SHERBORN MA
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CAROLE D. MARPLE
TOWN CLERK

SHERBORN ZONING BOARD OF APPEALS
THE FIELDS AT SHERBORN
COMPREHENSIVE PERMIT

I. THE PROJECT

Property:	The "Property" is located at 247A Washington Street (Route 16), Sherborn, Assessors Map 3, Lots 88B and 88C, and is shown on the Plan of Record.
Plans of Record:	Plans as revised and listed on the attached Exhibit A (also referred to as "Project Plans" or "Plan of Record"). The Plans of Record indicate that the Property has a total area of 17.55 acres and is located in the Residential B Zoning District
Owner:	The Fields at Sherborn, LLC see Middlesex South District Registry of Deeds Book 65068, Page 314
Applicant:	The Fields at Sherborn, LLC
Project Eligibility:	On December 10, 2014, Massachusetts Housing Finance Agency ("MassHousing") issued a project eligibility letter ("PEL") to Trask, Inc. for 36 home ownership units under the New England Fund.
Application:	On February 13, 2015, The Fields at Sherborn, LLC (the "Applicant") filed the Application for the Project with the Zoning Board of Appeals (the "ZBA" or the "Board") and the Town Clerk. The term "Applicant" shall include the Applicant's successors and assigns.
Project:	Subsequently, the Applicant modified the Application to 32 home ownership units.
Public Hearing:	The public hearing opened on March 12, 2015 and was continued on various dates. The public hearing closed on March 7, 2016. The Applicant provided written extensions that extended the date to complete the public hearing through March 7, 2016, and to extend the time to render a decision to May 6, 2016.
Board Members:	Board member Alan B. Rubenstein attended all public hearing sessions, and members Paul Kerrissey and Ronald Steffek attended all public hearing sessions except for one, and filed the appropriate affidavits under G.L. c. 39, §23D. All three members attended all deliberative sessions of the Board.
Decision Date:	On May 3, 2016, Board members Rubenstein, Kerrissey, and Steffek voted to: grant with conditions the Application, as set forth below.

II. JURISDICTIONAL REQUIREMENTS:

Under 760 CMR 56.04(1), to be eligible to submit an application to the Zoning Board of Appeals for a comprehensive permit, the Applicant and the Project shall satisfy the following requirements: (1) The Applicant shall be a public agency, a non-profit organization, or a limited dividend organization; (2) the Project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program; and (3) the Applicant shall control the Site. Pursuant to 760 CMR 56.04(1), compliance with these project eligibility requirements "shall be established by issuance of a written determination of Project Eligibility by the Subsidizing Agency that contains all the findings required under 760 CMR 56.04(4), based upon its initial review of the Project and the Applicant's qualifications in accordance with 760 CMR 56.04."

The December 10, 2014 Project Eligibility Letter from MassHousing under the Housing Starts Program and the NEF fulfills the requirement of 760 CMR 56.04(1).

III. FINDINGS OF FACT

1. All Town boards, commissions and departments were notified of the application and the public hearing. The ZBA received written comments from the Board of Health, Town Planner and the Conservation Commission. Members of these boards were in attendance from time to time throughout the public hearing and participated extensively together with numerous citizens and advisors to those citizens. The ZBA considered all of the comments and recommendations of the Town boards, commissions and departments and such citizens/advisors in rendering this Decision, and expresses its thanks for their valuable assistance throughout this process.

2. The ZBA retained Phil Paradis of BETA Group, Inc. for general civil engineering peer review, and its subcontractor Stephen W. Smith, P.E., P.HGW., L.S.P., of GeoHydroCycle, Inc. for hydrogeological peer review. As discussed in more detail below, the ZBA also received hydrogeological evidence and testimony from James H. Vernon, Ph.D, P.G., Senior Hydrogeologist at Nobis Engineering, Inc., and Scott Horsley, a hydrologist retained by certain neighbors and abutters to the Project.

3. The Project will occupy approximately six acres of a 17.55-acre parcel of land (Assessor Lots 88B and 88C) that is currently undeveloped and contains fields, forest and wetland areas. The Project will involve construction activity within the Natural Heritage and Endangered Species Program (NHESP) Priority and Estimated Mapped Habitat, and within the 100-foot buffer zone to Bordering Vegetated Wetlands.

4. The Property contains 17.55 acres, of which 10.66 are wetlands. The Property is located within an existing residential neighborhood, with preexisting single-family residential houses on all sides.

5. The Project consists of thirty-two single-family, attached residences in nine buildings as shown on the Project Plans. The Property is to remain a single lot subject to the provisions of the Massachusetts Condominium Law, M.G.L. c. 183A. The thirty-two residential units will be owned as condominium units.

6. The correct count of "bedrooms" shown on the Project Plans, and accordingly the correct project septic system design flows, for purposes of both 310 CMR 15.00 and the local Sherborn Board of Health Regulations ("BOH" Regulations") was the subject of extensive discussion.

7. The units will be serviced by one on-site septic system. Each of the nine buildings will have its own separate on-site well for potable water. There will also be one irrigation well. The Applicant maintains that these will be nine separate private well systems, with the condominium owners of the units in each separate building being responsible for the well servicing that building.

8. The Town of Sherborn does not have a public water supply or public sewerage system.

9. The geology of the Project Site and its vicinity is characterized by a sandy "overburden" layer of soils "probably at least 25' deep" from the surface, followed by a bedrock layer consisting of "biotite granite of pre-Cambrian age." Nobis Report, p. 4. Groundwater occurs in both fractured bedrock and in the overburden, but the Project's proposed drinking water wells, and the wells of existing abutters and neighbors, are so-called "bedrock wells," meaning they pull water from the bedrock aquifer, and not from the overburden aquifer. The degree of hydraulic connectivity between the overburden and the bedrock is not known.

10. Under Title 5, no septic system serving new construction in areas where the use of both on-site septic systems and on-site drinking water wells "shall be designed to receive or shall receive more than 440 gallons per day, per acre, unless (i) an "aggregation plan" is proposed, through which the applicant places development restrictions on other "credit land" outside the project site itself, or (ii) an enhanced nitrogen removal system is proposed. See 310 CMR 15.214(2).

11. The Applicant contends that with a bedroom count of 76, its design flow falls just below the 440 gpd/acre limitation. The Applicant's calculation of the threshold assumes that the development parcel is 764,478 square feet. This is equivalent to 19.11 acres as defined by Title 5. This area yields a maximum design flow of 8,408.40 gallons per day pursuant to Title 5. If the design flow of the Project is calculated based upon 76 bedrooms, and all of the parcel is counted for the calculation, the Project would fall below the 8,408.40 gpd design flow cap under 310 CMR 15.214(2).

