

ZBA-  
3-2023

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

**APPLICANT**

Defcon 1, LLC  
390 Broadway Road, Dracut, MA 01826

**LOCATION OF SITE**

Cow Pond Brook Road  
Groton, MA  
Assessor's Map 248, Lot 42

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**I. PROCEDURAL HISTORY**

1. Defcon 1, LLC (the "Applicant") applied to the Groton Zoning Board of Appeals (the "Board") for a Comprehensive Permit on May 17, 2023. The Applicant proposed to construct 28 single-family homes and 12 duplex units on approximately 15.5 acres of land on Cow Pond Brook Road (the "Site"), to be named Heritage Landing (the "Project").
2. The Board opened the public hearing on the Application on June 14, 2023.
3. The public hearing was continued several times because the comprehensive permit application the Board received was incomplete, thereby requiring numerous additional submissions from the Applicant. The Board continued the public hearing to June 28, 2023, July 26, 2023, August 9, 2023, August 23, 2023, September 20, 2023, October 4, 2023, November 8, 2023, November 29, 2023, January 3, 2024, January 24, 2024, February 7, 2024, March 6, 2024, March 20, 2024, April 11, 2024, April 24, 2024, May 6, 2024, May 8, 2024 and May 23, 2024. The Board closed the hearing on May 23, 2024. All submittals concerning the Project are on file in the office of the Board of Appeals and incorporated herein. All waivers requested and votes taken are listed in Exhibit A and incorporated herein.
4. The Applicant prided certain plans, materials, reports, and revised plans during the public hearing on the Application. The Applicant was represented primarily by its attorney, Paul F. Alphen, Esq., and assisted by Jeffrey Brem, Meisner-Brem Corporation, engineering; Jim Jozokos, Jozokos Architecture, Inc., construction management; Defcon 1, LLC, traffic consultant, Kim Eric Hazarvartian, Principal, TEPP, LLC; and septic system design expert, Jeffrey Hannaford, Norse Design Services, Inc.

5. The Board utilized the services of Nitsch Engineering, Inc. for site and civil, and Robert J. Michaud, Managing Principal, MDM Transportation Consultants, Inc. for traffic review.
6. The Board conducted a site visit to the Site on December 2, 2023.
7. The following Board members were present for the entire public hearing process: Bruce Easom, Daniel McLaughlin, Veronica O'Donnell, Tom Peisel, and Jay Prager. Ms. O'Donnell joined the case after Russell Harris had to step down. The Applicant agreed to the change in Board membership.

## **II. GOVERNING LAW**

8. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations promulgated by the Executive Office of Housing and Livable Communities ("EOHLC"), 760 CMR 56.00 et seq. (the "Regulations").
9. The Act promotes regional distribution of low- or moderate-income housing by preventing individual cities and towns from blocking it through zoning and other local regulations that exceed state requirements. Toward these ends, the purposes of the Act are satisfied if (a) a town has low- or moderate-income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census; or (b) a town has low or moderate income housing which is on sites comprising 1.5 percent or more of the town's total land area zoned for residential, commercial, or industrial use; or (c) if the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3 percent of such total area or 10 acres, whichever is larger, in one year.
10. The Regulations expand the conditions for satisfying the statute to include various "safe harbor" opportunities, such as certification of progress under an approved Housing Production Plan (HPP), where "progress" means achieving a minimum annual low- or moderate-income housing production threshold established by EOHLC (in Groton, at least 21 new low- or moderate-income units per year). Groton has a current Housing Production Plan in effect from 2020-2025.
11. The Board's decision on a comprehensive permit must balance the regional need for low- or moderate-income housing against the Town's planning goals and local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the proposed housing, the surrounding neighborhood, or the Town as a whole.

## **III. JURISDICTIONAL FINDINGS**

12. The Town of Groton does not meet the statutory minima set forth in M.G.L. c. 40B § 20 or 760 CMR 56.03(3):
  - a. According to the Chapter 40B Subsidized Housing Inventory ("SHI"), as defined in

760 CMR 56.02, as of May 17, 2023, 5.65 percent of the Town's total housing stock comprised SHI eligible housing, as defined in 760 CMR 56.02. On the date of the Applicant's submission to the Board, the Town did not meet the 10 percent statutory minimum. The Board approved a comprehensive permit for a 200-unit rental development known as Groton Farms on November 1, 2023 (filed with the Town Clerk on November 6, 2023).

- b. The granting of this comprehensive permit will not result in the commencement of construction of low- or moderate-income housing units on a site comprising more than three-tenths of one percent of land area in the Town of Groton or ten acres, whichever is larger, zoned for residential, commercial, or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts, or any political subdivision thereof) in any one calendar year.
  - c. At the time the application for the comprehensive permit was filed in May 2023, the Town did not qualify for any of the "safe harbor" provisions under 760 CMR 56.03.
13. The Applicant received a Project Eligibility Letter ("PEL") from MassHousing (the "Subsidizing Agency") dated July 25, 2022. Based on the PEL, the Board finds that the Applicant has demonstrated its eligibility to submit an application for a comprehensive permit to the Board, and the Project fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
- a. The Applicant has or will form a limited dividend organization and agrees to comply with the Subsidizing Agency relative to a reasonable return under M.G.L c. 40B., 760 CMR 56.00, with a principal place of business of 390 Broadway Road, Dracut, MA 01826. The Applicant has agreed to conform to the limited dividend requirements of M.G.L c. 40B, § 21.
  - b. The Applicant provided sufficient documentation to demonstrate site control as required by the Chapter 40B Regulations.
  - c. By virtue of receiving the PEL, the Applicant demonstrated that it had received approval to build low- or moderate-income housing under a recognized federal or state housing program, consistent with M.G.L c. 40B, § 20.

#### **IV. FACTUAL FINDINGS**

14. The Site is located in the Residential-Agricultural District and Official Open Space District. It consists of 14.5+/- acres of land with approximately 428 feet of frontage on Cow Pond Brook Road. (The 15.5 acres referred to in I.1 was in fact incorrect.)
15. In the Residential-Agricultural District, a conforming lot must have at least 80,000 sq. ft. in area and 250 feet of frontage. The permitted residential uses in the district include a detached single-family dwelling and an attached two-family dwelling.

16. The Official Open Space District is intended for public and semi-public uses. Residential uses are explicitly prohibited.
17. Nearby land uses include residential development, soccer and baseball fields, the Groton Transfer Station and Recycling Center, a test firing range for the Groton Police Department, open space and conservation land, and the Massachusetts Institute of Technology's Haystack Observatory,
18. The Site is subject to the requirements of the Zoning Bylaw and regulations of the Board of Health, Conservation Commission, and Town departments unless the Board grants certain waivers requested by the Applicant and the waivers are within the Board's jurisdiction.
19. The Town has agreed to submit a grant application to the Commonwealth to fund extension of public water to the Project. On May 23, 2023, the Applicant testified that the Project is not feasible without public water and that if the grant is not approved, it will be up to the Applicant to pay for the cost of water extension.
20. The Board received written comments from the Board of Health, Dee Bus Service, Inc., Groton Fire Department, Groton Planning Board, Groton Police Department, a representative of the Park Commission, Sustainability Commission, Water Department, and the Groton Housing Coordinator, Fran Stanley.
21. The Board also received comments from abutters, including residents and representatives of the Massachusetts Institute of Technology (MIT), and other interested persons. Abutters expressed concerns about the potential for adverse impacts involving lighting, traffic, and public health.
22. All written comments received during the public hearing process are on file with the Board.
23. The Board has determined that the Project, as conditioned in Section VI below, is consistent with local needs, as that term is defined in 760 CMR 56.02, and as required by M.G.L. c. 40B, § 20.
24. The Board finds that the conditions imposed below are necessary to address local concerns and that granting waivers from local bylaws and regulations is acceptable even though granting any waivers may have an adverse impact on local concerns.
25. The Board further finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.
26. On the basis of the testimony of the Applicant, the Board's technical consultants, Town officials, Town staff, and others, the Board finds that the need for the affordable housing produced by the Project outweighs the local concerns identified during the public hearing process, subject to the conditions set forth below.

