

**ZONING BOARD OF APPEALS OF THE TOWN OF WENHAM  
DECISION ON THE APPLICATION OF  
MAPLE WOODS HOUSING, LLC  
FOR A COMPREHENSIVE PERMIT  
UNDER G.L. c. 40B, §§ 20-23**

**I. BACKGROUND**

1. On October 9, 2014, Maple Woods Housing, LLC (“Applicant”) submitted a comprehensive permit application to construct sixty (60) age-restricted units of multi-family rental housing in a single building (“Project”) on approximately 3.5 acres of land at 62 Maple Street in Wenham (“Site” or “Property”). The Project will be constructed in two phases.
2. The Zoning Board of Appeals (“Board”) held a duly noticed public hearing on November 5, 2014 on the application, and continued the public hearing on December 10, 2014, January 14, 2015, January 28, 2015, March 11, 2015, April 15, 2015, May 26, 2015, and June 18, 2015. The Board closed the public hearing and voted to grant this Comprehensive Permit, with conditions, on May 26, 2015, subject to review and approval of the written decision on June 18, 2015.
3. The Site is located in the Residential Zoning District. The Site contains a portion of the buffer zone to wetland resource areas on adjacent land.
4. The Site has 58.6 feet of frontage on Maple Street. The Site is part of a large property to be divided as part of the development. The Site is currently held as forest land under G.L. c. 61, which gives the Town of Wenham (“Town”) a Right of First Refusal prior to any sale to the Applicant. Nearby land uses are mainly residential. An auto repair and sales facility is located east of the Site. The Site will be served by public water and a private on-site wastewater disposal system.
5. To evaluate the plans, documents, and testimony submitted by the Applicant’s development team, the Board sought technical assistance and comments from Town staff and other boards and commissions. The Board also retained outside consultants to review the Applicant’s traffic and environmental reports and the site plan. In addition, the Board received comments from abutters and other interested parties.
6. The Board retained Laurence F. Keegan, Jr., P.E., of Weston & Sampson for peer review of the Applicant’s traffic impact assessment, and Janet Bernardo, P.E., of the Horsley Witten Group (“HWG”) for civil/site engineering, stormwater management, and wastewater disposal questions. The Board subsequently retained Narrow Gate Architecture Ltd. for design review services.

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7. The Board received written comments in support of the Project from the Wenham Planning Board (March 5, 2015); Bill Tyack, Wenham Department of Public Works (March 6, 2015); James Reynolds, for the Wenham Council on Aging (undated letter); and Joshua Anderson, a member of the Wenham Affordable Housing Trust (March 10, 2015).
8. The Wenham Fire Department and Water Department indicated their approval of the Project, subject to conditions that have been incorporated in Section V of this Decision.
9. Throughout the public hearing process, certain abutters raised concerns about or spoke against the Project. The following summarizes the concerns that neighborhood residents presented to the Board, through testimony and written submissions, at the hearings:
  - (a) That the Site was located within the Zone II of a public drinking water supply. However, through email correspondence with the Massachusetts Department of Environmental Protection (DEP), the Board determined that the abutters had received incorrect information about the Zone II boundary in the vicinity of the Site.
  - (b) That the Project would exacerbate drainage problems that exist on Maple Street. In correspondence to the Board dated January 5, 2015, HWG made several comments about the Project's conformance with Massachusetts Stormwater Management Standards (MASWMS). The Applicant submitted a written response and additional information to the Board for further peer review (January 28, 2015). On February 18, 2015, HWG informed the Board that the Applicant's response satisfied the original review comments. HWG also recommended conditions for the Conservation Commission to include in an Order of Conditions. Furthermore, the Applicant agreed to install "permeable pavers" in the reserve parking area on the Site.
  - (c) That the septic design would not comply with Title V of the State Environmental Code. However, on April 22, 2015, the Wenham Board of Health approved the proposed septic system (based on revised plans dated April 21, 2015) as compliant with Title V, subject to conditions within the Board of Health's jurisdiction.
  - (d) That the Project does not provide for sufficient snow storage area. In response to the abutters' comments, the Applicant submitted a sketch plan of on-site and off-site snow storage locations on April 9, 2015.<sup>1</sup> In addition, HWG's site/civil review (dated January 22, 2015) did not identify snow storage as a deficiency in the site plan.