12. The Property includes bordering vegetated wetlands, bank, and their associated buffer zones, which are subject to protection under the Wetlands Protection Act and the Town's General Wetlands By-law. The Project borders a wetland system containing one certified vernal pool as well as vernal pool buffer.

13. The Project includes 84,245 square feet of activity within the 100 foot buffer zone to the wetlands, consisting of 55,576 square feet of permanent disturbance and 28,669 square feet of

significant disturbance that the Conservation Commission deems permanent, but the Applicant deems temporary. Some of the work in the buffer zone will be as close as five feet to a resource area. More than 50% of the buffer zone bordering the wetlands adjacent to the project limit of work will be altered. The Applicant proposes the removal of 110 mature trees.

14. The Property drains to a Zone II associated with a public drinking water supply that services the neighboring town of Holliston.

15. The Property is entirely located within Priority Habitat of Rare Species and Estimated Habitat of Rare Wildlife as defined by the Massachusetts Natural Heritage and Endangered Species Program (NHESP). The Project limit of work is partially within an area mapped by NHESP as a BioMap2 Core Habitat, which identifies areas "most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems."

16. The Project proposes an overall increase of 2.2 acres of impervious surfaces, of which about 15,000-20,000 square feet is within the buffer zone, including buildings within 25 feet of the wetlands resources.

Additional findings of fact are contained below in Sections IV and V.

IV. BOARD ACTION RE: REQUESTED WAIVERS

A. Sherborn Wetlands Regulations

1. Section 10.1, quality of fill. The Applicant requested a waiver of the following:

> The source of any fill will be made known in writing to a member of the Commission at least one week prior to placement at the site. All environmental reports and results of chemical testing of such fill will be filed with the Commission at this time. 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.

The ZBA voted 3-0 to waive the requirement that the source of any fill be made known in writing to a member of the Commission at least one week prior to placement at the site, except with respect to "common fill", a term which both the Board of Health and Applicant indicated was a familiar and usable term.

2. Section 3.4, 50 foot No Alter zone. The Applicant requested a waiver of the following:

> It is presumed that significant adverse effects on the interests protected by the Sherborn By-Law result from any filling, dredging, building upon or other alteration within a resource area or within a minimum of 50 feet horizontally outward from the upland edge of a resource area, unless the applicant demonstrates by a preponderance of credible evidence that such significant adverse effect will not occur, and the Commission accepts

and approves such evidence.

The Board voted 3-0 to adopt the recommendation of the Conservation Commission and to not waive Section 3.4. It found, for the reasons stated by the Conservation Commission in its Denial of Order of Conditions and Findings of Fact dated November 17, 2015; the Memorandum from the Conservation Commission to the ZBA dated November 17, 2015; and the Commission's memorandum to DEP dated January 12, 2016, that the local concerns of protecting the wetlands could not be mitigated by conditions, and that these local concerns outweighed the need for affordable housing. The Board adopts the findings of the Conservation Commission in this regard.

Those local concerns include the fact that the resource areas on the Site are significant to protect the following interests: public and private water supplies, ground water, flood control, storm damage prevention, prevention of pollution, and wildlife habitat. The Commission found that the Project holds a high likelihood of altering the adjacent resource areas due to the extent, proximity, and proposed increase in grades and earthwork proposed within the buffer zone, particularly within the inner 50 feet of the buffer zone. The Project, due to the extensive proposed alterations in the buffer zone within the inner 50 feet of the buffer zone, will have negative impacts on wildlife habitat, pollution attenuation, protection of ground water, and protection of the water supply. The Applicant presented no evidence to the contrary.

The Commission's memorandum to this Board dated November 17, 2015 explains that the proposed amount of construction and post-construction activities and the resulting land alterations in the buffer zone will cause significant adverse impacts to the adjacent resource area by decreasing the water quality and wildlife habitat benefits provided by the resource. The regulation, by providing a 50 foot no-disturb zone, provides additional protection for the wetlands resources beyond those found in the Wetlands Protection Act.

The Commission further noted the special characteristics of the site that make the functioning of the wetlands especially important, warranting greater protection:

1. With regard to ground and surface water quality:
   - The local residential reliance on private wells for drinking water and the quality and quantity of water in the town, the neighborhood and the intensity on the site
   - The property and some of its wetlands are in the protective area (Zone II Potable Water Supply Aquifer Area) of a municipal water supply for Holliston
   - The wetlands, including an intermittent stream, are part of the impaired Charles River watershed for which various protections and improvements are required (such as phosphorous reduction);
   - The project will have a large source of septic system effluent containing nitrates and other contaminants of currently unknown concentration that will have an adverse effect on water quality.

2. With regard to wildlife habitat:
   - The property contains important vernal pool habitat;

- The Property is entirely located within Priority Habitat of Rare Species and Estimated Habitat of Rare Wildlife as defined by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).
- The property is part of a BioMap2 Core Habitat, which pertains "to exemplary natural communities and intact ecosystems";
- The project site is part of a large contiguous habitat and the project will diminish habitat value by contributing to fragmentation and edge effects, both major threats to habitat.

B. Sherborn Board of Health Regulations, Sewage Disposal

1. Section 7.0, system size and design.

Voted 3-0 that there is no need for a waiver, this system will be a pressure dosing system.

2. Section 7.1, leaching area size. The Applicant requested a waiver of the following:

> All single-family dwellings shall be designed for a minimum of three bedrooms.

Voted 3-0 that the provision cited above is no more stringent than state requirements under Title 5 and therefore no waiver is needed.

3. Section 7.1, leaching area size. The Applicant requested a waiver of the portion of the regulation defining bedrooms as any room above the first floor or that open directly to a bathroom.

Voted 3-0 to grant the waiver, with the following condition:

The units will be subject to deed restriction providing that owners will not use or convert closets, loft space, or laundry rooms on second floor as bedrooms.

4. Section 7.2.3 The Applicant requested waiver of requirement that septic system tanks shall be designed as if a garbage grinder were installed.

Voted 3-0 that there is no need for a waiver, based on the following conditions which the Applicant assented to:

> 1. Installation or use of garbage grinders shall be prohibited in all units.
> 2. Prior to occupancy of each unit, Applicant will install a notice beneath all kitchen sinks, in a location and of a size to be seen by anyone considering installing a garbage grinder, that states that installation of garbage grinders is prohibited.
> 3. Applicant will install a filter to detect whether garbage grinders are being used.
> 4. All individual unit deeds and the Master Deed shall include a restriction stating that garbage grinders are prohibited, and that signage be posted under the sinks of each unit indicating same

5. Section 8.0 Vertical Grades and Clearance.

The Applicant requested waiver of Section 8.0.3, finished grade over disposal area shall not be more than two feet and not less than 12 inches from the top of the stone forming the distribution lines in the leaching field or from the inlet pipe of seepage pits.

