Board's peer reviewer.
15. The Project is proposed to be connected to the Framingham municipal water system and the Natick municipal sewer system. At a future date, should the Applicant seek to install an irrigation well on the Site, the same will be subject to applicable municipal regulations.
16. The Project will include 200 on-grade parking spaces, of which 30 spaces will be sheltered in garage structures. The number and size of parking spaces will require a waiver of the Sherborn Zoning Bylaw, as detailed below.
17. Approximately 25 percent of the Site will consist of impervious surface with the remainder consisting of pervious surface. The Board finds that the total amount of impervious area is acceptable.
18. The Board finds that the landscaping proposed for the Project is sufficient, and recognizes that final planting details may be further established upon receipt of an Order of Conditions under the Wetlands Protection Act. The Applicant's proposed landscaping will serve to enhance the Project with the creation of a sustainable landscape that blends into the site's natural surroundings.

19. Stormwater management has been designed in compliance with the Mass Stormwater management standards in accordance with 310 CMR 10.05(6)(k) through (q) and defined in detail in the MassDEP Stormwater Management Handbook. The system incorporates BMP's to facilitate TSS removal, infiltration and detention of stormwater flows.

Local Needs Met

20. The Project, as conditioned herein, will address the lack of affordable rental units in the Town.
21. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns.
22. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting waivers may have an adverse impact on Local Concerns. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.
23. The Board finds that the construction of the Project, as conditioned, will be consistent with local needs.

III. CONDITIONS

A. General

- A.1 The holder of this Comprehensive Permit is Baystone Sherborn, LLC. The Property is defined as the property located at 84-86 Coolidge Street, Sherborn, Massachusetts, shown on a plan entitled "Site Plan for Coolidge Crossing" by Civil Design Group. The Project is defined as all features shown on the submitted project plans listed below or as may otherwise required by this Comprehensive Permit.
- A.2 Except as described in the following Conditions or in the Final Plans (defined below), the Project shall be constructed substantially in conformance with the plans and drawings listed herein. For purposes of this Comprehensive Permit, the same shall be considered the Approved Plans for the Project ("Approved Plans"). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Town Planner who shall have the authority to approve such changes as immaterial changes. If the Town Planner determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, he/she shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this Decision or seek modification in accordance with the procedures set forth in

760 CMR 56.05(11). The Approved Plans consist of the following plan set from the Civil Design Group:

“Site Plan for Coolidge Crossing Residential Apartment Community, 84 & 86 Coolidge Street, Sherborn, Massachusetts”, and consisting of the following sheets:

Sheet 1, Cover Sheet, dated 01/22/2021, last revised 04/23/2021.
Sheet 2, Legend & Notes, dated 01/22/2021, last revised 04/23/2021.
Sheet 3, Demolition & Erosion Control Plan, dated 01/22/2021, last revised 04/23/2021.
Sheet 4, Overall Site Plan, dated 01/22/2021, last revised 04/23/2021.
Sheet 5, Site Layout Plan, dated 01/22/2021, last revised 04/23/2021.
Sheet 6, Grading & Drainage Plan, dated 01/22/2021, last revised 04/23/2021.
Sheet 7, Utility Plan, dated 01/22/2021, last revised 04/23/2021.
Sheets 8-13, Construction Details, dated 01/22/2021, last revised 04/23/2021.
Sheet L1.0, Site Planting Plan, dated 09/25/2020, last revised 04/26/2021.
Sheet L1.1, Site Lighting Plan, dated 09/25/2020, last revised 04/26/2021.
Sheet L2.0, Amenity Area Layout and Materials Plan, dated 09/23/2020, last revised 04/26/2021.
Sheet L3.0, Typical Building Planting Plan, dated 09/23/2020, last revised 04/26/2021.
Sheet D1, Planting Details, dated 09/25/2020, last revised 04/26/2021
ALTA/NSPS Land Title Survey, 84 Coolidge Street, 2 sheets, dated 03/26/2020, last revised 07/13/2020.
ALTA/NSPS Land Title Survey, 86 Coolidge Street, 1 sheet, dated 06/02/2020, last revised 07/13/2020.
Drawings and Floor Plans

Renderings

- A.3 The Applicant shall be a Limited Dividend Entity as required by Chapter 40B and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.4 The Project shall consist of not more than 120 rental apartment units, located in three (3) residential structures, and other related residential amenities, all as shown on the Approved Plans. The Project shall consist of no more than forty-two (42) one-bedroom apartments, sixty-six (66) two-bedroom apartments and twelve (12) three-bedroom apartment units for a total of two-hundred (212) bedrooms.
- A.5 There shall be 200 parking spaces (inclusive of required handicap spaces) to serve the Project.