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<sup>1</sup> Regnante, Sterio & Osborn, LLP, Letter to Board of Appeals, Exhibits 1, April 9, 2015.

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- (e) That the Applicant did not provide sufficient parking for the proposed sixty (60) units of age-restricted rental housing. On December 30, 2014, the Board's peer review consultant, Weston and Sampson, Inc., concurred with the Applicant's plan to provide sixty-six parking spaces for the Project.
  - (f) That vehicular and pedestrian safety on Maple Street would be compromised by the increase in traffic generated by the Project. During its review, however, the Board's traffic consultant did not identify vehicular or pedestrian safety concerns with the Project.
  - (g) That the Board should deny the Project as inconsistent with "municipal planning" efforts. Some abutters said the Site is inconsistent with local planning, but the Board did not receive evidence of inconsistencies with municipal plans as such plans are described in various decisions of the Housing Appeals Committee (HAC). For example, the abutters cited a regional plan prepared by the Metropolitan Area Planning Council (MAPC) in 2011 and Wenham's June 2008 Affordable Housing Plan, which has expired and does not qualify as a DHCD-approved housing production plan under 760 CMR 56.03(4). Omitted from the abutters' submissions was any mention of a master plan or comprehensive plan for Wenham, prepared in accordance with G.L. c. 41, § 81D. Moreover, MAPC provided a letter of support for the Project, dated May 26, 2015, noting that Massachusetts has many examples of open space preservation and affordable housing occurring "side by side."
  - (h) That the Applicant lacks site control because the Town of Wenham has a right of first refusal to purchase the Property pursuant to G.L. c. 61. Under 760 CMR 56.04(1), the Subsidizing Agency has authority to determine whether the Applicant controls the site as part of the Project Eligibility review process. Further, 760 CMR 56.04(6) directs the Board to consider the Subsidizing Agency's determination as conclusive. On September 16, 2014, DHCD issued a Project Eligibility determination for the Project under the Low Income Housing Tax Credits (LIHTC) program. DHCD specifically found that the Applicant controls the site for purposes of eligibility to apply for a comprehensive permit.
  - (i) That the Applicant had proposed to construct more units than necessary for the Project to be "economic" because the Applicant's Project Eligibility application was deemed feasible with only thirty (30) units. However, DHCD's Project Eligibility Determination (or Site Approval Letter) specifically approved sixty (60) units, to be built in two phases of thirty (30) units each.
10. The Board also received comments from the Ipswich River Watershed Association ("IRWA") in a letter dated January 16, 2015. The IRWA made several recommendations to mitigate the Project's potential impact on water quality and water quantity in the Ipswich River watershed. On January 26, 2015, the Applicant responded to the Board and agreed to implement substantially all of the IRWA's recommendations. Specifically, the Applicant has offered to offset 100 percent of its municipal water use through

minimization and supporting improvements to offset its water usage by reducing water use elsewhere in town.

11. In correspondence dated May 11, 2015, the Conservation Commission issued an Order of Conditions for the Project and recommended that the Board grant certain waivers from the Wetlands Resource Protection Bylaw and Regulations as requested by the Applicant.
12. Sitting for the Board and present for the public hearing process were Chairman Anthony Feeherry, Jeremy Coffey, Shaun Hutchinson. Christopher Vance, associate member, also attended.
13. Exhibit A contains a list of documents and submittals the Board received during the public hearing process.