Voted 3-0 to grant waiver to allow finished grade not greater than three feet in locations shown on the plans, subject to the condition that such surfaces not be irrigated; that it be seeded with field grass; and that the field grass be maintained.

6. Sections 10.1, 10.2, and 13.

Waivers of these Sections of the Board of Health Regulations are no longer needed due to changes in the Project Plans.

7. Section 13.01, Septic Tank Location.

Voted 3-0 to approve waiver to allow proposed septic tank to be located more than 50 feet from the structure it serves, so long as the septic tank, leaching area, and buildings are located in accordance with the Project Plans.

C. Sherborn Board of Health Domestic Water Supply Regulations

1. Section 6.0E – The Applicant requested waiver of requirement that domestic wells shall be located not less than 75 feet from any adjacent well.

Voted 3-0 to waive Section 6.0E to the extent of allowing 60 foot separation between wells as recommended by Board of Health.

2. Section 17.2 – Sampling/Quality

Voted 3-0 to grant waiver subject to following conditions:

3. Section 17.3 – Laboratory Tests

Voted 3-0 to grant waiver subject to following conditions:

4. Section 17.4 – Water Conditioning

Voted 3-0 to grant waiver subject to following conditions:

All of the Sherborn Board of Health Water Supply Waivers set forth in Section IV.C.1 to IV.C.4 above are expressly conditioned on the following: The Applicant must comply with all Department of Environmental Protection Private Well Guidelines. The Applicant must comply

with the recommendations stated in Section 5 of the March 4, 2016 Nobis report, which are set forth in Section V.D of this Decision. The Applicant must comply with the Suggested Conditions of Comprehensive Permit that it submitted to the ZBA, p. 1, wells, which are set forth in Section V.C of this Decision.

D. Sherborn Zoning Bylaw

1. Section 1.5 – Definition of Height of Building or Structure.

Voted 3-0 to grant waiver.

Subject to following condition: the height of buildings shall not exceed 35 feet measured from the top of the concrete as shown on the Project Plans.

2. Section 3.2 – Use regulations. The Applicant requests a waiver to allow multi-family use.

Voted 3-0 to grant waiver to allow multi-family use.

3. Section 4.2 – Dimensional Requirements. Applicant requests waiver from setback requirement as it pertains to retaining walls.

Voted 2-1 to grant waiver as it pertains to retaining walls.

Subject to the following conditions: the Applicant will install a stone veneer on the retaining wall, and the wall will be built in accordance with standards set forth in the February 5, 2016 BETA report, number T5-2.

4. Section 4.2 – Dimensional Requirements. The Applicant requested waiver from setback requirement as it pertains to buildings and patios.

Voted 2-1 to grant waiver as it pertains to buildings and patios.

Subject to the following conditions: the setback for buildings shall be no less than 23 feet, and the setback for patios shall be no less than 16 feet.

5. Section 5.1.5 – Screening of Parking Areas. The Applicant requested a waiver of screening requirements.

Voted 3-0 to grant waiver subject to the following condition: landscaping shall be consistent with that shown on the Project Plans

6. Section 4.4. To the extent the Applicant requested a waiver of the matters arising out of the August 2012 Planning Board special permit recorded at Middlesex South District Registry of Deeds at Book 60250, page 4, the associated plan recorded as Plan 743 of 2012, and the deed at

Book 60250, Page 16, the Board voted 3-0 to deny the waiver on the grounds that the Board does not have authority to rescind recorded restrictions.

The ZBA carefully considered each waiver requested by the Applicant, evaluating all the evidence and argument presented by the Applicant, peer reviewers, town officials, and others. It is the intention of the ZBA to grant only those specific waivers granted above. Any additional waiver(s) that may be needed must be requested from the ZBA as a modification of this permit.

V. GENERAL MITIGATION CONDITIONS

A. Mitigation conditions

The Board found that the Project presents the following Local Concerns and that the Local Concerns require the following mitigating conditions and, therefore, the conditions set forth below are hereby imposed for the protection of public health:

1. Sewage disposal/impact on wells

One of the overriding concerns regarding this application was the potential that sewage effluent could cause contamination of the wells on the Property, or wells on neighboring properties. In particular, whether the sewage disposal system proposed for the Property will result in nitrate levels in any of the private wells on the Property or on neighboring properties to exceed the DEP drinking water standard of a maximum of 10 mg/l total nitrogen and 10mg/l of nitrate nitrogen. As noted by the Massachusetts Appeals Court in Reynolds v. Zoning Board of Appeals of Stow, Mass. App. Ct. (2015), maintaining clean groundwater servicing local private wells is an "important local health issue", and evidence that one or more private wells "will have elevated nitrogen levels and there is no public water source in the area and no proposal to provide ...clean water, it is unreasonable to conclude that the local need for affordable housing outweighs the health concerns...." This issue was closely examined during the course of the hearing, and the Board makes additional findings of fact on this matter as set forth in its discussion below.

A number of factors need to be considered in attempting to determine the expected nitrate levels at the private wells. The first is the total number of bedrooms proposed for the project. The Applicant states that there is a total of 76 bedrooms provided in the 32 housing units. Assuming this number of bedrooms is correct, under Title 5, the design flow for each bedroom is 110 gallons per day; thus the total for the Project based on 76 bedrooms would be 8360 gallons per day.

A review of the plans for the proposed town houses reveals that the designs include lofts, laundry rooms, studies, basements, and other areas that potentially could be used as bedrooms. There was a great deal of discussion and evidence as to whether some of the units in fact had additional rooms that should be considered as bedrooms under Title 5 and/or the Sherborn Board of Health regulations. If the total number of bedrooms on the Property in fact exceeds 76, the resulting increase in the design flow for the septic system would exceed 8360 gpd. As noted in the Findings of Fact, any increase in the number of bedrooms, and hence the design flow, would result in the Project

exceeding the 440 gallons per day, per acre, limit under 310 CMR 15.214(2), requiring either: (i) an "aggregation plan", through which the Applicant places development restrictions on other "credit land" outside the project site itself, or (ii) an enhanced nitrogen removal system. See 310 CMR 15.214(2). Further, increased number of bedrooms impacts the calculation of nitrogen loading for the Project, further increasing the risk of contamination of wells either on-site or off-site.

