

**LIST OF WAIVERS
(Updated 5/10/21)**

As required under 760 CMR 56.05(2)(h), the following is a list of Waivers to “Local Requirements and Regulations,” including waivers to assist the permit granting authority in analyzing the project and assessing the likely impact on the community. Such local regulations include the Sherborn General Bylaw, (“General Bylaw”), the Zoning Bylaw of the Town of Sherborn (including changes made at the 2019 ATM), and other Local Requirements and Regulations as defined under Section 56.02 of the Chapter 40B Regulations (760 CMR 56.00 *et seq.*), including local legislative, regulatory, or other actions which are more restrictive than state requirements, if any, including local zoning and wetlands ordinances, and other local rules, codes, and regulations, in each case which are in effect on the date of the Project’s application to the Board. As the issuance of a Comprehensive Permit serves as a master permit, permits otherwise issued by a local board pursuant to a local requirement or regulation are subsumed within an approved Comprehensive Permit. Where a waiver is requested for issuance of a separate permit, such request may be considered more along the lines of a process waiver and intended for clarification purposes.

** Pursuant to 760 CMR 56.00 (the “Chapter 40B Rules”) specifically described under 760 CMR 56.05(7), “zoning waivers are required solely from the “as-of-right” requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district. Accordingly, any waivers which reference special permit requirements are included only for illustration purposes.

ZONING BY-LAWS OF THE TOWN OF SHERBORN, MASSACHUSETTS (ZONING BYLAW) (Revised through 2019 ATM)					
<u>BY-LAW/REG.</u>	<u>TITLE</u>	<u>DESCRIPTION</u>	<u>REQUIRED</u>	<u>PROPOSED</u>	<u>REASONING</u>
Section 1.5	Definitions	Definition of “Multi-Dwellings”/“Multi-Dwelling Buildings” Definition of “Parking Space”	Section 1.5 defines “Multi-Dwellings” or “Multi-Dwelling Buildings” as prohibited in all districts except EA District” and requires such comply with Section 5.6 or 5.7 Under Section 1.5, angled parking required to be not less than 20’x 8.5’	Waived to permit multi-dwelling structures within Project Site, presently zoned as Residence A. Waive compliance of Sections 5.6 and/or 5.7, as stated within definition of Section 1.5. Waived to permit parking spaces not adjacent to sidewalks to be not less than 18’x8.5’	The definition of Multi-Dwelling/Multi-Dwelling Building otherwise precludes a multifamily dwelling building(s) in any district other than the EA district. A waiver is required to allow for a “multi-dwelling(s)/buildings at 84-86 Coolidge Street (zoned Residential A) as the need for affordable housing outweighs the restrictive definition as applied to the project site. Waiver of requirement that all angled parking be not less than 20’x8.5 to allow parking spaces not adjacent to sidewalk to be 18’ long, as requested by the ZBA, reduces project impact area and allows for reduction of work in buffer zone.
Section 1.6	Prohibited Uses	Applicability of Use Regulations	Any building, structure, sign or any use of any building, structure or premises not expressly allowed, permitted or exempted by Bylaw is prohibit	Waived to permit multifamily residential uses and structures, together with accessory uses thereto, including without limitation clubhouse, gym, pool, and management/leasing office and to allow up to one model apartment for leasing purposes. Such principal and accessory uses, structures and signage to be governed by Comprehensive Permit.	The use regulations for the Residential A (RA) zoning district do not include Multi-Dwelling/Multi-Dwelling Buildings and without a waiver would not be allowed. The need for affordable housing in Sherborn outweighs the need for strict application of Section 1.6; especially where the project site is well-located on a large parcel (15.2 acres), and has been endorsed by the Select Board as appropriate for a local initiative 40B development.