## **II. GOVERNING LAW**

14. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations promulgated by the Department of Housing and Community Development ("DHCD"), 760 CMR 56.00 et seq. (the "Regulations").
15. The Act promotes regional distribution of low or moderate income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. 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) which is on sites comprising 1 ½ 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 .3 percent of such total area or 10 acres, whichever is larger, in one year.
16. DHCD's Regulations expand the definition of what constitutes satisfaction of the statute to include regulatory safe harbors to include such methods as "recent progress" toward the statutory minima or compliance with a DHCD-approved housing production plan, all as described in 760 CMR 56.03(4) through 56.03(7).
17. The Board's decision on a comprehensive permit must balance the regional need for low- or moderate-income housing against the Town's long-range planning goals, 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. FINDINGS:**

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

18. The Applicant has complied with all rules and regulations of the Town of Wenham as they pertain to the application for a Comprehensive Permit.
19. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum Project Eligibility requirements set forth in 760 CMR 56.04(1) as follows:
  - (a) The Applicant is a limited dividend organization, Maple Woods Housing, LLC, which is a single-purpose entity owned by Harborlight Community Partners, Inc., a non-profit entity. Both Maple Woods Housing, LLC and Harborlight Community Partners, Inc., have a place of business of 283 Elliott Street, Beverly, MA 01915.
  - (b) The Applicant received a written determination of Project Eligibility from the Department of Housing and Community Development (“DHCD”) dated September 16, 2014, a copy of which was provided to the Board with the original application.
  - (c) By including with its application a copy of its purchase option for the site which has been extended through September 30, 2015, the Applicant has shown continued evidence of site control sufficient to qualify as an applicant for a Comprehensive Permit.
  - (d) The Applicant will execute a Regulatory Agreement that limits its annual distributions in accordance with Chapter 40B and the regulations and guidelines adopted thereunder by DHCD.
20. The Town of Wenham does not meet the statutory minima set forth in G.L. c. 40B § 20 or 760 CMR 56.03(3) to 56.03(7):
  - (a) At the time of the filing of the application, the number of low or moderate income housing units in the Town of Wenham (122 units) constituted 8.69 percent of the total year-round units in the Town (1,404 units), based on the most recent decennial census. Thus, the Town does not meet the 10 percent statutory minimum.
  - (b) Existing affordable housing units are on sites which comprise less than one and one half percent of the total land area of the Town which is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).

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- (c) 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 Wenham 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.
  - (d) The Town of Wenham does not have a current, approved Housing Production Plan pursuant to 760 CMR 56.03(4).
  - (e) The Town of Wenham has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
  - (f) The Project does not constitute a Large Project pursuant to 760 CMR 56.05(6).
  - (g) The Applicant's comprehensive permit application does not constitute a Related Application pursuant to 760 CMR 56.03(7).
21. The development, if constructed and operated in conformance with the plans and conditions set forth hereunder, will adequately provide for stormwater drainage, sanitary sewer services and water services, and other appurtenant utilities and amenities, and it will not be a threat to the public health and safety of the occupants of the development, the neighborhood, or the Town.
22. The Board finds that the conditions imposed in Section V of this Decision are necessary in order to address Local Concerns as defined in 760 CMR 56.02. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic, the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
23. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting any waivers may have an adverse impact on Local Concerns. Nevertheless, the Board finds that the Local Concerns affected thereby do not outweigh the regional need for affordable housing, especially given the mitigation that has been provided by the Applicant.
24. The Board acknowledges concerns raised by some neighbors and other interested parties about the Project's potential incompatibility with abutting residential uses. Such concerns included increased traffic and stormwater. However, no specific public health or safety issues were identified by elected officials or department heads of the Town, and the concerns raised by abutters during the public hearing were adequately addressed as part of the peer review process. The Board finds that despite concerns from abutters, the Project addresses local and regional housing needs.
25. The Board finds that many of the concerns expressed by some abutters and other interested parties during the public hearing process involve pre-existing conditions that

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are not directly related to the Project. Moreover, many of these concerns have been addressed by the Applicant through plan modifications or by conditions imposed on this Comprehensive Permit.