## **V. DECISION**

Pursuant to the Act, the Board, after closing the public hearing on the Application and making the findings of fact set forth above, voted at its meeting on June 27, 2024, to grant a Comprehensive Permit to the Applicant for the construction of the Project, subject to all the conditions set forth below (this “Comprehensive Permit”).

## **VI. CONDITIONS**

### **A. General**

- A.1. The Project shall consist of not more than 28 homeownership units.
- A.2. Except as may be provided for in the following conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans, correspondence, and drawings listed below in this Condition A.2, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project (“Approved Plans”). The Approved Plans consist of the following:

Comprehensive Permit Application (66 sheets), dated May 17, 2023, and prepared by Alphen & Santos, P.C.

Plans entitled: Chapter 40B – Residential Development Permit Set – “Comprehensive Permit Plan Set”, Not for Construction, “Heritage Landing”, Cow Pond Brook Road, Groton, Massachusetts, D-Size, and consisting of the following:

#### A. Site Plans by Meisner Brem Corporation – 5 Sheets, Dated 04-25-2023

1 – Cover Sheet

2 – Existing Condition Plan

3 – Grading and Utility Plan

4 – Profile Plan

5 – Detail Sheet

#### B. Landscape Plans by Lemon Brooke – 6 Sheets, Dated 05-18-2023

L-1.01 Lighting Illustrative Plan

L-1.02 Lighting Plan

L-1.03 Lighting Cut Sheets

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L-1.04 Photometric Plan

L-2.00 Planting Details

L-2.01 Planting Details

Letter to Groton Zoning Board of Appeals from Jeffrey Brem of Meisner Brem Corporation regarding the water line extension dated November 20, 2023.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated July 26, 2023 regarding Nitch peer review.

Letter from MDM as a peer review letter regarding the Traffic Impact Analysis dated January 30, 2024.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated September 21, 2023 regarding voting members.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated September 21, 2023 regarding extension request.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated July 31, 2023 regarding subdivision regulations.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated August 2, 2023 regarding timing of construction.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated August 8, 2023 regarding applicable rules and regulations.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated August 21, 2023 applicable septic regulations.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated September 21, 2023 regarding an extension request and extension agreement.

Letter to Groton Zoning Board of Appeals from Alphen & Santos P.C. dated November 28, 2023 regarding plan revisions.

Comprehensive Permit Plan Set – 28 units for Heritage Landing by Meisner Brem Corporation dated January 3, 2024 (1<sup>st</sup> Revision)

Comprehensive Permit Plan Set – 28 units for Heritage Landing by Meisner Brem Corporation dated January 30, 2024 (2<sup>nd</sup> Revision)

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Comprehensive Permit Plan Set – 28 units for Heritage Landing by Meisner Brem Corporation dated April 30, 2024 (3rd Revision) (showing common parking areas)

Comprehensive Permit Plan Set – 28 units for Heritage Landing by Meisner Brem Corporation dated May 2, 2024 (4th Revision) (showing school bus turn-around)

Letter to Groton Zoning Board of Appeals from Alphen & Santos P.C. dated November 28, 2023 regarding MIT email of November 21, 2023

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated September 30, 2023 regarding additional waiver requests for the 28 Unit proposal.

Letter to Groton Zoning Board of Appeals from Alphen & Santos P.C. dated December 8, 2023 regarding MIT email of November 21, 2023 and Dark Sky standards

Letter to Groton Zoning Board of Appeals from Jeffrey Hannaford of Norse Design Services dated November 17, 2023 regarding soil testing at Heritage Landing site on Cow Pond Brook Road

Test Hole Location Plan for Cow Pond Brook Road by Jeffrey Hannaford of Norse Design Services dated May 24, 2005

Soil Suitability Assessment for On-Site Sewerage Disposal performed by Jeff Hannaford and witnessed by B. Braley, Groton Board of Health, 14 tests, dated May 25, 2005

Percolation Tests performed by Jeff Hannaford and witnessed by B. Braley, Groton Board of Health, 10 tests, dated April 27, 2004

Water Extension Overview, undated

Letter to Groton Zoning Board of Appeals from Jeffrey Brem of Meisner Brem Corporation regarding water and wastewater dated October 17, 2023

Water Line Extension Plan Sketch on Record Plans dated May 4, 2023

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated January 10, 2024 regarding revisions to the plan to create 28 units.

Fire Turning Template Exhibit, Revision 2 by Meisner Brem Corporation dated January 3, 2024

Scope of Traffic Study by TEPP LLC for Heritage Landing dated August 8, 2023

Agreement to Extend Time Limitations on a Comprehensive Permit dated October 4,

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2023.

Agreement to Extend Time Limitations on a Comprehensive Permit dated April 11, 2024.

Agreement to Extend Time Limitations on a Comprehensive Permit dated May 8, 2024.

Traffic-Impact & Access Study by TEPP LLC for Heritage Landing dated January 12, 2024

Letter to Groton Zoning Board of Appeals by Kim Eric Hazarvartian, Principal, TEPP LLC regarding response to traffic comments dated February 7, 2024

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated February 2, 2024 regarding Cow Pond Brook Road.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated February 5, 2024 regarding additional waiver requests.

Letter to Groton Zoning Board of Appeals from Jeffrey Brem of Meisner Brem Corporation regarding response to January 24, 2024 Nitsch Engineering comments, dated February 9, 2024

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated March 26, 2024 regarding additional waiver requests.

Preliminary Stormwater Management Report by Meisner Brem Corporation dated January 30, 2024

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated Revised April 17, 2024 v2, regarding revised waiver requests.

Rough grading sketch plan prepared by Meisner Brem Corporation submitted by email on April 17, 2024.

Turning Template Exhibit prepared by Meisner Brem Corporation revised through January 30, 2024.

Heritage Landing Comprehensive Permit Plan Set prepared by Meisner Brem Corporation dated revised January 30, 2024.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated February 5, 2024 regarding waiver requests.

Letter to Groton Zoning Board of Appeals from Alphen & Santos, P.C. dated May 8,



2024 regarding Planning Board comments.

Site Plan Sheet 3 of 5 revised April 2, 2024, prepared by Meisner-Brem Corporation showing proposed additional parking and signage, submitted on May 8, 2024.

Detail Photometric Calculations, prepared by Illuminate dated April 8, 2024, "Heritage Landing- Groton, MA, Lighting Plan-Right of Way" prepared by Lemon Brooke dated April 11, 2024, and "Heritage Landing – Groton, MA, Right of Way Lighting Cut-Sheets" prepared by Lemon Brooke dated April 11, 2024. The above were revised by "Detail Photometric Calculations" prepared by Illuminate dated April 30, 2024.