ZONING BY-LAWS OF THE TOWN OF SHERBORN, MASSACHUSETTS (ZONING BYLAW) (Revised through 2019 ATM)					
Section 3.1	Basic Requirements	Use Regulations	Except as permitted by Section 3.4, no building, structure or land shall be adapted, constructed or used for any purpose or in any manner other than as permitted and set forth in Section 3.2 (Schedule of Use Regulations).	Waived to permit construction and use of 120 units of rental housing within three multifamily buildings, together with accessory uses, including without limitation clubhouse, gym, pool, and management/leasing office and to allow up to one model apartment for leasing purposes. Such principal and accessory uses, structures and signage to be governed by Comprehensive Permit.	See above. Further, the proposed development, its buildings, layout and use have been designed consistent with a farmhouse style design, provide quality residential accommodations and include a layout which advances an efficient design while respecting open space views of both the project residents and the community as viewing the site from Coolidge Street.
Section 3.2 - Table of Use Regulations	Table of Use Regulations	Uses allowed as of right within Residence A District	Under Table, Apartment use is "permissible;" Multi-Dwellings are Prohibited; and Low or Moderate Income Apartment use is Permissible	Waived to allow, as of right, 120 rental units housed within three Multifamily Dwellings, together with accessory uses of clubhouse, gym, pool, on-site management office, and to allow up to one model apartment for purposes of leasing apartment units. Such principal and accessory uses, structures and signage to be governed by Comprehensive Permit.	See Explanation for Section 1.6 above.

ZONING BY-LAWS OF THE TOWN OF SHERBORN, MASSACHUSETTS (ZONING BYLAW) (Revised through 2019 ATM)					
Sections, 4.1/ 4.2	Schedule of Dimensional Regulations	Dimensional Regulations Per Zoning District	<p>Per Section 4.1: Except as provided in Section 4.4, every lot shall conform to the dimensional requirements set forth in Section 4.2 and 4.3, and no building or structure, except fences six (6) feet or less in height, in any district shall be built, located, enlarged or structurally altered which does not conform to such dimensional requirements.</p> <p>Section 4.2 sets out the regulations for each district are specified in the Schedule of Dimensional Regulations, including the below maximum height regulation for the Residence A District:</p> <ul style="list-style-type: none"> Min. Lot Area: 1 Acre Min. Frontage: 150 ft. Min Lot Width: 150 ft. Lot Depth: N/A Min Front Yard: 60 ft Min. Side Yard: 60 ft. Min. Rear Yard: 30 ft. Max. # of Stories: 2.5 story - Max. Bldg Height: 35 ft Max. Bldg Area: N/A Min. Open Space: N/A 	<p>Waived. Dimensional and density regulations to conform to the Residence A dimensional regulations except as shown on Project Plans, including waiver of building height</p> <p>Project Plans include following dimensional features:</p> <ul style="list-style-type: none"> Min. Lot Area: 1 Acre – No waiver Min. Frontage: 150 ft. – No waiver Min Lot Width: 150 ft. – No waiver Lot Depth: 950+ ft. – No waiver Min Front Yard: 60 ft – No waiver Min. Side Yard: 60 ft. – No waiver Min. Rear Yard: 30 ft. – No waiver Max. # of Stories: 2.5 story –Waive to allow four story building - Max. Bldg Height: 35 ft - Waive Max. Bldg Area: 10%+- Bldg coverage; 26% +- total (Bldg. and impervious surface) – No waiver Min. Open Space: N/A – No waiver 	<p>The height of the multifamily buildings are proposed as four-story buildings, whereas Section 4.2 would otherwise limit the height to 2.5 stories/35 feet. The additional height of the buildings is appropriate for a waiver as it allows for the building footprints and associated impervious areas to be minimized. The requested waiver of height restrictions advances the Town's need for affordable housing; further, the increase in the height of the buildings is mitigated both by the size of the parcel (15.2 acres) as well as its setback from the road. The scale and height of the buildings are appropriate for the size of the lot</p>