26. The Board finds that construction of 60 one-bedroom apartment units at 62 Maple Street will be “Consistent with Local Needs” within the meaning of G.L. c. 40B, § 20, and 760 CMR 56.02, and will allow the Town of Wenham to exceed the ten percent (10%) statutory minimum under Chapter 40B. The approval of this Project, with sixty (60) units, will bring the Town to 12.9 percent.

**IV. DECISION**

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit under Chapter 40B for the development described herein, subject to the conditions set forth below.

**V. CONDITIONS**

**A. General**

- A.1 The holder of this Comprehensive Permit is defined as a limited dividend entity, Maple Woods Housing, LLC. The Site is defined as that property containing approximately 3.5 acres of land situated at 62 Maple Street, as shown on a Plan of Land prepared by Meridian Associates for Harborlight Community Partners, dated May 18, 2015. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit.
- 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 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”). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Inspector of Buildings who shall have the authority to approve such changes as immaterial changes. If the Inspector of Buildings determines that the proposed changes do not conform to the requirements of this comprehensive permit, he shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this decision or seek modification in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following:
- a. Maple Woods Preliminary Comprehensive Permit Plans (To Accompany

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Comprehensive Permit Application) for 62 Maple Street located in Wenham, MA dated October 7, 2014, Revised January 23, 2015, Revised May 11, 2015; Applicant Maple Woods Housing, LLC, Owner Robert N. Burnett, TRS; Prepared by Meridian Associates, consisting of 4 sheets.

- b. Landscaping Plans entitled “Maplewood, Wenham, Mass.” dated October 7, 2014, revised January 22, 2015, and Landscape Details dated January 22, 2015, drawn by Ulrich Bachand Landscape Architecture, LLC, Beverly, Mass.; and Lighting Plan, prepared by Ulrich Bachand Landscape Architecture, LLC, and Vanguard Lighting, dated September 30, 2014.
  - c. Proposed On Site Wastewater Treatment and Disposal System Plans, prepared by C.G. Johnson Engineering dated March 12, 2015 and revised April 21, 2015.
  - d. Architectural Plans entitled “Proposed New Construction Maple Woods Housing LLC” Schematic Design dated October 7, 2014, prepared by Siemasko + Verbridge.
  - e. MDM Transportation Consultants, Inc., Traffic Impact Study, November 5, 2014; and correspondence to the Board dated January 14, 2015 and January 28, 2015.
- A.3 This Decision shall be recorded with the Essex South District Registry of Deeds. Proof of recording shall be submitted to the Town Planner prior to issuance of a building permit.
- A.4 The Applicant shall be a limited dividend organization as required by Chapter 40B, and it and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.5 The Project shall consist of not more than sixty (60) one-bedroom apartment units in a single building (to be constructed in two (2) phases) not exceeding thirty-five feet (35’) in height (measured in accordance with the Town of Wenham Zoning Bylaw), and other related residential amenities, all as shown on the Approved Plans.
- A.6 All units in the Project shall be one-bedroom units, and all of the units shall be subject to, at a minimum, a fifty-five (55) and over age restriction. The Applicant shall use all commercially reasonable efforts to secure approval from the Subsidizing Agency and its lenders to allow the Project to be restricted to persons age sixty-two (62) or over, provided that Town financing is successful, consistent with recommendations from the Wenham Housing Trust and Community

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Preservation Committee in 2014. Should the Town and State financing succeed, the 62 and older restriction will be presumed in this Permit.

- A.7 There shall be a minimum of 66 parking spaces (inclusive of required handicap spaces) for the Project. In the event additional parking is necessary in the future, the Applicant has shown an overflow parking area for sixteen (16) cars on a sketch plan prepared by Siemasko + Verbridge and submitted to the Board on April 9, 2015 (Exhibit 2A, Regnante, Sterio & Osborn, LLP, Letter to Board of Appeals, April 9, 2015).
- A.8 There shall be no smoking permitted on the Site within fifteen (15) feet of any property line. The Applicant shall be responsible for enforcing this restriction.
- A.9 All residential units approved under this Comprehensive Permit shall be for rental only, in perpetuity, and shall not be converted to condominium or co-operative or other form of individual ownership without approval as a substantial modification of this Comprehensive Permit.
- A.10 Pursuant to the Waiver List revised February 25, 2015 attached hereto as Exhibit B, the Applicant has requested, and the Board has granted, waivers from the Wenham Zoning Bylaw and other local by-laws and regulations including the setback under the Wenham Resource Protection Bylaws and Regulations as specified in Exhibit B hereto. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23. No waivers are specifically granted from permit or inspection fees. Waivers from security requirements are granted, provided that the Applicant shall comply with the security requirements contained in this Decision.