- A.3. The Applicant shall be a Limited Dividend Entity as required by Chapter 40B, and it and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.4. Affordable units shall be interspersed throughout the Project, as approved by the Subsidizing Agency during the agency's final approval.
- A.5. Pursuant to the waiver list submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, certain waivers from the Groton Zoning Bylaw and other local bylaws and regulations as specified therein. Some of the waivers granted by the Board have been granted conditionally, as set forth in Exhibit A. Those conditions are expressly incorporated by reference as conditions of approval to this Comprehensive Permit. No waivers are granted from requirements that are beyond the purview of M.G.L. c. 40B, §§ 20-23, and no waivers of any requirements otherwise within the Board's jurisdiction under M.G.L. c.40B, §§20-23 have been granted except for those specifically granted by the Board as set forth in Exhibit A. No waiver of building permit or inspection fees has been granted except as specifically stated and conditioned. Any subsequent revision to the Approved Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11), provided however that any increased or new waivers required on account of revisions to the Approved Plans to accommodate the conditions of this Comprehensive Permit shall be treated as insubstantial changes as set forth in 760 CMR 56.05(11).
- A.6. The Project shall comply with all local regulations of the Town of Groton and its boards, commissions and departments unless specifically waived herein.
- A.7. Nothing contained in this order shall limit the authority of the Building Commissioner to enforce the provisions of the State Building Code. Pursuant to Condition C.2.h, the Applicant, shall file a copy of all federal, state and local permits with the Building Commissioner.
- A.8. Except as otherwise specifically provided herein, where this Comprehensive Permit provides for the submission of plans or other documents for approval by the Building Commissioner or other Town departments, the Building Commissioner or applicable

department head will use reasonable efforts to review and provide a written response within 30 days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Commissioner or applicable department head, the 30-day time period shall not begin until the consultant's fee has been paid by the Applicant. Applicant will not unreasonably withhold consent for extra time due to any delay in reviews.

- A.9. The provisions of this Comprehensive Permit shall be binding upon the successors and assigns of the Applicant and the obligations shall remain in perpetuity and run with the land for so long as the Project is developed and maintained as a residential project approved under M.G.L. c. 40B. In the event that the Applicant sells, transfers, or assigns its interest in the Project, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the Project regardless of sale, transfer, or assignment of the Project.
- A.10. The sidewalks, driveways, utilities (including water supply infrastructure), drainage and stormwater systems, and all other infrastructure located on the Project site and shown on the Approved Plans as serving the Project shall remain private in perpetuity within the responsibility of the condominium association to be created for the ownership of all common elements of the Project as successor to the Applicant (the "Condominium Association"), and the Town of Groton shall not have, now or in the future, any legal responsibility for the installation, inspection, operation, or maintenance of the infrastructure, including but not limited to snow removal and landscape maintenance. The final drainage design, including all plans and details needed for construction, must be included on the Final Plans.
- A.11. Snow storage shall be addressed as set forth in Condition D.9 as part of Final Plans.
- A.12. The Building Commissioner may designate an agent to review and approve the Final Plans for consistency with this Comprehensive Permit and to monitor construction subsequent to this Comprehensive Permit.

**B. Affordability**

- B.1. A minimum of 25 percent of the units (7 of 28) shall be low- or moderate-income units, meaning that they shall be sold to households whose income is not more than 80 percent of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and Executive Office of Housing and Livable Communities (EOHLC) ("Affordable Units"). Affordable Units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Applicant shall be responsible for maintaining records sufficient to comply with EOHLC or Subsidizing Agency guidelines for the location of Affordable Units in the Project and occupancy of such Affordable Units by income-eligible households.
- B.2. Upon completion of the Project and in perpetuity or for the maximum period allowed by

law for so long as the Project is developed and maintained as a residential project approved under M.G.L. c. 40B, at least 25% of the units shall meet the criteria for inclusion in EOHLIC's Subsidized Housing Inventory for the Town of Groton.

- B.3. The Applicant shall obtain approval by the Subsidizing Agency of an Affirmative Fair Housing Marketing Plan (AFHMP) prior to the sale of any units and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements.
- B.4. No later than two weeks prior to submitting the proposed AFHMP to the Subsidizing Agency, the Applicant shall provide a copy to the Building Commissioner and the Groton Land Use Department for review and comment; however, final terms and conditions of the AFHMP shall be solely determined by the Subsidizing Agency.
- B.5. A local preference for the initial sale of affordable units in the Project may be established subject to, and solely in accordance with the requirements of, the subsidizing agency and applicable law. 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.

### **C. Submission Requirements**

- C.1. Prior to any construction or site development activities (including site clearing, tree removal, fill, grading, etc.) on the Site, whether or not pursuant to a building permit, the Applicant shall:
  - a. Submit the following plans ("Final Plans") as part of the building permit plan submission set to the Building Commissioner for review and comment as to consistency with the Approved Plans:
    - i. The Applicant shall provide Final Site/Civil Plans that address the comments from the peer review letters prepared by Nitsch Engineering and dated September 20, 2023, November 8, 2023, January 24, 2024, March 19, 2024, and March 20, 2024. For any comments not addressed in the Final Site/Civil plans or covered under an approved waiver, the Applicant shall provide a written narrative stating the reasoning for non-compliance with the comments.
    - ii. The Final Plans shall also incorporate revisions, as necessary, to address conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record or the Professional (Civil) Engineer of record, as applicable. Applicant will not unreasonably withhold consent for extra time due to any delay in reviews.

- iii. The Final Plans shall include common parking areas between Units 26 & 25, 24 & 23, and 6 & 7.
  - iv. The Final Plans shall provide a turnaround area for school buses at the intersection of Cow Pond Brook Road and Hanson Way at least 75 feet long, and a school bus waiting structure shall also be constructed at that location.
  - v. Final Architectural Plans prepared, signed, and sealed by an architect with a valid registration in the Commonwealth of Massachusetts, containing certifications required by applicable provisions of the State Building Code. At a regularly scheduled Board hearing, the Building Commissioner may provide the Board with an update on the conformity of the Final Architectural Plans with this Comprehensive Permit.
  - vi. Final landscaping and lighting plan prepared by a landscape architect with a valid registration in the Commonwealth of Massachusetts.
  - vii. A signage plan for the Project's residential signage, which shall conform to applicable Town of Groton Zoning Bylaw unless specifically waived herein or as approved by the Board in accordance with 760 CMR 56.05(11).
  - viii. The Applicant shall provide a Final Stormwater Report that addresses the comments from the peer review letter prepared by Nitsch Engineering and dated March 20, 2024. For any comments not addressed in the Final Stormwater Report or covered under an approved waiver, the Applicant shall provide a written narrative stating the reasoning for non-compliance with the comments. The Final Stormwater Report shall include the Stormwater Pollution Prevention Plan (SWPPP), Operation and Maintenance (O&M) Plan, Long-Term Pollution Prevention Plan (LTPPP), and the Illicit Discharge Statement along with other documents and calculations required to show compliance with the Massachusetts Stormwater Handbook and the Stormwater Management Standards.
  - ix. The Final Plans shall demonstrate details for the provision of water to the Project.
- b. The Applicant shall determine the depths and volumes of cuts and fills based on the final site grading design and provide a plan showing the depths of cuts and fills throughout the site, total volume of cut, total volume of fill, and net volume of cut/fill. The depths of cuts and fills on this plan shall be laid out in a grid pattern with a maximum spacing of 10 feet between grid points. Alternatively, a colored cut/fill plan can be provided where cut/fill depths are represented by different colors. Cut/fill depth increments shall be no more than 2 feet per color.
- d. Submit to the Building Commissioner evidence of permits and approvals from the

Natural Heritage and Endangered Species Program, including a MESA Conservation and Management Plan as may be required by such approvals.