In addition to the number of bedrooms, the analysis of whether the septic system could impact the wells included a review of projected ground water flow direction and slope of the water table on the Property, to establish the area of influence (AOI).

The Town hired Nobis Engineering (Dr. Vernon) to perform an independent hydrogeologic study of the proposed development. Dr. Vernon presented his findings in a comprehensive report dated March 4, 2016. Dr. Vernon concluded that overburden groundwater flow on the site is generally southward, toward the wetlands located in southern portion of the property. Nobis p. 8. Based on photolineament and observations of outcrop in the area, Dr. Vernon determined that an east/west flow was the most likely for groundwater flow in fractured bedrock in the area. Nobis p. 11. Nobis further calculated the AOI's for Title 5 concentration calculations and flow lines from the proposed septic disposal system to sensitive receptors, including wells and wetlands, in the overburden groundwater. Nobis' task was made more difficult by a lack of information from the Applicant, changes to the plans, and Applicant's refusal to allow Nobis representatives on the Property. As a result of the initial findings, well J was re-located on the Property.

Groundwater occurs in both fractured bedrock and in the overburden, but the Project's proposed drinking water wells, and the wells of existing abutters and neighbors, are so-called "bedrock wells," meaning they pull water from the bedrock aquifer, and not from the overburden aquifer. The degree of hydraulic connectivity between the overburden and the bedrock is not known. As a result, determining the expected nitrate concentrations in the drinking water wells post-construction was a difficult task. However, at the ZBA public hearing, Dr. Vernon stated that under low seasonal groundwater conditions, there is a greater than 50% probability that nitrogen concentrations at one or more on-site wells will exceed the DEP drinking water standard of 10mg/l.

The Town's peer reviewer, BETA, noted the following concerns justifying the imposition of additional conditions to protect the public health: Sherborn has no public water supply or sewerage treatment and relies on on-site systems; the Project represents a maximum build-out of the Property; 40% of the Property is mapped as wetlands resource areas; the Property varies in elevation 45 feet more or less; a portion of the Property is within an approved wellhead protection zone (Zone II); a portion of the Property is located within a FEMA mapped 100 year flood plain; and the entire site is located within a NHESP mapped estimated habitat area for rare wildlife.

An expert hired by a group of neighbors, Dr. Scott Horsley, calculated a predicted nitrogen concentration at the protective radius (100') around the well on the abutting Ham property, using the "mass balance" analysis methodology proscribed by MassDEP in its *Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading*. Mr. Horsley concluded that the Nitrogen concentration in the overburden in the location of the Ham well protective area would be 31 mg/l, more than three times the maximum concentration for public safety under the state's drinking water laws.

The DEP defines "public water system" as follows:

> a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year ...The Department may presume that a system is a public water system as defined herein based on the average number of persons using a facility served by the system or on the number of bedrooms in a residential home or facility. The Department reserves the right to evaluate and determine whether two or more wells located on commonly owned property, that individually may serve less than 25 people, but collectively serve more than 25 people for more than 60 days of the year should not be regulated as a public water system, taking into account the risk to public health. 310 CMR 22.02.

The Board finds that there is a significant risk to the public health, based on the above, and that DEP therefore ought to determine that the proposed system of on-site wells constitutes a public water system.

Due to the importance of protecting the drinking water wells both on the Property and on abutting properties, the Board finds that the number of bedrooms on the Property must be maintained at 76, to protect the health of the occupants of the Project and neighboring properties. Accordingly, the following conditions are imposed:

A. The Master Deed shall include a limit of 76 bedrooms for the Project. Each condominium unit deed shall prohibit the creation of any additional room(s) that could serve as bedrooms. In addition, the condominium unit deeds shall provide that basements cannot be finished or additional walls constructed in basements or elsewhere in any unit, other than as set forth in the submitted Project Plans already on file with the Zoning Board of Appeals as listed in Exhibit A, which would increase the bedroom count under either 310 CMR 15.00 or Sherborn Board of Health regulations. The number of bedrooms for each condominium unit shall be stated in the condominium unit deed and shall not be exceeded. The Master Deed shall also provide that no increase in the total number of bedrooms for the Condominium shall be allowed without the consent of 100% of unit owners and all first mortgagees, and the consent of the Board of Health.

B. The following conditions are imposed as recommended by BETA in its letter of February 5, 2016:

1. W2 and W4: Testing and sampling of all wells should be done simultaneously with all wells pumping. Wells should be sampled for coliform bacteria, radionuclides, inorganics constituents, volatile organics and secondary contaminants as outlined in Appendix A of the 2014 State Water Supply Guidelines. All potable wells shall be sampled regularly, as suggested in the Massachusetts Private Well Guidelines for bedrock wells. The initial testing shall be for the constituents in Table 8, including radon; annual testing for coliform bacteria, and every three years for the constituents in Table 10.

2. W5: Draw down calculations shall be provided if results of monitoring during well test pumping show significant alteration of groundwater elevations.

3. W7: The Board may require a mass balance analysis should the results of well testing reveal a change to groundwater characteristics and AOI such that the wells may be impacted.

C. The following conditions were submitted by and agreed to by the Applicant and are incorporated into the Board's decision:

1. Applicant agrees to hire and pay directly for an independent consultant to review all well drilling procedures and well construction details, as well as final well quantity and quality results, well pumping data, and reporting procedures. The consultant shall report all findings to the Sherborn Board of Health.

2. In addition to parameters outlined in Tables 8 and 10 of the DEP Guidelines for Private Wells, after the twenty-fourth unit has been occupied, nitrate, nitrite, coliform, and enterococci shall be tested for annually.

3. Applicant has agreed to and will install three overburden monitoring wells at locations and standards recommended by Nobis in its March 4, 2016 report, Sections 5.1, 5.3, and 5.4, and to monitor these wells as recommended in the Nobis report.

D. The following conditions are imposed as recommended by Nobis in its report of March 4, 2016:

1. 5.0.1: The Applicant shall submit the well construction logs of the on-site monitoring wells to the Board, including the depths of the wells, intakes, the type of intake, and whether or not the well has been developed or checked for responsiveness to water level changes in the aquifer.

2. 5.0.2: The Applicant has agreed to perform a 48 hour pumping test in which the new on-site wells are pumped simultaneously, results to be provided to the Board.

3. 5.0.3: Applicant has agreed to and will install three new permanent overburden monitoring wells at the following locations: (1) immediately south (downgradient) of the proposed leachfields; (2) south, and farther down gradient from the first well, but not as far south as the "Impacted Wetland"; the well should be in an area agreed to be within a likely AOI for the proposed septic system; and (3) immediately northwest (upgradient) of proposed well F.