Any subsequent revision to the 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). To the extent that additional waivers are subsequently determined to be required with respect to improvements that are otherwise shown on the Approved Plans, such waivers shall be deemed an insubstantial change to the Comprehensive Permit under 760 CMR 56.05(11), and can be granted administratively by the Board.

- A.11 The Applicant shall comply with all local regulations of the Town of Wenham and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- A.12 The Applicant shall copy the Town Planner (Emilie Cademartori) on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.

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- A.13 In accordance with DHCD's Guidelines for G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory, ("Chapter 40B Guidelines"), updated December 2014, and to the extent allow by law, preference for renting up to 70 percent of the units shall be given to Wenham residents under the Local Preference policy set forth in the Chapter 40B Guidelines.
- A.14 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Inspector or other Town Departments, the Building Inspector or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Inspector or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.
- A.15 The Applicant agrees that if the Project is conveyed to a non-profit charitable organization exempt from property taxes under G.L. c, 59, Section 5, there shall be an enforceable restriction in the deed to the Property, binding such non-profit organization to make a Payment in Lieu of Taxes (PILOT) each year to the Town of Wenham for an amount equal to the real estate taxes that would be required of a non-exempt owner, as determined by the Wenham Board of Assessors. Such restriction shall run with the land and apply to any subsequent tax-exempt purchaser of the Property. ,
- A.16 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b) The pledging of the Property as security under any conventional loan construction financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph. The Board shall receive notice of any change in the principals of Maple Woods Housing, LLC during construction of the Project.
- A.17 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.
- A.18 The sidewalks, driveways, roads, utilities, drainage systems, sanitary sewer system, water system and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Wenham shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and

landscape maintenance. In this regard, the driveway within the Project shall not be dedicated to or accepted by the Town.

- A.19 The Applicant shall, as it has agreed, work with the Town to offset 100 percent of its municipal water use through minimization and supporting improvements to reduce water use elsewhere in town. The designation of specific vehicle(s) to achieve this goal shall be determined by the Wenham Water Department and may include a payment, as is required under existing regulation, to the Town-controlled Water Use Mitigation Fund, as well as other measures approved by the Water Department. The Town recognizes that it is currently in the process of creating a Town-wide Water Mitigation Plan as required by its 20-year State Water Management Act Program permit renewal and desires that the Applicant's mitigation planning be integrated within this process.
- A.20 No connection shall be made to the municipal water system for outdoor irrigation purposes. A connection for the building sprinkler system will be made to the municipal water system.
- A.21 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

**B. Affordability Requirements**

- B.1 All sixty (60) of the units in the Project shall be low- or moderate-income units. Forty-eight (48) units will be made available to households earning below 60 percent of the area median income (AMI) and twelve (12) units will be made available to households earning below 30 percent of AMI, as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD. The Applicant shall be responsible for maintaining records sufficient to comply with DHCD guidelines for occupancy of such units by income-eligible households.
- B.2 Upon completion of the Project and in perpetuity, all 60 units shall meet the criteria for inclusion in DHCD's "Subsidized Housing Inventory" (SHI).
- B.3 The Applicant shall obtain approval by DHCD of an affirmative marketing plan and tenant selection plan prior to making any of the units available for rent, and shall ensure that the Project complies with the DHCD's fair housing requirements.