ZONING BYLAW FOR THE TOWN OF SHEBORN, MASSACHUSETTS						
(CONT'D)	BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED	REASONING
Section 4.3.6	Number and Location of Dwellings on One Lot	Restricts number and location of dwellings (including accessory structures) on a lot.	States that the number of dwellings on a lot shall be that sufficient land area exists to form a separate lot which is in conformity with the regulations.	Waived to allow 120 apartments, located within three buildings on the 15.2± acre parcel. Approximate density of 7.9 units/acre.	See above discussion regarding design considerations. The proposed density of 7.9 units/acre is a modest density for multi-family dwellings.	
Section 5.1.3	Parking Area Plans	Requires Planning Board approval of parking areas	Requires submittal to Planning Board for approval, prior to issuance of building permit or a use permit, a plan of proposed parking facilities showing area and dimensions of lot, locations, areas and sizes of buildings, maximum area of buildings to be used for selling, offices and other uses, maximum number of employees to be accommodated at one time, maximum seating and/or sleeping capacity where applicable.	Waived. Parking areas to be as depicted on Project Plans and as provided within the Comprehensive Permit.	The proposed parking plans are designed to serve the needs of the residents; likewise, within the course of the public hearing, further revision to the length of parking spaces on non-sidewalk facing parking areas has been reduced to 18 feet to reduce impervious areas and reduce buffer zone impacts.	
Sections 5.2.3/5.2.6	Regulations for Signs in Residence District	Regulates signage in residential districts.	Permits only one permanent ground sign and building sign, subject to certain size limits (i.e., ground sign: 2x6 feet; building sign 1x5 feet); also restrictions on temporary signs	Waived to allow signage on each of three buildings; and in sizes consistent with sizes presented to Board on project plans; also waived to allow temporary signs during construction and initial lease up of greater number/size than described in Section 5.2.6(c); and waived to allow monument sign/project identification signage at entrance together with directional signage within project site.	Waiver of the signage regulations is consistent with the use of the property for multifamily buildings; signage on each of the three residential buildings as well as entrance signage, directional signage assists with wayfinding. The local need for reduced signage and sizing of the same on this parcel is minimized due to the size of the parcel, and the competing desires to allow for wayfinding throughout the site. The need for well-planned affordable housing overrides the local need for signage designed on a one size fits all basis.	

ZONING BYLAW FOR THE TOWN OF SHEBORN, MASSACHUSETTS						
(CONT'D)	BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED	REASONING
Section 6.1		General Authority and Conditions	General Authority and Conditions	As required by Chapter 40A of the General Laws, this Zoning By-Law provides for specific types of uses which are only permitted in specific districts upon the granting of a special permit by the Special Permit Granting Authority (hereinafter referred to as the Authority) in the manner provided herein.	To the extent applicable, waived. Pursuant to 760 CMR 56.00 (the "Chapter 40B Rules"), at 760 CMR 56.05(7), zoning waivers are required solely from the "as-of-right" requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district. .	

GENERAL BYLAWS OF THE TOWN OF SHERBORN (Including amendments of 2019 ATM)					
BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED	REASONING
Chapter 22	Driveways	Sections 1	Section 1. No driveway shall be constructed or substantially altered at the point of intersection with a public street unless a written permit is obtained from the Director of DPW in accordance with rules and regulations adopted by the Select Board. No provision of these rules and regulations shall operate so as to prevent construction on any lot on which such construction would otherwise be permitted. No foundation or building permit shall be issued for the construction of a new dwelling unless such driveway permit has first been obtained. The Director of DPW may impose such conditions in said permit as will reasonably protect said streets or private ways from damage or obstruction as a result of said construction or substantial alteration.	Waived in entirety. Project is to be developed in accordance with Project Plans and governed by Comprehensive Permit decision, and subject to technical review of plans to ensure conformance with project plans.	The procedures of MGL c.40B, §§20-23 guide the procedures for a comprehensive permit