- c. Submit to the Building Commissioner a construction management plan consistent with the requirements found in Subsection D below, and a construction schedule outlining the entire development of the Project.
- d. The Building Commissioner may engage, at the Applicant's expense and pursuant to an agreement executed between the Applicant and Town, reviewed by Town Counsel, one or more agents to review the plan(s) for consistency with this Comprehensive Permit Pursuant to this condition, the Applicant shall deliver to the Town a check in the initial amount of \$9,000.00 to be used for the Building Commissioner to retain outside experts for technical reviews and inspections required under these conditions and shall be required to replenish the account if the balance drops below \$2,000.00. The funds shall be deposited by the Building Commissioner in an account pursuant to M.G.L. c. 44, s. 53G, or other applicable law, and shall only be used for technical reviews and inspections associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project. If at any time the Building Commissioner reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Building Commissioner in a reasonable amount as may be determined by the Building Commissioner. The funds may be used by the Building Commissioner to hire civil engineering, architect, traffic engineering, or other related professionals that the Building Commissioner deems reasonably necessary to ensure compliance with the conditions hereof. Applications for certain permits shall be deemed incomplete if the Applicant has not executed the agreement or provided the funds required by this paragraph.
- e. Provide proof of coverage under a National Pollution Discharge Elimination System (NPDES) Permit Construction General Permit from the U.S. Environmental Protection Agency (EPA). The Town shall also be provided a copy of the SWPPP submitted along with the NPDES filing.
- f. Submit recording information documenting that an Order of Conditions for the Project, if required, issued by the Groton Conservation Commission has been recorded with the Middlesex South District Registry of Deeds.
- g. Submit to the Building Commissioner a Site-Specific Safety Plan including but not limited to emergency contacts information for the job team, emergency response plan, and designated fueling area. All employees on site shall be responsible for understanding the plan and at any point during the construction process shall be checked by the Building Commissioner for compliance of all site personnel.
- h. Attend with the site general contractor a preconstruction conference with the Building Commissioner and other Town staff as may be determined by the Building

Commissioner .

- C.2. Prior to the issuance of any building permits for the Project, the Applicant shall:
- a. Record this Comprehensive Permit (with a copy of a reduced size set of the Approved Plans as “Exhibit B”) with the Middlesex South Registry of Deeds, at the Applicant’s expense, and provide proof of such recording with the Groton Building Commissioner.
  - b. Submit to the Town evidence of final approval from the Subsidizing Agency as required by the Project Eligibility letter and the Chapter 40B regulations.
  - c. Submit to the Town a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. Execution and recording of such Regulatory Agreement, reviewed by Town Counsel, shall be complete prior to the issuance of any building permit.
  - d. Submit the Final Plans to the Building Commissioner for his review and comment as to consistency with the Approved Plans and this Comprehensive Permit.
  - e. Provide the Board and Building Department with the approximate location of all utilities, including but not limited to electric, telephone, and cables.
  - f. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
  - g. Obtain all necessary electrical, plumbing, and other permits required to begin construction on the building for which the building permit is sought.
  - h. Submit proposed documents for the creation and governance of the Condominium Association in a form acceptable to Town Counsel.
- C.3. Prior to issuance of the first Certificate of Occupancy for any portion of the Project, the Applicant shall, for the portion of the Project seeking a Certificate of Occupancy, submit the following to the Building Commissioner:
- a. Submit engineer’s interim certification of accessway infrastructure, water and sewer service, and as-built foundation plans to the Groton Building Commissioner .
  - b. Provide a letter to the Board, signed and stamped by the Applicant’s civil engineer, certifying that the as-built Project or applicable portions thereof have been constructed in compliance with the Final Plans in all material respects, or noting where there are differences or remaining work.
  - c. Obtain acceptance from the Groton Fire Department of testing of all fire protection systems, fire alarm systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.
  - d. Complete all water improvements necessary to serve the Project and submit interim as-built plans to the Groton Water Department for the Department’s approval.

- e. Submit an as-built plan of stormwater management system and certification by a registered professional engineer of compliance with the conditions of approval. After the first Certificate of Occupancy has been issued, the Applicant may submit subsequent Certificate of Occupancy requests in phases at the rate every fourth unit or on an alternative phasing schedule approved by the Building Department.
  - f. Submit evidence of a certificate of compliance issued by the Conservation Commission for the Order of Conditions or Superseding Order for the Project, if applicable.
- C.4. Prior to issuance of the final Certificate of Occupancy for the last residential unit in the Project, the Applicant shall:
- a. Submit to the Building Department, in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in a form acceptable to the Building Department. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. The digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. The as-built plan shall be provided within 120-days after issuance of the Project's final Certificate of Occupancy.
  - b. Submit to the Board all information relating to the management company being retained to act as the property manager that the Applicant submits to the Subsidizing Agency as part of the agency's final approval process. Such property management agreement shall, at a minimum, address building security, public access, pet policy, staffing, trash removal, smoking policies, snow and ice removal, and snow storage.
  - c. Submit verification that all components of the stormwater management system have been inspected, cleaned, and approved by the Project's civil engineer.
  - d. Submit to the Board Certification of compliance with all applicable terms and conditions of this Comprehensive Permit.
  - e. Certification by the Project's engineer that all off-site measures are complete in accordance with Section I below.
  - f. Certification from the Project's civil engineer that all water systems have been installed, tested, and that all valve covers, and other related items are at grade and are in proper working condition.

**D. Project Design and Construction**

- D.1. The Applicant shall provide, as part of the Final Plans, an Erosion and Sediment Control

plan and details for the site. This plan and details shall comply with the Town Bylaw and the United States Environmental Protection Agency (EPA) Construction General Permit (CGP).

- D.2. Prior to the issuance of the first building permit for the Project, the Applicant shall provide a Construction Management Plan (CMP) that details the construction schedule, phasing, and indicates locations for the following items: construction fencing, construction gates, erosion and sediment controls, construction trailers/offices, parking, laydown and stockpile areas, compliance with the MESA Conservation and Management Plan as applicable, and other items deemed necessary by the Building Commissioner.
- D.3. Prior to the issuance of the first building permit for the Project, the Applicant shall provide a detailed plan describing the logistics of bringing fill material to the site. This logistics plan shall include, at a minimum, a schedule of fill deliveries with dates, hourly range when deliveries will occur, number of trucks per day, and total number of trucks. Any damage to public ways resulting from trucking operations as determined by the Department of Public Works shall be repaired by the Applicant at their expense and to the satisfaction of the Department of Public Works. Fill shall be inspected and tested in accordance with requirements of the Board of Health.
- D.4. Police details will be required for all work within the public right-of-way and when construction traffic will impact or potentially cause an unsafe condition for other vehicles or pedestrians. The cost for police details will be the responsibility of the Applicant.
- D.5. Prior to the issuance of the first building permit for the Project, the Applicant shall conduct test pits to verify the design of the stormwater management system. The number and location of test pits shall comply with the Massachusetts Stormwater Handbook and the Stormwater Management Standards. The results of the test pits shall be included in the Final Stormwater Report.
- D.6. Prior to the issuance of the first building permit for the Project, the Applicant shall coordinate with the Groton Water Department and their engineering consultant to confirm the water main extension, onsite water system, and services to the residential units are designed to their standards and will provide adequate pressure and flow rate to service the proposed development. The Final Plans shall include all design information for the proposed water system.
- D.7. Prior to the issuance of the first building permit for the Project, the Applicant shall comply with all requirements of and get approval from the Board of Health for the design of the septic systems. The Final Plans shall include all design information for the proposed sanitary sewer system.
- D.8. The Project may contain up to 14 post lights at a maximum height of 8 feet, all compliant with the International Dark-Sky Association (IDA) Fixture Seal of Approval program certification standards ("Dark Sky Compliant"). All exterior lighting within the private way and within 10 feet of the pavement of the private way, the common parking spaces between



Units 26 & 25, 24 & 23, and 6 & 7, and the portion of the common area located inside the turning circle at the East end of the roadway (sometimes collectively referred to herein as the “Dark Sky Area”) at the site shall be Dark Sky Compliant and designed and installed so as to minimize glare or spillover onto or into any adjacent properties. Future compliance with these requirements shall be enforced by the Condominium Association.