**C. Submission Requirements**

- C.1 Prior to any construction on the Site, whether or not pursuant to a building permit, the Applicant shall:
  - a. Deliver to the Board a check in a reasonable amount determined by the Board to be used for the Board to retain outside experts for technical and

legal reviews and inspections required under these conditions. Said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, s. 53G 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 ZBA 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 ZBA in a reasonable amount as may be determined by the ZBA. Said funds may be used by the ZBA to hire civil engineering, traffic engineering, legal counsel, accounting, and/or other professionals that the ZBA deems reasonably necessary to ensure compliance with the conditions hereof.

- b. Obtain a Notice of Intent (NOI) for Stormwater Discharges Associated with Construction Activity under a National Pollution Discharge Elimination System (NPDES) General Permit from the U.S. Environmental Protection Agency (EPA).
- c. Submit to the Town Planner for review and administrative approval Final Engineering Drawings and Plans ("Final Plans") that conform to the requirements of this Comprehensive Permit and the Approved Plans referred to in paragraph V.A.2 and incorporate the conditions set forth in said plans and in this Decision. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall signed and sealed by the Professional Land Surveyor, the Registered (Civil) Engineer of record, the Registered Building Architect and the Registered Landscape Architect of record. The Final Plans shall be submitted to the Town Planner at least forty-five (45) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier (the "Final Site Plan Submission Date"). Upon receipt of the Final Plans, the Town Planner shall promptly forward them to the Board for review.

At a minimum, the Final Plans shall be in accordance with the Stormwater Management Report dated February 4, 2015 and Stormwater Analysis and Calculations Report dated February 18, 2015 prepared by Meridian Associates and the comments and recommendations thereto contained in the HWG peer review by Janet Bernardo, P.E., dated January 5, 2015, February 18, 2015. The stormwater management system shall ensure that there shall be no increase in the rate of flow, above current levels, of stormwater from the Property onto the abutting properties or public ways, and that the stormwater management system is designed in conformance with the Massachusetts Stormwater Management Handbook ("MASWMH"). The Board notes that with the Approved Plans, HWG is satisfied that all issues regarding stormwater and engineering, including

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the requirements of the MASWMH, have been adequately addressed. In addition, the Final Plans shall incorporate all water quality and water quantity protection commitments stated in the Applicant's letter to the Board, dated January 26, 2015 (submitted in response to recommendations from the IRWA, dated January 16, 2015).

- d. Submit to the Board, Town Planner, Building Inspector, Fire Chief, Police Chief, and Director of Public Works, a construction management plan including, but not limited to, dust and noise control measures, tree removal, fill delivery schedules, stockpiling areas, truck routes, trash and debris removal, hours of construction, construction staging, traffic and parking during construction, and like matters.
- e. Other than site work and such other work as may be authorized in writing by the Town Planner, no other construction of units shall commence and no building permits shall issue under this Comprehensive Permit until the Town Planner, in consultation with the Board's engineer, has approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Town Planner concerning the Final Site Plans within forty-five (45) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- f. Submit to the Town Planner a landscaping plan with the Final Plans, signed by a Registered Landscape Architect, consistent with Approved Plans, depicting the following:
  - (1) Overall planting plan that includes a demarcation of clearing and the limits of work;
  - (2) Planting plans for drives showing shade trees and lighting fixture locations;
  - (3) Plans of walkways in open space and recreation areas;
  - (4) Prototype planting plans for each building that include shade trees, ornamental trees, shrubs, and groundcovers;
  - (5) Prototype screening plans for dumpsters, depicting plantings and fencing;
  - (6) Planting details for coniferous and deciduous shade trees, ornamental trees, and shrubs;
  - (7) Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;

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- (8) Tree protection and preservation plans; and
- (9) Construction details.

All plantings shall consist of native, non-invasive, drought-tolerant species as per the Applicant's agreement with the Ipswich River Watershed Association. Plantings installed along drives and walkways shall also be salt-tolerant.

- g. Obtain approval of proposed fire hydrant locations and Fire Department Connection (FDC) locations.