GENERAL BYLAWS OF THE TOWN OF SHERBORN (Including amendments of 2019 ATM)					
BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED	REASONING
Chapter 22, Section 2	Driveways, Section 2	Includes minimum standards for driveways in Sherborn greater than 500 feet in length/maximum grades and minimum radii	Where a new driveway or a driveway for a new dwelling will exceed 500 feet in length from a public street or private way to any dwelling located on any lot, said driveway shall meet the following minimum standards: a. Minimum Width - fourteen feet (14') with a minimum 10" gravel base and a top surface of either gravel or bituminous concrete or combination b. Minimum Weight Bearing - The Director of DPW shall approve the minimum weight bearing capacity as certified by a Registered Professional Engineer of all such driveways at such locations where driveway consists of a bridge or located under it any culverts or pipes for the purpose of water flow. c. Vertical Clearances - 15½ feet. d. Turnaround - maintained turnaround area or circular turnaround, in proximity to the dwelling as may be approved by the Director of DPW. e. Maximum Grades and Minimum Radii - driveway shall be constructed with maximum grade slopes of no more than 8% and minimum turning radii of not less than 40 feet. f. Other Conditions - Applicants for driveway permits shall submit suitable plans to the Director of DPW for approval, who may impose such conditions in said permit as will reasonably assure access to and from said public street or private way to any dwelling built on the property of the applicant for the purpose of assuring access to such structures of all public safety services. g. Waivers - DPW Director shall waive any of the requirements upon written request by the Planning Board.	Waived; to be governed by Project Plans and Comprehensive Permit decision. Specific design waiver, to the extent applicable, on portion of driveway which is emergency access connector (10% grade) between project and adjacent EA project. NB: no dwellings are on that portion of driveway; proposed grade at emergency access connector is allowed by NFPA fire access road standards.	The procedures of MGL c.40B, §§20-23 guide the procedures for a comprehensive permit. The requested substantive waiver to allow for a 10% grade or greater on the driveway is limited to that portion of the same serving as the emergency access connector to the adjacent property and does not impact normal/daily use of the driveway by the residents. The requested waiver is minor in practical terms and does not override the competing need for affordable housing, especially where the proposed grade is permitted under NFPA fire access road standards.

GENERAL BYLAWS OF THE TOWN OF SHERBORN (Including amendments of 2019 ATM)					
BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED	REASONING
Chapter 25	Comprehensive Stormwater Management Bylaw	Regulates discharges to the MS4 system to protect water bodies and groundwater, health, safety, environment.	<p>4.2 Permitted Non-Stormwater Discharges A limited category of non-stormwater discharges are only allowed with a permit from the Director of DPW. Such permits may be granted only following an examination of potential alternatives and a finding by the Director that there is no viable alternative. These categories are: a. Uncontaminated pumped ground water b. Foundation drains c. Water from crawl space pumps d. Footing drains .</p> <p>4.4 Land Disturbance No person shall undertake construction activity that requires (a) Planning Board review (including new subdivisions, special permits for multi-family development, and site plan review for new commercial/industrial development or redevelopment), (b) a Building Permit (such as new single family residential development or redevelopment), or (c) utility line work, AND if the activity will disturb or alter one acre or more of land, without obtaining a Stormwater Management Permit (SMP) from the Planning Board.</p>	<p>Waived in entirety. Stormwater will be managed in accordance with MassDEP Stormwater Policy and Technical Guidance, unless otherwise exempt. Stormwater also to be managed in accordance with USEPA Stormwater Construction Permit for Massachusetts. .</p>	Chapter 40B guides permitting; separate permits not required from Planning Board.

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SHERBORN BOARD OF HEALTH REGULATIONS					
BOARD OF HEALTH REGULATION: Part III, Sections 3.1, 3.2 and 14	Environmental Health Impact Report/Scope	Report when greater than 10 dwelling units proposed.	Projects greater than 10 dwelling units, to submit an Environmental Health Impact Report to Board of Health	Waived. All review by Zoning Board under Chapter 40B; as project requires no onsite water or sewer, impacts to drainage/stormwater to be addressed in civil engineering plans and within peer review.	See letter to Zoning Board, dated May 10, 2021
BOARD OF HEALTH REGULATION: Part III, Sections 10 (A-D)	Bedrock Disruption	Permit for bedrock disruption of more than 10 cubic yards.	Requires permit where 10 or more cubic yards (cy) of bedrock disruption is conducted on property; requires advance notice to neighbors within .25 miles and provision of information of blasting agent to Board of Health. Prohibition on use of perchlorate as blasting agent.	Waiver sought for BOH separate application form and approval; comprehensive permit is master permit. Should blasting on site be greater than 10 cubic yards, Applicant agrees to notify Zoning Board with copy to Board of Health agent at least ten days in advance, to provide information on blasting agent within such notice; not use perchlorate and send written notice of blasting to neighbors within .25 miles at least ten days in advance.	The waiver sought under Section 10 is along the lines of a process waiver, as Comprehensive Permit is master permit. Any bedrock disruption associated with project is anticipated to be limited to shallow disruption related to utility work. Applicant agrees to work with Zoning Board for conditional language such that advance notification to Zoning Board and BOH agent, including description of blasting agent (with prohibition on perchlorate) and to also provide written notice to neighbors within .25 miles of property.
BOARD OF HEALTH REGULATION Part III, Section 12.1	Drainage	Drainage detail	Limit on stormwater runoff change of more than/less than 10% for volume of runoff or total rate of runoff for subdivisions/projects.	To extent applicable (project is not subdivision):waive. Proposed project to adhere to MassDEP stormwater and stormwater mitigation standards	See letter to Zoning Board, dated May 10, 2021
BOARD OF HEALTH REGULATION Part III, Section 12.5	Drainage	Drainage and soil permeability	Soil infiltration rates measured by in-situ field bore hole tests.	Waived; project to utilize infiltration rate design methods as outlined in the MassDEP stormwater and stormwater mitigation standards.	See letter to Zoning Board, dated May 10, 2021.