- A.6 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Sherborn Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§ 20-23. Any subsequent revision to the Approved Plans, including but not limited to revisions in the Final Plans, referenced below, that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.7 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval for consistency with the Decision, such review as may be undertaken by or on behalf of the Board, either by the Town Planner or other Town Department staff, such review is to be undertaken within thirty (30) days following submission by the Applicant.
- A.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 conventional 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.
- A.9 The provisions of this Comprehensive Permit Decision and its conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees.
- A.10 The sidewalks, driveways, roads, drainage systems, and all other on-site infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, landscape maintenance, and hydrant maintenance. In this regard, the proposed site access road within the Project shall not be dedicated to or accepted by the Town.
- A.11 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters for consistency with the Decision on the Board's behalf.
- A.12. The Applicant shall comply with all local by-laws, rules and regulations of the Town of Sherborn and its boards, officers and commissions, unless expressly waived hereunder.
- A.13. The Project shall conform to all applicable state and federal laws, codes, regulations, and standards including, but not limited to, the following, as

may be applicable:

- a. Massachusetts Building, Plumbing, and Electrical Codes;
- b. The Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the associated Regulations 310 CMR 10.00;
- c. Massachusetts Department of Environmental Protection Title 5 Regulations;
- d. U.S. Army Corps of Engineers, Regulatory Program under Section 404 of the Clean Waters Act; and
- e. Massachusetts Stormwater Management Regulations.

- A.14. All utilities within the Premises shall be installed underground.
- A.15. The interior and exterior of all buildings and structures shall be constructed substantially as represented in the Application, as revised, and on the Plan of Record.
- A.16. All utility work and other roadwork within any public right of way shall be performed and conducted in conformance with the regulations of the Town, including requirements for street opening permits. Contractors shall be duly licensed as required by the Town. All such work shall be performed in accordance with current engineering and construction standards. Final design of stormwater management system shall comply with Department of Environmental Protection regulations.
- A.17. All structures and site improvements within the Project site shall remain private in perpetuity, including any and all ways, parking areas, street lighting, drainage, buildings, sewer and water infrastructure and the Applicant and/or its successors shall bear the cost of maintenance, repairs, replacement, snow plowing and trash removal for same in perpetuity.
- A.18. The Applicant shall submit final fire alarm/sprinkler plans to the Fire Chief for review and approval, or a letter from the Fire Chief waiving this requirement.
- A.19. No stormwater pond or other water collection area to be constructed by the Applicant as part of the Project shall hold water for more than 72 hours, to prevent the breeding of mosquitos. The Applicant shall implement any necessary mosquito control measures to protect residents of the Project and nearby residents in the event that water collects for longer than 72 hours.
- A.20. The Project shall comply with all requirements of the Operations and Maintenance Plans submitted to the ZBA.

B. Affordability

- B.1 Except as may otherwise be allowed by the Subsidizing Agency DHCD or other Subsidizing Agency, as proposed by the Applicant, pursuant to the applicable subsidy program, a minimum of thirty (30) of the rental units shall be reserved for income-eligible households, meaning that they shall be rented to and occupied by households, as proposed by the Applicant, whose annual income (adjusted for household size) may not exceed eighty percent (80%) of the Area Median Income (“AMI”), as determined by the United States Department of Housing and Urban Development (“HUD”). Affordable Units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency, excepting for fluctuations based on changes of household eligibility income allowed by the Regulatory Agreement. The Applicant shall be responsible for maintaining records sufficient to comply with the Subsidizing Agency guidelines and terms of the Regulatory Agreement.
- B.2 The Project’s Affordable Units shall be restricted for rental to households earning no more than the maximum allowable household income, adjusted for household size, as determined by DHCD or any substitute Subsidizing Agency. The Affordable Units shall be maintained as affordable in perpetuity; for the purposes of this Decision shall mean for so long as the Property does not comply with applicable zoning requirements without the benefit of this Comprehensive Permit.
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an Affirmative Fair Housing Marketing Plan (“AFHMP”) prior to the rental of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency’s Fair Housing requirements.
- B.4 For the initial rent-up of the Project, the maximum number of Affordable Units allowed by law and the applicable subsidy program, but not more than seventy percent (70%) of the Affordable Units, shall be reserved for households that qualify under a local preference definition approved by the Subsidizing Agency and in accordance with a lottery approved by the Subsidizing Agency and/or the Project’s Monitoring Agent to effectuate this local preference. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same. The Applicant is to assist the Town in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. If the Board or its designee does not provide such information within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above. In no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. To the extent a local