C.2 Prior to the issuance of a building permit for the project, the Applicant shall:

- a. Record this Comprehensive Permit with the Essex South District Registry of Deeds ("Registry of Deeds"), at the Applicant's expense, and provide proof of the same to the Building Inspector.
- b. Submit to the Town Planner evidence of Final Approval from DHCD, as required by the Project Eligibility letter and the Chapter 40B regulations.
- c. Submit to the Town Planner a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. Execution and recording of such Regulatory Agreement and a subsidy funding commitment by DHCD or other approved lender shall be complete prior to the issuance of any building permit.
- d. Submit to the Building Inspector final Architectural Plans, consistent with the Approved Plans, prepared and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Inspector may request.
- e. The Board's engineer shall approve the maintenance schedule for the stormwater system.
- f. Obtain and file with the Building Inspector a copy of all federal, state, and local permits and approvals required for the Project.
- g. Provide a performance guarantee in an amount set by the Town Planner with input from the Board, which guarantee shall be posted to ensure completion of the infrastructure (as listed below) in accordance with the Approved Plans. The guarantee shall be in a form acceptable to the Town Planner with input from the Board. Items covered by the performance guarantee shall include, but shall not be limited to:

As-built drawings;

Septic and utilities;  
Driveway construction;  
Erosion control;  
Drainage facilities/stormwater management system facilities;  
Work required by the Conservation Order of Conditions.

The performance guarantee will be reduced from time to time as work progresses and released upon approval by the Town Planner and the Conservation Commission Agent with input from the Board.

- h. Obtain all necessary building, electrical, plumbing, and associated permits for the Project required by state law.

Submit the proposed fire protection systems, including fire alarm and fire sprinkler systems, for review and approval by the Wenham Fire Department.

**D. Construction Completion; Certificate of Occupancy**

- D.1 Prior to issuance of a certificate of occupancy for any portion of the Project, the Applicant shall:

- a. Submit an "Offset Mitigation Plan" approved by the Wenham Water Department to the Building Inspector, specifying measures to offset the Project's water use in accordance with Condition A.17 above.
- b. Submit interim engineer's certification of compliance with utilities plan and profiles to the Department of Public Works.
- c. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Project has been constructed in compliance with the Final Plans.
- d. Obtain acceptance from the Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units.
- d. Obtain Affidavits signed by the Architect, Mechanical/Electrical/Plumbing Engineers and Structural Engineers as required to obtain the Certificate of Occupancy.

- D.2 Prior to issuance of the final certificate of occupancy, the Applicant shall:

- a. Submit to the Department of Public Works, in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all utilities, rim and invert elevations, roadway, sidewalk

and associated construction. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2010 or earlier and Adobe PDF, delivered on CD-ROM or DVD-R media. 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. Said 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.

- b. Submit to the Building Inspector as-built plans for all buildings in the Project.
- c. Applicant has submitted a letter dated June 26, 2015 offering to offset 100% of its water use through minimization and supporting improvements to affect its water usage elsewhere in Town. Applicant shall, as it offered, work with the Town and the Ipswich River Watershed Association (“IRWA”) in accordance with its letter dated January 26, 2015 to the Board in response to IRWA’s letter dated January 16, 2015 to achieve such goals under the leadership of the Town. The designation of a vehicle to achieve this goal will be proposed by the Town and may include a payment, as is common now, to the Town controlled water use mitigation fund or other “water banking” system as approved by the Town.

**E. Project Design and Construction**

- E.1 The Applicant and the site general contractor shall attend a preconstruction conference with the Building Inspector and other Town Department heads as the Building Inspector may determine.
- E.2 The Applicant shall permit representatives of the Board to observe and inspect the Site and construction progress until such time as the Project has been completed.
- E.3 The proposed construction will be in accordance with all applicable federal and state laws, rules, and regulations, and all local bylaws and regulations except as waived herein.
- E.4 The Architectural Plans shall provide for smoke separation doors/assemblies within the common egress corridor to prevent the spread of smoke throughout each building. Doors/assemblies shall be shown on said Plans.
- E.5 The Applicant shall request and obtain permits and approvals from the Wenham Fire Department for installation of the fire alarm system, fire sprinkler system, and location of hydrants. All shall be designed free of landscaping obstructions.