- D.9. Snow shall be stored within the areas of the site designated on the Final Plans. To the extent snowfall exceeds the capacity of the designated snow storage areas, the Applicant shall truck excess snow off-site for proper disposal. The Condominium Association shall be responsible for snow removal and the proper disposal of snow removed off-site.
- D.10. All construction equipment must be off-loaded on the Site, and all construction-related vehicles and equipment shall be on site during construction unless approved by applicable authorities. No construction equipment or vehicles of employees or agents of the Applicant or the Applicant’s contractors shall be parked on any public way unless approved by applicable Town authorities.
- D.11. The Applicant shall implement all necessary controls to ensure that noise from construction activities does not constitute a nuisance or hazard beyond the Site. Upon notification from the Building Commissioner or other appropriate Town officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above.
- D.12. The Applicant shall conform to all local, State, and Federal laws regarding construction, noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.
- D.13. Site Utilities, including but not limited to telephone, electric, and cable, shall be located underground on the Project Site except as shown on the Approved Plans.
- D.14. All exterior construction activities shall be conducted between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. For purposes of this condition, exterior construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. No exterior work that generates noise in the opinion of the Building Commissioner with noise defined as the noise at the property

line (excluding non-noise producing activities such as, but not limited to painting and light landscaping, etc.) shall be conducted outside of the foregoing hours or on weekends or the following holidays: New Year's Day, President's Day, Patriots' Day, Memorial Day, Juneteenth, Fourth of July, Labor Day, Indigenous Peoples Day, Veterans Day, Thanksgiving Day, and Christmas, except as may be permitted by the Building Commissioner and Police Chief.

- D.15. No disturbed areas shall be left in an un-stabilized condition longer than 60 days without appropriate temporary stabilization. Temporary stabilization shall be accomplished by straw bales, hay coverings or matting. Final stabilization shall be accomplished by paving or established vegetated ground cover in exposed areas.
- D.16. Construction security fencing shall be maintained in accordance with the State Building Code. The petitioner will submit a security narrative to the Building Commissioner for approval in consultation with the Fire Chief and the Police Chief.
- D.17. Notwithstanding any other requirement in this Comprehensive Permit, the Building Commissioner may, in their sole and absolute discretion, issue partial or temporary certificates of occupancy with approval from the Fire Chief. A phased occupancy plan shall be submitted with the building permit application. The Building Commissioner may allow portions of each building to be occupied provided that all life safety systems including life safety features for the portion to be occupied are operational and approved by the Fire Chief. Nothing contained in this section shall limit the authority of the Building Commissioner to make the final determination of phased occupancy, or final occupancy within the terms and conditions detailed in this order.
- D.18. Prior to issuance of the first Certificate of Occupancy, the Applicant shall install a school bus turnaround on the Site.

**E. Internal Accessway, Parking, and Traffic Safety Conditions**

- E.1. Access and egress to the Project shall be consistent with the Approved Plans.
- E.2. Internal sidewalks with ADA/MAAB-compliant curb cuts shall be constructed along the edge of the pavement along the North side of the roadway from Cow Pond Brook Road to before the driveway for Unit 8.
- E.3. The internal roadways to each building shall be designed and constructed as depicted on the Approved Plans.
- E.4. The Final Plans shall include construction details for the proposed roadway (Hanson Way) and associated site improvements, including but not limited to roadway and pavement cross-section, curb, pavement markings, and signs.
- E.5. Hanson Way shall provide sufficient width and radii to allow for proper turning and

maneuvering of fire apparatus through the site, as determined by the Groton Fire Chief.

- E.6. Stopping sight distances on Hanson Way shall comply with the Town Bylaw, as determined by the Department of Public Works.
- E.7. The Applicant shall ensure that signs, landscaping, and other features located within the sight triangle areas at the intersection of Cow Pond Brook Road and Hanson Way are designed, installed, and maintained so as not to impede lines of sight. Such features shall not exceed 2.5 feet in height as measured from the surface elevation of the project site roadway.
- E.8. The Applicant shall promptly remove snow windrows located within sight triangle areas that exceed 2.5 feet in height or that would otherwise inhibit line of sight. Following completion of the Project, the Condominium Association shall be responsible for compliance with this Condition.
- E.9. Appropriate directional and safety signage shall be installed by the Applicant and maintained by the Condominium Association on the internal roadways, subject to review and approval by the Groton Fire Department. All stop signs to be installed shall be consistent with the current Manual on Uniform Traffic Control Devices standards and guidelines. The interior loop portion of the roadway shall be posted as a "No Parking" area.
- E.10. Applicant shall maintain the sight distance at the entrance by limiting/trimming vegetation consistent with the Approved Plans. The sight distance shall be maintained under the Department of Public Works' supervision.

**F. Police, Fire, and Emergency Conditions**

- F.1. Applicant shall confirm final layout and location of all fire safety equipment (hydrants, post indicator valves, panels, etc.) with the Groton Fire Department prior to the start of construction.
- F.2. The Applicant shall submit final fire alarm plans to the Fire Chief for review and approval prior to construction.
- F.3. The Applicant shall construct a chain link fence 8 feet high along the Northerly property line of the Project and shooting range signage may be affixed to chain link fence post if approved and provided by the Chief of Police.

**G. Water, Stormwater, and Utilities**

- G.1. The Applicant shall be responsible for the design and installation of all utilities servicing the Project.
- G.2. The Applicant has acknowledged that it is financially responsible for providing public water to the Project. Public water infrastructure shall be installed in conformance with Town of Groton requirements. The Applicant shall consult with the Groton Water

Department prior to the commencement of construction.

- G.3. The service size for the domestic water service shall be verified by the Groton Water Department and information on the fire service size and requirements shall be verified by the Groton Fire Department. The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Groton Water Department and the Fire Department respectively.
- G.4. Stormwater management facilities shall be constructed as shown on the Final Plans, and/or as required by the Order of Conditions for the Project, if applicable.
- G.5. The Applicant shall comply with all terms and conditions of the Order of Conditions for the Project issued by the Conservation Commission under M.G.L. c. 131, § 40, if required. If an Order of Conditions is required, no work may proceed pursuant to this Comprehensive Permit until all appeals have been exhausted and the Order is recorded in the Middlesex South District Registry of Deeds. Should appeal of the Order of Conditions result in elimination or modification of any condition of the Order of Conditions and the Applicant seeks to modify the Project based thereon, any such modification must be approved by the Board in accordance with 760 CMR 56.05(11).

#### **H. Completion of Infrastructure**

- H.1. The final infrastructure for the Project, including, but not limited to, final course of pavement meeting the Town's requirements, shall be installed prior to the issuance of the final Certificate of Occupancy for the Project. The final infrastructure shall include, but not be limited to intermediate and final course of pavement, remaining landscaping, and any "punch list" items identified by the Board's engineer or the Building Commissioner (the "Final Infrastructure"). Alternatively, if the Applicant desires to obtain such final Certificate of Occupancy before the completion of said Final Infrastructure, it may, with the approval of the Building Commissioner, enter a security agreement with the Town, reviewed, by Town Counsel, with procedures similar to those set forth in M.G.L. c. 41 s 81U, to secure the installation and construction of the Final Infrastructure. The amount of such security and any necessary contingency shall be determined by the Board, acting upon the advice of its consulting engineer. By entering the security agreement, the Applicant shall consent to the Town entering the Site in order to complete the Final Infrastructure in the event of a default by the Applicant as set forth in the security agreement.