- preference is permitted by the Subsidizing Agency, if requested by the Town Administrator, the Applicant shall provide access to documentation to confirm compliance with such local preference in its marketing and lottery process.
- B.4.1 The foregoing local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant
- B.5 The percentage (i.e., 25% of the total number of rental units) shall remain for so long as the Project is not in compliance with the Town's Zoning Bylaw, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.
- B.6. A springing affordable restriction and regulatory agreement shall be signed with the Town and recorded at the Registry of Deeds as set forth below in Condition B.7.
- B.7 The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the ZBA, the Applicant and their counsel (the "Town Regulatory Agreement"), which shall be recorded with the Middlesex South Registry of Deeds against three units of the Property (the "Town Regulatory Agreement Affordable Units") prior to issuance of any building permit for the Project and signed by all necessary parties, including all mortgagees and lien holders of record.
- a. The Town Regulatory Agreement: (i) shall only become effective if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require that the Town Regulatory Agreement Affordable Units shall remain affordable so long as the Project does not conform to local zoning; (iii) shall require that the Town Regulatory Agreement Affordable Units shall be affordable and owned by low and moderate income households as that term is defined in M.G.L. Chapter 40B, Sections 20-23; and (iv) shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c. 40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is imposed hereunder.

b. The Town Regulatory Agreement shall constitute a restrictive covenant and shall be enforceable by the Town and shall require that the Town Regulatory Agreement Affordable Units shall remain affordable units in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town Zoning Bylaws or for the longest period allowed by law, whichever period is longer.

- B.8 While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto; however, the Town may request and shall be provided by the Applicant with all information that is provided to the Subsidizing Agency and may take any steps to the extent the Town may be authorized by G.L. c.40B and 760 CMR 56.00 in relation to excess profits and enforcement of affordability provisions.
- B.9 When the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. Chapter 40B, Sections 20-23. However, this clause shall not be used or construed or otherwise exercised in conflict with the holdings in Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At such time as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee.
- B.10 While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto. However, the Town may request, and if requested, the Applicant shall provide, all information that was provided to the Subsidizing Agency, and it may take such enforcement steps to the extent consistent with M.G.L. c.40B and 760 CMR 56.00.

C. Submission Requirements

C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit (except as allowed by the Town Planner, as noted below), the Applicant shall:

- a. Obtain coverage under the National Pollution Discharge Elimination System (NPDES) Permit for Discharges from Construction Activities from the U.S. Environmental Protection Agency (EPA), if necessary.

Obtain an Order of Conditions from the Sherborn Conservation Commission or Department of Environmental Protection permitting the construction of the Project, and any appeals have been fully adjudicated or resolved, if applicable.

- b. Submit to the Board for its review and administrative approval Final Engineering and Landscape Plans (“Final Plans”), such approval to confirm that the plans conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plan sheets shall be signed and sealed, as applicable, by a Professional Land Surveyor, the Civil Engineer of record, and a Registered Landscape Architect. The Final Architectural Plans shall be stamped by a Registered Architect. Such Final Plans shall be submitted to the Board at least forty-five (45) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier. In no event shall construction for the Project commence prior to October 2021.
- c. Submit to the ZBA and Building Inspector a Construction Management Plan (CMP), as well as a Construction Management Schedule (CMS) that generally conforms to industry standard practice and addresses all construction-related conditions specifically set forth in this Decision. Additional copies of the CMP shall be provided to the Planning Board, Board of Health, Conservation Commission, DPS, Fire Chief and Police Chief.
- d. Provide the Building Inspector with a copy of the final Stormwater Pollution Prevention Plan prepared in accordance with the NPDES general permit.
- e. The Applicant has requested a waiver from the Sherborn Zoning Bylaws regarding signs, which shall be subject to the submittal and review of Final Plans depicting the proposed signage.
- f. Provide the Board with written confirmation that the work within the utility easement is not inconsistent with the easement rights afforded to the utility provider (Eversource).