4. 5.0.4: The three monitoring wells should be drilled (not placed in a back-filled test pit). They should be constructed with wire-wrapped steel or PVC slotted well screen and steel or PVC riser pipe. If PVC is used, the wells should have a protective, outer steel

casing with at least two feet of stickup and a sanitary concreate seal at its base. The screen depth should be selected, in the field, by an experienced hydrogeologist working with the well driller. The top of the screen should be set two or more feet below the water table, if possible, and the well screen should be a minimum of two to five feed long (5 feet preferred). The well should be developed following drilling until water pumped from the well is clear. The town of Sherborn has the option to observe the entire process, and if the Applicant does not have a consultant experienced with monitoring well installation, the Applicant shall allow the town's hydrogeologic consultant to oversee the process. These three wells will be used during the pumping test and as permanent monitoring wells. Therefore, the wells need to be suitable for both water level measurement and for sampling.

5. 5.0.5: Prior to the pumping test, the Applicant shall submit a pumping test plan for the Town to review and approve, which will address the following elements:

- How will pumping rates be measured?
- What will be the pumping duration, 48 hours?
- Where will the pumped water be discharged?
- How will water levels in the pumped wells be monitored?
- How will the three wells described above be monitored for water levels?
- Which neighboring wells will the Applicant monitor if the neighbors grant permission?
- How will the Applicant assure that bacteria and other contaminants are not introduced into the neighbors' wells during monitoring?
- How long before and after the pumping will water level measurements occur?
- How will the Applicant analyze and present the water level data?
- What is the contingency plan if two or more of the new bedrock wells interfere with each other? What if a response is observed in one of the neighbors' wells that is monitored during the test? What if one of the three new overburden monitoring wells described above shows a response?
- Will the Applicant sample the new wells for any constituents beyond those normally required for new wells in Sherborn?

6. 5.0.6: The pumping test will be conducted accorded to the approved pumping test plan.

VI. CONDITIONS

The grant of this comprehensive permit hereunder is dependent upon compliance with all of the conditions set forth above and upon the following additional terms and conditions.

A. Regulatory Conditions.

1. The total number of units that may be constructed at the Premises shall be limited to 32 condominium units, with a maximum of 76 bedrooms, substantially as shown on the Plan of Record.

2. As a condition of any approval hereunder, at least 25% of the dwelling units shall be and shall remain affordable and shall be marketed and leased to eligible households whose annual income may not exceed 80% of area median income, adjusted for household sized, as determined by the United States Department of Housing and Urban Development (the "Affordable Units"); and, subject to approval by DHCD, the Affordable Units shall be and shall remain eligible to be included in the Town's Subsidized Housing Inventory, as maintained by DHCD.

   The Applicant shall notify the ZBA and the Town Administrator when building permits are issued for Affordable Units and cooperate with the preparation of request forms to add the Affordable Units to the Town's SHI. The Applicant shall notify the ZBA and the Town Administrator when occupancy permits are issued for the Affordable Units and cooperate with the preparation of request forms to add the units to the Town's SHI permanently. The Affordable Units shall permanently remain affordable units, for so long as the Project is not in compliance with the Town's Zoning By-law, 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.

   A springing affordable restriction and regulatory agreement shall be signed with the Town and recorded at the Registry of Deeds as set forth below.

3. The Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the subsidizing agency. The Affordable Units and the market rate units shall be constructed on substantially the same schedule. The Affordable Units shall not be readily identifiable as such and shall be equally distributed among the units.

4. The Applicant shall execute a Regulatory Agreement that shall be countersigned by the Subsidizing Agency as required under G.L. c.40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement. The Affordable Units shall be identified before building permits are sought and the Affordable Units shall not be segregated from the market rate units. If the Project is approved to be phased, then 25% of the units in each such phase shall consist of affordable units.

5. The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Board and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Middlesex South Registry of Deeds against the Property prior to issuance of any building permit for the Project and signed by all necessary parties, including all mortgagees and lien holders of record.

   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 Project shall remain 25% affordable so long as the Project does not conform to local zoning; (iii) shall require that at least twenty five percent of the dwellings in the Project 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; (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; and shall restrict the number of allowed units to not more than 32 units, with not more than a maximum of 76 bedrooms as described in this Comprehensive Permit.

The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the 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.

6. 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 allowed under G.L. c.40B and 760 CMR 56.00 in relation to excess profits and enforcement of affordability provisions.

7. 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.

8. To the extent allowed under G.L. c. 40B and the regulations promulgated thereunder and other applicable law, with respect to at least 70% of the affordable units, the Applicant shall provide a preference category for Sherborn residents, and their parents and children, who have resided in Sherborn within two years immediately preceding their application for housing, and for employees of the Town of Sherborn in the initial sales of the units.

   This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein, to the extent such local preference has been allowed by the Subsidizing Agency

   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.

The Applicant shall submit to the Board a report on marketing activity at the Project during the initial lease-up of the Project demonstrating compliance with the local preference requirement pursuant to the plan approved by the subsidizing agency as set forth below.

The Board acknowledges that the Town will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence. If the Board or its designee does not provide such information within sixty days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or DHCD, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above.

9. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above.

10. If at any time it appears that the Applicant is in violation of an affordable housing restriction, then the Board may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.

11. Profits from the Project in excess of those allowed under applicable law and regulations shall be utilized as provided in the regulatory agreement with the Subsidizing Agency and as required and provided for under G.L. c.40B and 760 CMR 56.00.

12. The Applicant shall provide the ZBA with copies of any and all documents and statements provided by the Applicant to the Subsidizing Agency or its designated auditor of the Applicant's costs and revenues for informational purposes.

13. The Town, by and through the ZBA or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.

14. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Official and the ZBA.

B. Project Specific Conditions

1. The ZBA notes that the Applicant provided only preliminary Plans of Record for the revised Project and the Board agreed to accept preliminary plans for purposes of approval of a comprehensive permit for the Project, with the express condition and agreement by the Applicant that, following any such approval of the comprehensive permit, the

Applicant shall prepare and submit to the Board and its peer review engineer, the final detailed plans for review and approval by the Board using the process set forth below, each time that one or more set of final plans is provided by the Applicant.

The final plans to be submitted shall include, but shall not be limited to, final drainage plans, with drainage calculations, utilities, parking, lighting, landscaping, roadway improvements, sidewalk improvements, grading, septic systems, and wells.