#### **I. Off-Site Improvements**

- I.1. This section is intentionally left blank.

#### **J. Other General Conditions**

- J.1. In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled

in accordance with law.

- J.2. The Applicant shall comply with all local regulations of the Town of Groton and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3. This Comprehensive Permit prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site, except during construction.
- J.4. The landscaping shall be maintained in perpetuity by the Condominium Association. Dead or diseased plantings shall be replaced within six months in accordance with growing and weather conditions.
- J.5. All conditions required of the Applicant under this Comprehensive Permit shall become the responsibility of the Condominium Association.

**SIGNATURE PAGE TO FOLLOW**

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**RECORD OF VOTE**

The Board of Appeals voted, at its public meeting on June 27, 2024, to grant a Comprehensive Permit subject to the above-stated Conditions and Waivers found on Exhibit A, with this decision as attested by the signature below.

<p>For the Board:</p> <p><i>Bruce H Eason</i></p> <p><u>XXX</u> Chair</p>	
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Filed with the Town Clerk on July 1, 2024.

  
Town Clerk Asot.

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

**EXHIBIT A: WAIVERS (Waivers Requested as of March 26, 2024)**

The Zoning Board's Rules and Regulations applicable to Comprehensive Permit applications specifies that the plans will be "preliminary site development plans".

As provided by 760 CMR 56.05 (7), an applicant for a Comprehensive Permit may request waivers from local "as-of-right" requirements and regulations, and where a project does not include subdivision approval, waivers from the subdivision requirements are not required and there shall be no requirement to obtain waivers from the special permit requirements of the district:

"(7) Waivers from Local Requirements and Regulations. The Applicant may request Waivers, as listed in its application or as may subsequently arise during the hearing, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project. 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. If a project does not request a subdivision approval, waivers from subdivision requirements are not required (although a Board may look to subdivision standards, such as requirements for road construction, as a basis for required project conditions, in which case the Applicant can seek Waivers from such requirements)." 760 Mass. Code Regs. 56.05

Local Requirement	Waiver	Board Decision
<b>Zoning Bylaw Section &amp; Requirements</b>		
§ 218-2.5. Site Plan Review.  B. Applicability. (1) Any application for a building permit, special permit, or certificate of occupancy (for a change of use) involving a commercial, office, industrial, institutional, or multifamily use, or structure for	As a Comprehensive Permit application, the Applicant has submitted "a single application to build such housing in lieu of separate applications to the applicable local boards." (M.G.L. c. 40B § 21) and separate Site Plan Review by the Planning Board is not applicable or should be considered a waiver request. The following is a list of the Site Plan Review requirements from Section 218-2.5 that the Applicant is seeking specific waivers. Site Plan Review is customarily applicable to commercial development and certain of the	Granted but not necessary

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Local Requirement		Board Decision
Zoning Bylaw Section & Requirements	Waiver	
such use shall be subject to site plan review.	<p>materials customarily required for commercial developments do not apply to residential developments. Additionally, the Zoning Board's Rules and Regulations do not require the submission of many of the materials listed under Section 218-2.5. Nevertheless, below please find a list of details that the within application may not include:</p> <p>(b) The plans may not show the locus plan at 1" = 200'.</p> <p>(b) The zoning requirements chart may not include all the data specified, but this memo describes the dimension standards that will vary from the requirements.</p> <p>(d) The submission may not include all the "calculations of storm drainage to demonstrate and assure compliance with the requirements of all applicable federal, state and local regulations and guidelines, including, but not limited to, the Department of Environmental Protection Stormwater Management Policy, as it may be amended", but it will meet the requirements of the ZBA Rules and Regulations, and more detailed stormwater calculations will be submitted for the Stormwater Management Permit. During the hearing process, the Applicant submitted a Preliminary Stormwater Management Report.</p> <p>(e) The submission will not include "An assessment of traffic impacts and safety conditions shall be prepared by a traffic engineer." Reference is made to the ZBA's Rules and Regulations wherein the ZBA may require a traffic impact report during the hearing process. During the hearing process, the Applicant had a Traffic Impact and Access Study</p>	



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Local Requirement		Board Decision
Zoning Bylaw Section & Requirements	Waiver	
	<p>performed and submitted, which was updated and submitted in response to peer review comments and requests from the Board.</p> <p>(f) General landscaping information will be shown on the preliminary plan, but the submission will not include “A landscaping plan shall be prepared by a registered landscape architect that shows the location of plantings around the perimeter of the building, any buffer landscaping between parcels, and landscaping of the parking area”, some of which requirements are more applicable to commercial developments.</p> <p>(h) The submission will not include “A photometric lighting plan shall be submitted that indicates the illuminations throughout the site and onto abutting ways and properties. During the hearing process the Applicant submitted a photometric lighting plan within the roadway areas. The plan shall indicate the lighting hours of operation, especially shutoff times”, which information is customarily applicable to commercial, not residential, developments.</p> <p>(i) Although not specifically required by the Bylaw nor the Rules and Regulations, the submission will not include “...a development impact report that may include, but not be limited to, analysis of the impacts of the proposed project on the environment (i.e., wetlands, water resources, open space), and infrastructure and services (i.e., roadways, wastewater, schools)”, and such standards are more applicable to commercial projects.</p> <p>(j) The submission will not include an existing conditions</p>	

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Local Requirement		Board Decision
Zoning Bylaw Section & Requirements	Waiver	
	<p>plan showing all land within 500 feet of the subject property. The regulations require “Existing structures on adjacent properties within 150 feet of the property”, and we do not believe that there are any with the possible exception of the solar panel equipment on abutting Town land.</p> <p>(1) The application will not include an “Analysis of the consequence of the proposed development, evaluating the following impacts at a level of detail appropriate to the scale of the development proposed:</p> <p>[1] Natural environment: groundwater and surface water quality, groundwater level, stream flow, erosion and siltation, vegetation removal (especially unusual species and mature trees) and wildlife habitats.</p> <p>[2] Public services: need for water or sewer system improvements, need for additional public recreational facilities.</p> <p>[3] Economics: municipal costs and revenues, local business activity and local jobs.</p> <p>[4] Visual environment: visibility of buildings and parking and visual consistency with existing development in the area.” Certain of those criteria are applicable to commercial projects. The ZBA Rules and Regulations do not require the submission of such an analysis, but, subject to the limitation contained within 760CMR 56.05. 4.(a) [“Consistency with Local Needs is the central issue in all Comprehensive Permit applications before the Board. Not only must all Local Requirements and Regulations applied to the Applicant be Consistent with Local Needs, but decisions of the Board must</p>	