- g. Submit to the Town Planner a construction mitigation plan including, but not limited to, dust control measures, stockpiling areas, and like matters. Other than site work and such other work as may be authorized in writing by Town Planner, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Town Planner and other applicable staff have approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Building Commissioner and/or Zoning Administrator concerning the Final Site Plans within forty-five (45) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
 - h. The Applicant must submit a request to the appropriate Town of Sherborn committee for address and unit numbering through its coordinator.
- C.2 Prior to the issuance of any building permits, the Applicant shall:
- a. Record this Comprehensive Permit with the Middlesex Registry of Deeds, at the Applicant's expense, and provide proof of such recording with the Board.
 - b. Submit to the Board evidence of Final Approval from the Subsidizing Agency (DHCD), as required by the Project Eligibility letter and the Chapter 40B regulations.
 - c. Submit to the Building Commissioner final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Commissioner may request pursuant to the State Building Code.
 - d. An automatic sprinkler system conforming with NFPA 13 shall be required in all buildings.
 - e. In accordance with the letter dated February 25, 2021, the Building Commissioner may issue building permits for Building 1 and the clubhouse prior to the completed construction of the emergency access road to the rear being constructed, provided that fire hydrants on the Site are installed and operational before vertical construction starts and a hammerhead turnaround is in place.

D. Construction Completion/Certificates of Occupancy

- D.1 Prior to issuance of a certificates of occupancy for each Building, the Applicant shall:

- a. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Building/Project has been constructed in substantial compliance with the Final Plans in all material respects.
 - b. Obtain acceptance from the Sherborn Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units of the Building/Project.
 - c. Submit written confirmation that the Building/Project is served by water and sewer, and that such water and sewer connection approvals have been issued and installed.
- D.2 Prior to the issuance of a Certificate of Occupancy for the first building, the Applicant shall provide to the ZBA with a current Landscape Operations and Management Plan indicating that the Project will utilize the minimum recommended amounts of lawn chemicals and fertilizer to sustain the health of the project landscaping.
- D.3. The infrastructure (utilities, roads, and stormwater management system, sewer and water) associated with a particular building shall be in place prior to issuance of a certificate of occupancy for that building. The road may be to binder course until after all building is completed. The sewer system shall be installed and completed prior to the issuance of the certificate of occupancy for the first building. A building permit for foundation, or a foundation permit, may be issued at the time that the Project is qualified to do so under the State Building Code.
- D.4 Prior to issuance of the certificate of occupancy for the last residential building to be constructed, the Applicant shall:
- a. Submit to the Board copies of final the as-built plan depicting utilities, drainage, roadway, sidewalk and associated construction. Should the Board request, digital files shall be included together with full-sized plans.
 - b. The Applicant shall provide to the Board evidence of a property management plan (if in-house), or shall provide a copy of a contract with a Management Company (if property management is to be conducted by a third-party).

E. General Construction Conditions

- E.1 The Applicant shall provide the ZBA with authority to enter the Property during construction of the Project (subject to conformance with applicable health and safety requirements, including, but not limited to hard hat, safety glasses and work boot requirements), with prior notice to determine conformance with this Decision.