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SHERBORN WETLANDS BYLAW/REGULATIONS					
CHAPTER 17 – WETLAND BYLAW/ Sherborn Wetland Regulations, Section 5.2	No Alteration Zone (NAZ)	Disturbance within inner buffer zone is presumptive to create adverse effects to protected interests.	Establishes a 50-foot no alter zone (i.e., the inner buffer zone).	Waived. As shown on project plans, allow site disturbance and construction within inner buffer zone (50 foot buffer) for grading, drainage and utilities. Waived to also allow post construction, maintained landscaping/lawn areas within inner buffer as shown on project plans. Project includes no structure within 50 foot buffer.	The project will be subject to an Order of Conditions under the State Wetlands Protection Act for work within the 100 foot buffer zone. No structure is proposed within the inner buffer (the NAZ); further, within public hearing, Applicant has further reduced work in NAZ and total non-stormwater impact to NAZ constitutes less than 10% of the total NAZ on the locus. Project design elements which mitigate impact to the inner buffer and protect adjacent wetland resource areas are fully detailed in Civil Design Group's letter to the Board of April 23, 2021. Further, the Board's peer reviewer has opined that adequate protection to support the requested waiver exists.

GENERAL BYLAWS OF THE TOWN OF SHERBORN (Including amendments of 2019 ATM)					
BY-LAW/REG.	TITLE	DESCRIPTION	REQUIRED	PROPOSED	REASONING
CHAPTER 17 – WETLAND BYLAW/ Sherborn Wetland Regulations, Section 5.3	Performance Standards: Fill	For project work within jurisdiction of Commission, fill to be clean and advance notice of source of fill to be provided to Commission. Fill to otherwise contain no oil or hazardous materials above MCP GW-1/S-1 standards	All fill used in connection with any project under the jurisdiction of the Commission will be clean fill, containing no garbage, refuse, rubbish, industrial or commercial or municipal fill or waste, demolition debris, or septic sludge. No fill to have levels of oil or hazardous materials above GW-1/S-1 standards of MCP. Prior to placement of fill, notice to be given of source of fill to Commission member. The Commission reserves the right to require specific additional chemical testing of fill by a third party, at the applicant's expense, prior to placement at the site.	Waived only to the extent that advance notice of source of fill be provided one week prior to placement on site. Applicant would agree to work with Zoning Board on condition within Comprehensive Permit that Applicant will provide notice to Board and copy to Commission agent of the source of fill within buffer zone prior to placement of fill on site.	As to the master permit (the comprehensive permit), Applicant is amenable to working with Board to draft condition that fill brought to site be clean fill; to the extent deemed appropriate or necessary by the Zoning Board, Applicant can also agree to providing the Board (and copy Conservation Commission agent) as to the source of fill in advance of placement on the site; the waiver for such notice is limited to the seven-day advance standard as the same is not practical in commercial construction. There is no local need for a seven day advance notice as to the source that outweighs the need for affordable housing, especially where Applicant agrees to using clean fill and to providing notice as to the source to the Board.

*Applicant: Sherborn Baystone, LLC
Project: Coolidge Crossing*

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