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Local Requirement		Board Decision
<b>Zoning Bylaw Section &amp; Requirements</b>	<b>Waiver</b>	
	also be Consistent with Local Needs. The Board shall not address matters in the hearing that are beyond its jurisdiction under M.G.L. C. 40B, §§20 through 23 and 760 CMR 56.00 and that lie solely within the authority of the Subsidizing Agency”] the Board may require the submission of particular analyses during the hearing process in accordance with Section 338-34 (4). (m) The application will not include “A physical or digital three-dimensional site model.”	
Section 218-2.5. D. Procedures	The Applicant anticipates that through the ZBA, the application materials will be shared with and reviewed by the Land Use Departments and other departments	Granted but not necessary
Section 218-2.5.G. (2) Site Plan submission requirements	The Applicant is seeking waivers of the following (the paragraph lettering below coincides with the subparagraphs within said Section of the Bylaw):	Granted but not necessary
Section 218-2.5 (H) (1) Site Plan Review	(a) “Preserve trees twelve-inch caliper or larger unless it can be demonstrated that such removal is necessary for the location of structures, roads, driveways, and utilities, and it can be further demonstrated that there were no alternatives to said removal.” Development is confined to the northerly portion of the previously disturbed site in order to address the requirements of the Natural Heritage and Endangered Species Program, and if there are larger caliper trees within the development area, they may not be able to be preserved. (b) “Provide for landscaping around the perimeter of all structures and the parcel as a whole, including parking areas, to the satisfaction of the Planning Board”; which standard is	Granted but not necessary

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Zoning Bylaw Section & Requirements	Waiver	
	<p>more applicable to commercial developments.</p> <p>(c) “Meet the requirements of Chapter 198 of the Code of the Town of Groton relating to stormwater management, soil erosion and sedimentation control, including any land disturbance activities”, which will be addressed later as part of the stormwater management permit process.</p> <p>(e) [3] “Soil logs must be submitted with the application for site plan approval. The testing should be done in accordance with Title Five, 310 CMR 15.000, for seasonal high groundwater soil mottling and infiltration rates. The testing must be witnessed by a Town representative.” Soil logs are not required by the ZBA Regulations, but the Applicant expects that soil data will be part of the review by the Board of Health for the septic systems and part of the review of the Stormwater Management Permit.</p> <p>(i) “Minimize lighting intrusion onto other properties and public ways with proper arrangement and shielding, while providing for security and public safety”, which standard is applicable to non-residential developments.</p>	
Other Use and Dimensional Requirements	As a Comprehensive permit application for a multifamily development in the RA District, and partly in the Official Open Space District, waivers are requested from the following provisions:	
218-4.2. Intention of districts.	A. R-A Residential-Agricultural District is intended as a district of single-family homes and for continuance of forestry and agricultural activities. Land shown as	Grant

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	<p>institutional properties on the Zoning Map is so shown for descriptive purposes only and is a part of the R-A District.</p> <p>G. O Official Open-Space District is intended to include areas which have already been dedicated or used for public or semipublic uses.</p> <p>Waivers are requested whereas the Project calls for 40 units of residential housing (more recently reduced to 28), some of which will be within duplex/multifamily buildings (12 units per the revised proposed plan), all within a single lot with ownership to be in the form of a M.G.L. c. 183A condominium.</p>	<p>Grant</p> <p>Granted only for 28 units</p>
<p>218-5.1 Basic Requirements</p> <p>A. No building or structure shall be erected, altered or used and no premises or land shall be used for any purpose or in any manner other than as regulated by § 218-5.8 and as permitted and set forth in § 218-5.2, Schedule of Use Regulations.</p>	<p>Waivers are requested whereas the Project calls for 28 units of residential housing, some of which will be within duplex/multifamily buildings (12 units per the proposed plan), all within a single lot with ownership to be in the form of a M.G.L. c. 183A condominium. The appearance of the duplex units will be residential in character, but not necessarily similar to single family. Also, the criteria for multifamily uses in § 218-9.3A through C cannot be met.</p> <p>34 Single-family detached dwelling: Y</p> <p>36. Two-family attached dwelling, provided that its external appearance is not significantly different from a single family dwelling: Y</p>	<p>Limited to single family and duplex</p> <p>Granted</p>

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	<p>38. Multifamily use, as allowed by the provisions of § 218-9.3A through C: PB</p> <p>O Official Open-Space District</p> <p>34 Single-family detached dwelling: N</p> <p>36. Two-family attached dwelling, provided that its external appearance is not significantly different from a single family dwelling: N</p> <p>38. Multifamily use, as allowed by the provisions of § 218-9.3A through C : N</p> <p>Waivers are requested whereas the Project calls for 40 units of residential housing, some of which will be within duplex/multifamily buildings (10 units per the proposed plan), all within a single lot with ownership to be in the form of a M.G.L. c. 183A condominium. The appearance of the duplex units will be residential in character, but not necessarily similar to single family. Also, the criteria for multifamily uses in § 218-9.3A through C cannot be met.</p>	
218-6.2 Schedule of Intensity Regulations	<p>Minimum Lot Dimensions</p> <p>The lot will meet the minimum lot area dimensions, except that all the dwellings will be on a single lot, as follows:</p>	

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	<p>Residential Agricultural Minimum Area: 80,000 sq ft Official Open Space District Minimum Area n/a Proposed Area: 675,180 sq ft Residential Agricultural Minimum frontage: 225 feet Official Open Space District Minimum Frontage: na Proposed frontage: 428 feet</p> <p>The yard setback requirements are typically measured within a single lot containing a single dwelling. Waivers are requested whereas Unit 1 and Unit 28 will be 21 feet and 22 feet, respectively from the front lot line (and 50 feet is required), the dwellings will be closer than 50 feet from the common driveway, the buildings may be closer than the usual 15' plus 15' side yard setback (with 25' being proposed between buildings) and there will be multiple buildings on a single lot.</p>	Granted
218-6.3.A. Frontage	<p>(1) A building lot in any district shall have frontage on and rights of access to one or more of the following for the distance required under § 218-6.2, Schedule of Intensity Regulations.</p> <p>Waivers will be required to the degree that all the dwellings will be on a single lot with shared frontage</p>	Granted
218-6.3. B. Appurtenant open space. No building setback area or other open space required for a building by this chapter shall,	<p>Waivers will be required to the degree that all the dwellings will be on a single lot with a shared driveway.</p>	Granted

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during the life of such building, be occupied by or counted as open space for another building.		
<p>218-6.3. E. Density</p> <p>No more than one dwelling with accessory buildings customarily incidental thereto shall be located upon any single lot in any district, except as provided in § 218-9.1F(2), Flexible development, § 218-9.3, Multifamily use, or § 218-7.3, Town Center Overlay District.</p> <p>A waiver will be required whereas all the dwellings will be on a single lot.</p>	<p>Waivers are requested whereas the Project calls for 28 units of residential housing, some of which will be within duplex/multifamily buildings (12 units per the proposed plan), all within a single lot with ownership to be in the form of a M.G.L. c. 183A condominium, and the criteria for other multifamily uses do not apply.</p>	Granted
<p>218-8.1.F. Shared driveways A shared driveway shall not be adequate access except that, by special permit from the Planning Board, a shared driveway may be authorized to provide access to parking spaces on no more than three lots, provided that vehicular access to the buildable portion of each lot is possible from the street providing legal frontage to the lot without reliance on the shared driveway.</p>	<p>Waivers are requested whereas all the dwellings will be on a single lot with shared access/egress via a single private drive.</p>	Granted



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<p>Section 381-10. E. Dead-end streets.</p> <p>(1) A dead-end street, whether temporary or permanent, shall not serve more than 10 lots nor have a pavement center-line length longer than 1,000 feet from the edge of pavement of the intersecting street to the dead-end street's most distant point unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions. A dead-end street shall not access from an existing way that is a dead-end street unless the total number of lots on the existing way and the proposed subdivision road does not exceed 12. See the Determination of Dead-end Street Length Detail.</p> <p>Section 381.10.D(4).</p>	<p>As no new lots are being created by the plan, and the dwellings are proposed to be served by a private common driveway, the Project is not a "Subdivision" as defined by M.G.L. c. 41 § 81M. However, the Applicant wishes to point out certain access drive standards that will be unique to the Project. For example:</p> <p>The units will be served by a common driveway that is in excess of 1,000 feet in length and will serve 28 units. The shared driveway will be more akin to a "Lane" as defined in the Subdivision Regulations at Section 381-3, however, it will serve more than 12 dwelling units. The construction of the common driveway will be in accordance with the standards for a Shared Driveway within Chapter 345.</p>	<p>Granted</p> <p>Granted</p>
	<p>Hanson Way is proposed as a Private Way that will be part of the Common Area of the Condominium and owned and maintained by the Condominium Association. We do not anticipate that it will be considered to be a "shared driveway" whereas the regulations limit a shared driveway as access to three (3) lots. As such, it would likely fit the definition of a "Lane" or "Minor Street". As provided by Section 381-10. D. of the Subdivision Rules and Regulations (to the degree that</p>	<p>Granted</p>