The final design submittal and peer review process shall take place after the comprehensive permit is approved and shall require a submission of the relevant final design and plans to the ZBA for peer review, at the Applicant's expense, and a vote by the ZBA that the plans are consistent with the terms and conditions of this comprehensive permit and consistent with accepted engineering practices, which review process shall take place, not at a public hearing, but during a duly posted public meeting during which the ZBA may take information and evidence from the Applicant, the peer review engineer and interested members of the public.

The Applicant shall provide the materials to the ZBA and its peer review engineer and the ZBA's peer review engineer shall review the materials for completeness and to determine the cost of the peer review.

The peer review engineer shall provide its report on completeness and the cost of review to the ZBA and the ZBA shall provide that report to the Applicant. The ZBA shall vote to determine whether the materials are complete.

Once the materials are complete and the peer review funds are in place, the ZBA shall have 45 days to obtain the necessary peer review and determine whether the final design submittals and plans conform to the conditions set forth in the comprehensive permit.

If the ZBA votes to determine that deficiencies exist in the submittal and plans, the ZBA shall notify the Applicant of the deficiencies and the Applicant shall have an opportunity to cure the deficiencies and the Applicant and the ZBA may mutually agree to extend the 45 day period for review to cure the deficiencies.

If the deficiencies are not timely cured, then the ZBA may vote to determine that the relevant conditions of the comprehensive permit have not been satisfied and the Applicant may avail itself of any avenue of appeal that may exist or may take further action to make additional submissions to the ZBA and its peer review consultant, to try to obtain the approval required by this condition, so long as this comprehensive permit has not lapsed and so long as the Applicant pays the reasonable fees of the peer review consultant.

The Applicant, before performing any work on Town-owned property shall provide evidence to the Building Inspector of the necessary permission from the Town before proceeding.

2. No construction activity shall occur on the Project, and no building permit shall be issued, until the Applicant shall have:

   a. Executed and recorded the standard form Regulatory Agreement, and provided evidence of same to the ZBA and the Building Inspector. The Regulatory Agreement shall be subject to review and approval, as to form and consistency with this Decision, by Town Counsel prior to execution, such approval not to be unreasonably withheld.

   b. Obtained an Order of Conditions from the Sherborn Conservation Commission or DEP permitting the construction of the Project, and any appeals have been finally adjudicated.

   c. Obtained a Disposal Works Construction Permit under Title 5 of the State Environmental Code, and any appeals have been finally adjudicated.

   d. Obtained National Pollutant Discharge Elimination System ("NPDES") storm water permit for the Project, if applicable.

   e. Submitted to the ZBA and the 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 proposed CMP shall be provided to the Planning Board, Board of Health, Conservation Commission, DPS, Fire Chief and Police Chief.

   f. Provide to the Building Inspector a final Stormwater Pollution and Prevention Plan to address specific sedimentation, erosion and dust control, which illustrates, at a minimum, locations of measures such as hay socks, silt fence, sedimentation basins, and all other erosion controls on the plans, and provides detailed construction sequencing and methods to protect the infiltration capacity of each infiltration system, all in conformance with the requirements of the Conservation Commission during the Order of Conditions process.

   g. Provide procedures that outline the specific operation and maintenance measures for all stormwater/drainage facilities, including any temporary facilities that shall be employed to minimize or eliminate the threat of transmission of mosquito born diseases to the residents of the Project and nearby residents.

3. No building permit shall issue if DEP determines that the Project wells constitute a public water supply under 310 CMR 22.02.

4. The Applicant shall comply with the well testing frequency as set forth in paragraph W4 of the February 5, 2016 BETA letter.

5. There shall be no construction phasing of the Project, unless the Applicant returns to the Board with a specific phasing plan, which shall constitute a substantial change that shall require a public hearing and peer review. Once construction of the Project commences, it shall continue uninterrupted until completed.

6. All imported earth fill material shall consist of solid, sound mineral aggregate consisting of hydrologic soils group "A"(sand, loam sand) and/or hydrologic soils group "B" (sandy loam, loam) soils. All imported earth fill material shall be free from deleterious, organic, elastic or foreign matter. The material shall be used to achieve satisfactory compaction into a stabilized soil structure.

7. No portion of any building or structure shall be placed any closer than within 50 feet of any wetland area without advance approval by the Zoning Board of Appeals of a modification to the Plan of Record and this permit.

8. No disturbance of any land at the Property shall take place within 50 feet of any wetland; and, furthermore, any future proposal for disturbance of land within 25 feet of any wetland other than as presently shown on the Plan shall require advance approval by the Board and a modification of the Plan of Record and this Comprehensive Permit and the modified Plan of Record shall indicate explicitly depict the exact limits of any such disturbance.

9. There shall be a Condominium Association and the necessary documents to establish the Condominium Association shall be provided to the Board for its review and approval before the first occupancy permit is issued, including the Master Deed, Condominium Trust, form of deed for individual condominium units, documents for the control and maintenance of each well, exclusive control and maintenance easements for each well and the budget.

10. The Condominium Association shall be responsible for owning and maintaining and repairing and replacing the roadway and drainage systems and recreational areas.

11. The Condominium Association shall be in place and recorded against the Property before any lot is sold.

12. The roadway and stormwater control system shall remain private and shall be maintained by the Condominium Association.

13. A school bus stop shall be provided on the Property if requested by the school department, and if so requested, the location shall be determined by the school department.

14. The Applicant agrees to comply with comment U-2 in BETA's October 30, 2015 letter regarding water storage for fire fighting purposes.

15. The Applicant agrees that the use of sodium chloride, and the application of any chemical (e.g. pesticides, fertilizers, etc.), shall be prohibited within the first 50 feet of the buffer zone. Fertilizer use on portions of the Property that are not within the jurisdiction of the Wetlands Protection Act (which jurisdictional areas include the 100 foot buffer zone) will be limited to slow-release organic nitrogen fertilizer. No fertilizer applications will take place within such jurisdictional areas. Only natural organic pesticides will be used beyond the first 50 feet of the buffer zone.

16. The Master Deed shall specifically reference the O & M Manual, and shall bind the condominium association to arrange for regular inspection, maintenance and repair of the storm water management system by a qualified contractor to ensure its effectiveness for as long as the Project is in existence.

17. The Condominium Association shall include funds in its annual budget to conduct all routine repair and maintenance of the storm water management system in accordance with the O & M Manual, and shall provide annual funding to create a savings reserve so as to provide for the timely replacement of failed system components.

18. The Applicant and the Condominium Association, as may be applicable, shall submit an annual report to the Building Commissioner in which a qualified contractor certifies that it has timely performed all inspection, maintenance and repair called for by the O & M Manual. Such report shall be filed no later than January 15th of each year.