- E.2 The Applicant shall abide by orders issued by the Building Inspector in conformance with applicable law in conjunction with construction of the Project, subject to the Applicant's rights of appeal under applicable law.
- E.3 No area within 50 feet of any wetland shall be used for stockpiling of earth or construction materials, for storage of overnight parking of construction vehicles and equipment, refueling and maintenance of construction vehicles or equipment or for storage of diesel fuel or hazardous materials.
- E.5 With respect to the work to be done by Applicant on private (drive)ways within the Property, no certificates of occupancy, shall be issued by the Town until the Applicant has completed site drainage and utility work appurtenant to any portion of the site for which an occupancy permit is to be issued and has installed a binder course of pavement on those driveway sections and parking areas within the Property that are proposed to be paved.
- E.6 Prior to the issuance of any building permit, the final plan set, finalized as necessary to comply with this Decision, shall be signed and sealed by a Massachusetts Professional Engineer and, as appropriate, a Registered Land Surveyor and a Massachusetts Registered Landscape Architect and filed with the ZBA and the Building Inspector, and shall include the following:
- a. Utilities, including on-site utilities and connection to utilities in adjacent public ways, which shall conform to all requirement of municipal departments or private utility companies having jurisdiction and to applicable codes.
 - b. Stormwater Pollution Prevention Plan (SWPPP) notes that address mitigation of sedimentation and erosion, including details relating to any temporary drainage basins;
 - c. A letter from the Project architect confirming that the Project complies with Architectural Access Board (AAB) regulations; and
 - d. Details of any construction signs.
- E.7. Prior to starting any Authorized Activity, the Applicant shall provide to the Building Inspector:
- a. The company affiliation, name, address and business telephone number of the construction superintendent who shall have overall responsibility for construction activities on site;
 - b. A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the premises have been paid;

- c. Certification from the applicant that all required federal, state and local licenses and permits have been obtained;
 - d. Proof that "dig-safe" has been notified at least 72 hours prior to the start of any site work;
 - e. Proof that street signage is in place to ensure that emergency personnel can locate the site to provide emergency services to protect and secure the site and construction personnel; and
 - f. At least 48 hour written notice. If activity on site ceases for longer than one month, 48 hour written notice prior to restarting work.
- E.8 During construction, at the end of each work day, the Applicant shall cause all erosion control measures to be in place and shall cause all materials and equipment to be secured. Upon completion of all work on site and prior to as-built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the ZBA shall be notified in writing of the final disposition of the materials.
- E.9 Within ninety days of completion of the activities authorized under this permit, the Applicant shall submit to the ZBA two sets of as-built plans for all infrastructure improvements and, if applicable, evidence of compliance with this comprehensive permit and any other permits required for the construction of the improvements contemplated by this comprehensive permit. The site engineer of record shall provide a written description of any material deviations from the Building Permit plans. The ZBA, in consultation with a certified engineer determined to be acceptable by the ZBA, shall approve the as-built plans when determined to be in compliance.
- E.10. All catch basins and detention basins shall be cleaned at the end of construction. Thereafter, the Applicant and/or Applicant's successor shall be responsible for maintaining the site's storm-water management system in accordance with the approved O&M plan.
- E.11 A Massachusetts Registered Professional Engineer hired by the Applicant shall observe soil conditions in the subsurface stormwater disposal area and shall relocate or modify the design of the facility if impervious soils or bedrock are present within the limits of the excavation and if the two-foot separation from seasonal high groundwater cannot be achieved and the Town shall be notified of the inspection and be allowed to have a qualified inspector present at the Applicant's expense.
- E.12. During construction, the location of any and every stormwater disposal area shall be protected to prevent compaction by heavy equipment and to prevent contamination of the area with soils and material that may reduce infiltration rates for the existing soils.

- E.13. The Applicant shall be permanently responsible for the following at the Project:
- a. All plowing, sanding, and snow removal. All site maintenance and establishing a regular schedule for site maintenance;
 - b. Repairing and maintaining all on-site driveways, including drainage structures and utilities therein;
 - c. Conducting annual inspection, maintenance and cleaning of all elements of the drainage system, including but not limited to catch basins, drain manholes, detention basins, swales and pipelines;
 - d. Maintaining all easements shown on the final plans; and
 - e. Site lighting.
- E.14. Prior to issuance of the first certificate of occupancy, the Applicant shall obtain approval from the U.S. Postmaster of the locations for mail boxes and parcel areas.
- E.15. Prior to commencing Authorized Activity, the Applicant's final construction plans shall provide that the construction of the Project shall be performed in accordance with all applicable laws and regulations regarding noise, vibration, dust, sedimentation control and blocking of Town roads and the Applicant shall install aprons at entry points and provide for dust control in the form of sweeping and spraying of water whenever necessary.
- E.16. No stumps or construction debris shall be buried or disposed of at the Property.
- E.17. The Applicant shall use all reasonable means to minimize inconvenience to residents in the general area, during construction.