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	they are applicable to the subject project which, technically, is not a subdivision) the maximum grade of a Lane or Minor Street is 10%. The current plans show a grade of 10% at a point. To the degree that waivers are required, the Applicant is requesting a waiver of Section 381.10. D (2) to allow a maximum grade of 12%, and a waiver from Section 318.10.D(4) to allow a leveling area for not more than 4% at a distance of 20 feet from the nearest edge of the intersecting traveled way.	
Section 381.10.D (5).	The Applicant is also requesting a waiver from Section 381.10.D (5), to the degree that a waiver from the Subdivision Rules and Regulations are applicable, to permit the grades within the right-of-way to exceed seven feet above or below existing grade, because of the unusual existing topographic conditions of the site.	Granted
Section 381-10, Streets	A waiver is requested where the radii at the cul – de – sac is less than 150 feet. A Fire Truck Turning Template was submitted showing that fire trucks (and buses) can make the full turnaround.	Granted
Section 381-13, Other Improvements	A waiver is requested for construction of sidewalks because the Project is private, the sidewalk does not connect, and it is more sustainable to limit impervious areas	Applicant shall provide a sidewalk on one side of the street and show the sidewalk on Final Plans.
Section 381-10.E2	A waiver is requested for a different cul-de-sac geometry. A Fire Truck Turning Template was submitted showing that fire trucks (and buses) can make the full turnaround. The waiver is requested for the diameter of the closed end of at least 150 feet, a radius at the outside edge of traveled way of 62 feet,	Granted

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	and a minimum pavement width of 24 feet within the cul-de-sac with 20' being provided.	
Chapter 352 Groton Stormwater Permit regulations Section 352-11.C.(5) To utilize an infiltration basin as a treatment BMP in soils with an infiltration rate greater than 2.4 inches per hour (8.27 inches per hour).	A waiver is requested in its entirety for this Section 352-11.C.(5). This is a local requirement and not in the Mass. Stormwater Handbook.	Granted
Section 352-11.C.(7) For removing less than 80% of the TSS prior to discharge to an infiltration structure used for recharge if the discharge is within an area with a rapid infiltration rate greater than 2.4 inches per hour.	A waiver is requested in its entirety for this Section 352-11.C.(7) . This is a local requirement and not in the Mass. Stormwater Handbook.	Granted
Section 352-11.C.(15) To allow recharge in one area due to the fact that the site was once a gravel pit and has excessively drained soils.	A waiver is requested in its entirety for this Section 352-11.C.(15) This is a local requirement and not in the Mass. Stormwater Handbook.	Granted
Section 352-13.G. To allow for certain CN numbers to be consistent with TR 55 but not Table 2 and to use "good" conditions for established lawns / grass cover and woods.	A waiver is requested in its entirety for this Section 352-13.G. This is a local requirement and not in the Mass. Stormwater Handbook.	Granted

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<p>Section 352-24.D.(1) To allow High Density Polyethylene (HDPE) for all drain pipes since this is the current drain pipe standard and that the Project is private.</p>	<p>A waiver is requested in its entirety for this Section 352-24.D.(1). Reinforced concrete pipe is rarely used nowadays.</p>	<p>Granted</p>
<p>Rules and Regulation of the Town of Groton Board of Health, specifically: Chapter 315 Subsurface Sewage Disposal Regulations.(Amended May 15, 2023) Section 315-3.J. – Pump Systems: (1) All force main sewer lines used for effluent pump and grinder pump systems shall be 160 pounds flex or equal. The force main, once installed, must be pressure tested at least 15 p.s.i. for 15 minutes prior to backfill. The force main must be bedded in a minimum of six inches of sand.</p>	<p>This may be appropriate for a single-family dwelling type system but the Heritage Landing systems will comply with Title 5 and standard engineering practice concerning the force main pipe type and sizing since it is a commercial sized system.</p>	<p>Granted</p>
<p>Section 315-3.J. – Pump Systems (3) Rail systems for pumps up to one horsepower shall consist of 3/4-inch PVC pipe with steel rebar within for support, or approved equal. The ends of the pipe are to</p>	<p>All rail systems will be as supplied by the manufacturer for the specific pumps as designed and installed.</p>	<p>Defer to vendor's recommendations</p>

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be sealed to prevent effluent infiltration.		
Section 315-3.J. – Pump Systems (4) Rail systems for pumps greater than one horsepower shall consist of two-inch stainless-steel pipe.	All rail systems will be as supplied by the manufacturer for the specific pumps as designed and installed.	Granted
Section 315-3.J. – Pump Systems (6) For effluent pump systems, there shall be a drain hole to allow effluent to drain back from the force main. The drain hole shall be installed after the check valve.	This may be appropriate for a single-family dwelling type system but we will comply with Title 5, 310CMR15.221(6) concerning this item since it is a commercial sized system. This section of Title 5 states: “All pressurized pipes shall be designed and installed to meet the following requirements: (a) to prevent freezing by being installed below the frost line, by being adequately insulated if installed above the frost line, or be self-draining; (b) to specify the appropriate class or schedule of pipe to withstand maximum pressure and/or anticipated vehicular loads; and (c) to specify appropriate thrust blocking at all angles, bends, branches, plugs and wherever else necessary to prevent disruption of proper functioning of the line.” A portion of the piping will be required to be located under the private roadway within this site.	Granted
Section 315-3.L. - No component of a sewage disposal system, including but not limited to the leach area, sewer line, distribution box, distribution line, septic tank, clean-out, or manhole, shall be		Granted upon recommendation from the Board of Health

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located under any portion of a public or private road right-of-way.		
Section 315—5.A. - Leaching facilities (including the proposed expansion area) must be located at least 100 feet from any wetland, watercourse, wetland vegetation, seasonal streams and drainage ditches.	Drainage ditches as mentioned above is a vague term. This could be construed to include drainage swales which may be part of the storm water design. We will maintain or exceed Title 5 setback requirements	Needs discussion, but Board will consider granting a waiver if Applicant can demonstrate the waiver is needed.
Section 315-5.F. - A minimum of 20 feet must be available between the edge of any street right-of-way, passageway or road line and the entire exterior perimeter of any proposed leach areas.	Passageway and road line as mentioned above are vague terms. At this point the Applicant does not know the exact location of the leaching systems versus any entrance drives which may be construed as passageways or road lines.	Needs discussion, but Board will consider granting a waiver if Applicant can demonstrate the waiver is needed.
Section 315.6 – Square Footage Requirements This section requires a 50% increase over the square footage requirements of Title 5 for conventional systems.	Considering the size of the systems for this site, this is an enormous increase. This may be appropriate for a single-family dwelling, but these systems will be commercially sized with pressure dosing which provides for a more complete and uniform method of applying effluent to a leach area.	Granted upon recommendation from the Board of Health

**EXHIBIT B: APPROVED PLANS**