19. To the extent the Conservation Commission determines to conduct a natural resources study of the Property, which may include a pre-construction survey of baseline conditions within the wetlands resource areas, as well as an annual survey of the status of the wetlands for up to five years after construction, the Applicant and Condominium Association agree to grant reasonable access to the Conservation Commission or its agent, upon adequate notice.

C. General Conditions

1. 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.

2. The Project shall conform to all applicable state and federal laws, codes, regulations, and standards including, but not limited to, the following:

   (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.

3. There shall be no exterior construction activity on the Premises before 7:00 a.m., or after 7:00 p.m., Monday through Friday and before 8:00 a.m. or after 5:00 p.m. on Saturday. There shall be no construction on the Premises on the following days unless a special approval for such work has been issued by the Police Department: Sundays or the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The Applicant agrees that the hours of operation shall be enforceable by the police department.

4. All utilities within the Premises shall be installed underground.

5. 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.

6. 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 storm water management system shall comply with Department of Environmental Protection regulations.

7. 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 then the Condominium Association shall bear the cost of maintenance, repairs, replacement, snow plowing and trash removal for same in perpetuity.

8. The Applicant shall submit final fire alarm/sprinkler plans to the Fire Chief for review and approval. Full sprinklering of the units and the garages in conformance with the then applicable state building code shall be provided.

9. The Applicant shall equip each unit with water saving plumbing fixtures in every bathroom, kitchen, and laundry area, and all underground water pipes shall have water tight joints.

10. All infrastructure (utilities, roads, and stormwater management system, sewer and water) shall be constructed as shown on the Plan of Record, prior to issuance of a building permit to frame the first building, excluding the tie-ins for individual units until an occupancy permit is sought for the unit. The road may be to binder course until after all building is completed, provided that proper surety is provided to secure the work when the first occupancy permit is issued.

11. No storm water 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.

12. The Project shall comply with all requirements of the Operations and Maintenance Plans submitted to the Board, and any approved under an Order of Conditions.

13. Road salt shall not be used for vehicular areas.

14. Dumping of landscape debris, including leaves, grass clippings and brush, within 50 feet of any wetland shall be and is expressly prohibited.

15. The areas that are shown as undeveloped on the Plans shall remain as a permanent open space buffer zone and a restrictive covenant shall be provided to the Town to allow the Town to permanently enforce this requirement.

D. Construction and Bonding

1. The Applicant shall provide the Board 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.

2. The Applicant shall pay all reasonable fees imposed for the purpose of inspecting and monitoring the compliance of the Project's construction with the terms of this permit, local bylaw requirements not waived by this permit, and other permits and approvals issued with respect to this Project for which the Town has monitoring responsibility. A consulting engineer shall be used. All fees for Board consultants including fees incurred prior to the date of this decision shall be paid by the Applicant within 30 days of the receipt by the Applicant of the consultant's bill for services. Any outstanding fees owed for consulting services incurred by the Board before this decision was rendered shall be paid forthwith and before any building permit issues. Thereafter, no occupancy permit shall issue if an outstanding fee bill is 30 days overdue.

3. 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.

4. No area within 50 feet of any wetland shall be used for stockpiling of earth or construction materials, for parking of construction vehicles and equipment, refueling and maintenance of construction vehicles or equipment, or for storage of diesel fuel or hazardous materials.

5. Prior to construction, physical barriers as required under the tree protection provisions of the construction documents shall be installed along the limit of clearing line. Erosion controls and tree protection measures shall be continuously maintained throughout the course of construction. Adjacent public streets shall be swept as needed to remove sediment and debris. Disturbed areas shall be brought to final finished grade and stabilized permanently against erosion as soon as practicable. Bare ground that cannot be permanently stabilized within 60 days shall be stabilized annual rye grass following U.S.

Natural Resource Conservation Service (NRCS) procedures.

6. With respect to the work to be done by Applicant on private ways within the Property, no certificates of occupancy, shall be issued by the Town until the Applicant has fully completed all site drainage and utility work appurtenant to any portions of the site for which an occupancy permit is to be issued and has installed a binder course of pavement on driveways and parking areas within the Property.
Prior to the issuance of the first certificate of occupancy, a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, shall be provided to the Town, in an amount to be determined by the Town Department of Public Services in an amount sufficient to ensure the completion of the top coat of paving. Requests to reduce the surety may be submitted as the work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The amount of the surety retained shall be based on the cost estimate of the remaining work, and the surety shall be fully released upon the satisfactory completion of the work in question as voted by majority vote of the Board of Appeals. In the event of a default, the Town shall have the right to seize the funds and keep them and the right to use the funds, but not the obligation to do so, to appropriate the funds and expend them to do the work. The Town may elect to keep the funds until such time as the work is done and then return the funds. The Town shall have the right to require that the surety amount shall be increased even after work has been released, if the work that was released falls into disrepair or needs to be redone. If proper surety is not in place, no further permits shall be issued until the surety is provided.

7. Landscaping and lighting shall be as shown on the Project Plans To the extent that landscaping for the Project is not completed prior to the issuance of the first certificate of occupancy, the Applicant shall provide the Town with a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, and in an amount to be determined by the Board in consultation with Town boards and officials and other consultants based upon the Applicant's reasonable estimate of the costs to complete such landscaping work.

   In addition, the Applicant shall provide surety sufficient to loam and seed any disturbed areas which are yet to be developed as per the plans.

   Project surety shall be held by the Town Treasurer until the Treasurer is notified by the Board to release the surety. Requests to reduce the surety may be submitted as the landscaping work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The amount of the surety retained shall be based on the cost estimate of the remaining work, and the surety shall be fully released upon the completion of the landscaping work.

8. Prior to the issuance of any building permit, the Site and Engineering Plans, 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 Board and the Building Inspector, and shall include the following:

(a) Utilities, including on-site utilities and connections to utilities in adjacent public ways, which shall conform to all requirements of municipal departments or private utility companies having jurisdiction and to all applicable codes;
(b) Stormwater Pollution and Prevention Plan (SWPPP) notes that address mitigation of sedimentation and erosion, including details relating to any temporary drainage basins;
(c) Letter from the Project architect confirming that the Project complies with Architectural Access Board (AAB) Regulations; and
(d) Details of any temporary construction signs.

9. A surety instrument, that shall not expire until it is satisfactorily replaced or released, in an amount to be determined by the ZBA in consultation with Town boards and officials and other consultants shall be given to the Town by the Applicant prior to starting any activity authorized by this approval ("Authorized Activity") within a public way, on Town property or in any Town easement to ensure the proper and timely completion of all such work that shall be held by the Town Treasurer until the Treasurer is notified by the ZBA to release the surety.