F. Project Design and Construction; Stormwater Management

- F.1 This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for the issuance of Building Permits and Certificates of Occupancy by the Building Department under the State Building Code.
- F.2 Prior to the commencement of any work on the Site, the Applicant and its general contractor shall attend a preconstruction conference with the Sherborn Town

Planner, Building Commissioner and other Town staff and consultants as may be determined.

- F.3 The Board and its representatives shall be permitted to observe the Property and construction progress, abiding by safety protocols onsite, during the development/construction process and until such time as the Project has been completed and the final occupancy permit issued.
- F.4 Project construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- F.5 Any site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- F.6 During construction, the Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with a construction mitigation plan. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.
- F.7 To the extent construction activities will involve limited blasting, the Applicant shall adhere to such best management practices as set out in the document captioned “Rock Blasting and Water Quality Measures That Can Be Taken To Protect Water Quality and Mitigate Impacts,” and specifically the practices described within Attachment A under the header “Add to General Regulations Section of a Municipal Blasting Ordinance.” The referenced document was submitted to the Board by the Board of Health Chair, Daryl Beardsley by email dated May 12, 2021.
- F.8. Project lighting shall be down-lit/shielded to prevent light spillover onto surrounding properties. Management of outdoor lighting shall be the responsibility of the Applicant.
- F.9 Outdoor construction activities shall be conducted between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above.
- F.10 Parking of all construction vehicles and equipment must be on the Property during construction.

- F.11 Active construction areas shall be secured to the extent necessary by fencing or other appropriate means to protect against unauthorized entry or vandalism. Construction materials shall be stored or stockpiled in a safe manner.
- F.12 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization may be accomplished by hay bales, hay coverings or matting.
- F.13 Dumpsters serving the Project shall be enclosed, with the exception of construction dumpsters used during construction.
- F.14 A copy of the stormwater management Long-Term Pollution Prevention Plan (LTPPP) shall be on file with the Board. Included within the LTPPP, the Applicant shall include limitations on the use of harmful de-icing chemicals to be used onsite and provide that should the deicing program be unable to maintain protection of the stormwater system, the Applicant will reasonably amend such deicing program with the input from the Town Planner. The LTPPP shall also include the dog park, a trash can/pick-up bag dispenser location and signage to encourage proper pet waste removal.
- F.15 The Project shall comply with MassDEP snow disposal guidance, as may be revised.
- F.16 To the extent practicable, the Applicant shall limit the use of pesticides and herbicides in the management of lawn and landscaping; it is recognized that in the mitigation plantings, may need initial fertilization or protection to support its survival in the initial transition.
- F.17. As to the Project's exterior lighting, the five light fixtures whose lighting extends to within 50 feet of wetland resources areas shall be equipped with dimmers and motion sensors as consistent with the recommendation of the Board's peer reviewer (TetraTech) letter of April 29, 2021 and acknowledged by Applicant's counsel by letter of May 7, 2021.
- F.18 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations at 310 CMR 7.10. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property.
- F.19 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to both the residents of the Project and emergency vehicles.
- F.20 The Applicant shall maintain all portions of any public road, whether state or local roads, used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.

- F.21 To the extent the Applicant needs to bring fill onto the Property, such fill shall be clean in nature, and the Applicant shall ensure that it has not been brought from any contaminated source. No hazardous materials shall be used as fill.
- F.22 All catch-basins shall have sumps and hoods as shown on the Approved Plans.
- F.23 Project sidewalks shall be compliant with the requirements of the Americans With Disabilities Act (“ADA”) and the requirements of the Architectural Access Board (“AAB”).
- F.24 All utility work and other roadwork within any public right of way shall be performed and conducted in conformance with the regulations of the Town, including requirements for street opening permits. Contractors shall be duly licensed as required by the Town. All such work shall be performed in accordance with current engineering and construction standards. Final design of stormwater system shall comply with MADEP regulations.
- F.25 All structures and site improvements within the Project site shall remain private in perpetuity, including any and all ways, parking areas, street lighting, drainage, buildings, sewer and water infrastructure and the Applicant and/or its successor shall bear the cost of maintenance, repairs, replacement, snow plowing and trash removal for same in perpetuity.