   Requests to reduce the surety may be submitted as work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The surety retained shall be based on the work remaining.

10. Prior to starting any Authorized Activity, the Applicant and the general contractor shall hold a preconstruction meeting with the Building Inspector, Conservation Agent, and DPS Director or representatives to review this approval.

11. 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.

12. 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 Board shall be notified in writing of the final disposition of the materials.

13. Blasting, if any shall be performed in a manner approved by the Fire Department and Building Department so as to prevent injury or property damage to the residents of the Town and proper evidence of insurance shall be provided to the Building Inspector before blasting begins.

14. Within ninety days of completion of the Authorized Activities, the Applicant shall submit to the Board 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 Board, in consultation with the peer review engineering consultant, shall approve the as-built Plans when determined to be in compliance.

15. 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 generally accepted practice, as the same may, from time to time, change.

16. A plan to implement adequate erosion and sedimentation control measures in compliance with the Order of Conditions for the Project shall be submitted by the Applicant to the Building Inspector for approval that such measures comply with the Order of Conditions, prior to the start of any Authorized Activity. Said measures shall be maintained throughout the Project and until all disturbed areas have been permanently stabilized with either an adequate vegetative or asphalt cover in accordance with the Plans of Record.

17. 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.

18. 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.

19. The Applicant and the Condominium Association shall be permanently responsible for the following at the Project:

(a) all plowing, sanding, and snow removal. Snow shall be piled in designated locations as shown on the Approved Plans or alternate locations acceptable to the Fire Chief. In the event that snow impairs roadways such that the travel area is less than eighteen feet wide, and all designated snow removal locations have been exhausted, at the direction of the Fire Chief, the Applicant shall cause snow to be transported from the Project to an off-site location for the legal disposal thereof;
(b) all site maintenance and establishing a regular schedule for site maintenance;
(c) repairing and maintaining all on-site roadways, including drainage structures and utilities therein;
(d) 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;
(e) maintaining all easements shown on the Plans; and
(f) site lighting

20. 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.

21. 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.

22. No stumps or construction debris shall be buried or disposed of at the Property.

23. The Applicant shall use all reasonable means to minimize inconvenience to residents in the general area, during construction.

24. This permit is granted to the Applicant and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the Board, as required by 760 CMR 56.05(12)(b) or any successor regulation.

25. Any changes to the Project after issuance of this permit shall be reviewed and approved by the Board in accordance with 760 CMR 56.05 (11) or any successor regulation.

26. Building construction may begin simultaneously with the commencement of construction of the infrastructure, but no occupancy permit shall issue unless and until all of the infrastructure necessary for the occupancy permit shall be fully permitted and completed and have any necessary final sign offs.

VII. LAPSE

Any comprehensive permit granted hereunder shall lapse three years from the date that it takes final effect (i.e., the date that it is filed with the Town Clerk, subject to tolling in the event of any appeal and as provided in 760 CMR 56.05(12)(c)), unless the comprehensive permit is duly recorded before the three year period elapses and unless construction on the Project has commenced within such period. In addition, construction in accordance with this comprehensive permit shall be completed within three years of the commencement of construction. The Applicant may apply to the Board for reasonable extensions of these deadlines for good cause, but shall do so before any lapse occurs.

This comprehensive permit shall not be valid until it is duly recorded with the Registry of Deeds and evidence of such recording is provided to the Building Inspector and the Board. Any modification of this comprehensive permit shall be subject to 760 CMR 56 or any successor regulation thereto.

On April 27, 2016, the Board voted to authorize the Chairman, Alan B. Rubenstein, to sign this decision on behalf of the Board.

Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by M.G.L. c. 40A, § 17 or M.G.L. c. 40B, §20 et seq., as applicable.

SHERBORN ZONING BOARD OF APPEALS

Alan B. Rubenstein

By: Alan B. Rubenstein, Chairman

Filed with Town Clerk on: _____

Sent to Applicant, certified mail, on: _____

Notices to interested parties mailed on: _____

552227v2/SHRB/0007

SHERBORN MA
2016 MAY -5 AM 9:31
CAROLE D. HARPLE
TOWN CLERK

EXHIBIT A

THE FIELDS AT SHERBORN FINAL PLAN SUBMITTAL DATES

PLAN	DESCRIPTION	FINAL REVISION
Bruce Saluk & Associates 220 Boylston Street Marlborough, MA 01752		
CO	Cover Sheet	February 16,2016
EX	Existing Conditions	June 08, 2016
C1	Layout Plan	February 16, 2016
C2	Grading Plan	February 16,2016
C3	Drainage & Utility Plan	February 16, 2016
C4	Sewer & Water Plan	March 02, 2016
C5	Detail Sheet	December 10, 2015
C6	Detail Sheet	February 16, 2016
C7	Detail Sheet	February 16, 2016
SDS-1	Septic System Layout	February 25, 2016
SDS-2	Proposed Septic System	February 25, 2016
SDS-3	Proposed Septic System	December 28, 2015
W1	Well Easement Plan	February 16, 2016
Hawk Design, Inc. P.O. Box 1309 Sandwich, MA 02563		
L1	Overall Conceptual Landscape Plan	January 26, 2016
L2	Typical 3 & 4 Unit Conceptual Landscape Plan	January 26, 2016
L3	Irrigation Limits Plan	January 26, 2016
L4	Landscape Elevations	January 26, 2016
Creative Land & Water Engineering, LLC P.O. Box 584 Southborough, MA 01772		
GW1	Groundwater Contours - Seasonal High & Low	February 28, 2016
GW1	Groundwater Contours - Seasonal High	February 28, 2016
GW3	Groundwater Contours - Seasonal Low	February 28, 2016
GW4	Groundwater Contours - Seasonal Low 2	February 28, 2016
SAOI Septic Area of Impact		February 28, 2016

PLAN	DESCRIPTION	DATE SUBMITTED
Reeves Design Associates 79 Highland Street Marlborough, MA 01752		
	3-Plex Elevations	October 07, 2014
	3-Plex Front Elevation	October 07, 2014
	4-Plex Elevations	October 07, 2014
	4-Plex Front Elevation	October 07, 2014
Trask Development 30 Turnpike Road, Suite #8 Southborough, MA 01772		
	Final Floor Plans	BOH Submittal 02.29.16
	Kirkland Floorplan, 2-Bedroom	
	Kirkland Floorplan, 3-Bedroom	
	Kirkland Floorplan, Optional Basement	
	Adams Floorplan, 2-Bedroom	
	Adams Floorplan, 3-Bedroom	
	Adams Floorplan, Optional Basement	