G. Traffic/Traffic Safety Conditions / Sidewalks

- G.1 Access and egress to the Project shall be via Coolidge Street, consistent with the Approved Plans.
- G.2 Emergency access to the rear of Building 3 shall be for use only by emergency vehicles and shall be gated and secured. During construction of the Project, a temporary gate at the juncture of the emergency access drive and the abutting property shall be installed prior to commencement of construction. As shown on the Approved Plans, an unpaved walkaround path allows for pedestrian access around the gated area.
- G.3 Subject to the Town having reached an agreement and confirmation from the MWRTA to establish a daily route and stop in front of the Site, the Project shall include a bus stop/shelter as shown on the Project Plans and to be incorporated in the Final Plans, as contingent on the aforesaid agreement and confirmation by the MWRTA.

- G.4 The Applicant shall coordinate with the Sherborn DPW to provide off-site striping improvements to the intersection with Coolidge Street to delineate the two lanes; such striping also to be shown on the Final Plans submitted for consistency with the Decision.

H. Water, Sewer and Utilities

- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project. The Project will obtain its water via a connection to the Framingham municipal water system and sewer through the Natick municipal sewer system.
- H.2 All water infrastructure shall be installed in conformance with applicable State approvals, and the completion of an intermunicipal agreement for the provision of water, including compliance with the terms of such intermunicipal agreement.
- H.3 Fire hydrants shall be placed as shown on the Approved Plans. Should the Sherborn Fire Department seek alternate hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.4 The water and sewer utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable State Building Code requirements.
- H.5 Utilities shall be installed underground by the Applicant using methods standard to those installations.
- H.6 The Applicant shall be responsible for all trash and recycling removal from the Property.
- H.7 The Applicant will request and/or otherwise encourage Pulte Homes to install a valve in the waterline to be constructed by Pulte Homes at the entrance of Meadowbrook Road. It is understood by the Board that the Applicant is not responsible for the installation of the waterline.

I. Wetlands/Environmental Conditions

- I.1 The Applicant proposes work within the one-hundred-foot (100') buffer zone to bordering vegetated wetlands. While the Board has waived certain requirements of the Sherborn Wetlands Protection Bylaw, such waiver is without prejudice for the Applicant to obtain an Order of Conditions under the Massachusetts Wetlands Protection Act from the Sherborn Conservation Commission, or a Superseding Order of Conditions from the Department of Environmental Protection, to authorize such work within the 100-foot buffer zone.

- I.2 Approved Plans shall include intermittent markings at the edge of the limit of work within the “no alternation zone” as such term is defined under the local Wetlands Protection Bylaw.
- I.3. Any fill brought for use within jurisdictional wetland resource areas shall be clean fill; however, the Board has waived the requirement of Section 5.3 of the local wetland bylaw requiring notice of the source of the fill be provided seven (7) days in advance. Instead, the Board requires such notice of the source of the fill be provided to the conservation agent within 24 hours in advance of the fill being received at the Property.

J. Other General Conditions

- J.1 This Decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later, as per 760 CMR 56.05(12)(a).
- J.2 In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time construction authorized by the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- J.3 The Applicant shall comply with all local regulations of the Town unless specifically waived herein or as otherwise addressed in these conditions.
- J.4 The Project entrance way and interior roads, and drainage systems associated therewith shall remain private, and the Town shall not have any legal responsibility for the operation and maintenance of such.
- J. 5 All appliances, to the extent practicable, shall be Energy Star rated.

DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of 120 rental apartment units pursuant to Chapter 40B, §§ 20-23, for the development described above.

RECORD OF VOTE

The Board of Appeals voted _____, at its public meeting on June __, 2021, to grant a Comprehensive Permit subject to the above-stated Conditions, with this Decision as attested by the signatures below.

Filed with the Town Clerk on _____, 2021.

Town Clerk

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

EXHIBIT A - WAIVERS