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- E.6 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- E.7 During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to communicate with and minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan.
- E.8 The Applicant will work with the abutters to design and install landscaping screening that will address site line concerns of specific abutters. This may include plantings on the project site and/or abutter properties.
- E.9 Appropriate signage shall be shown on the Final Plans.
- E.10 The location of all utilities, including but not limited to underground electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans.
- E.11 If natural gas is proposed, gas service locations shall be included on the Final Plans.
- E.12 The Applicant shall install lighting on the site which conforms to the Town of Wenham's Zoning Bylaw and the Landscaping and Lighting Plan included in the list of Approved Plans (see Condition A2). Management of outdoor lighting shall be the responsibility of the Applicant.
- E.13 Soil material used as backfill for structures shall be certified by the Structural Engineer to the Building Inspector as meeting design specifications, as applicable.
- E.14 Construction activities shall be conducted between the hours of 8:30 a.m. and 6:00 p.m., Monday through Friday. Work may occur on Saturdays during the same time period but shall be limited to inside work only, after the buildings have been framed, roofed, and sheathed. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; 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 Department of Public Works and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on site during construction.
- E.15 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with

applicable law. During construction, the site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.

- E.16 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, straw coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.
- E.17 All dumpsters serving the Project shall be enclosed and covered.
- E.18 All retaining walls shall be constructed in the aesthetic manner as depicted in the colored rendering as submitted. Specifically, retaining walls shall not consist of exposed concrete.
- E.19 Snow shall be stored within the areas of the site designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage areas, the Applicant has obtained an agreement for an easement for off-site snow storage as shown on a Snow Storage Sketch prepared by Meridian Associates dated March 30, 2015. Such easement shall be executed and recorded with the Registry of Deeds prior to construction.

**F. Traffic Safety Conditions**

- F.1 Sidewalks shall be provided within the Site linking the residential buildings to the on-site amenities. Wheelchair ramps and crosswalks will be provided within the Site where pedestrians will cross internal circulating aisles. These facilities will be designed and constructed in accordance with ADA and MAAB regulations, as applicable.
- F.2 Prior to the issuance of an occupancy permit, the Applicant shall furnish and install one "YOUR SPEED" Radar Driver Feedback Sign along Maple Street. Specific location shall be coordinated with the Applicant, Wenham Police Department and Department of Public Works. In the event that a suitable permanent location is not conveyed to the Applicant prior to issuance of a building permit, the Applicant shall furnish a portable Radar Driver Feedback Sign which shall satisfy this condition.

**G. Police, Fire, and Emergency Medical Conditions**

- G.1 The Project shall be equipped with fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms approved by the Wenham Fire Department.

- G.2 The Applicant shall provide professional property management and maintenance personnel on the premises during normal daytime hours and an emergency contact name and number for tenants and the Wenham Police and Fire Departments.
- G.3 The Board notes that the original design was adjusted by the Applicant to provide a 34' area to the rear of the proposed structure to accommodate a fire truck and "drop zone" as requested by the Fire Department (15' drop zone and 19' wide travel way totaling 34'). This is an increase of one (1) foot from the original design. The area will be composed of pavers sufficient to hold the weight of a fire truck which will be subject to final Fire Department approval. The building will be serviced by a backup generator which meets all safety and noise requirements. The generator shall be exercised for preventive maintenance purposes during normal business hours only.

The Board also notes that an auto turn analysis was completed by MDM Transportation Consultants, Inc. and peer reviewed at the Board's request. This resulted in an adjustment to the entrance area of the project which is depicted in the Approved Plans.

- G.4 The plans have been modified to show a full 24' width interior driveway. Pursuant to the NAPA standards a single access route is acceptable for residential development containing between 1 and 100 units. The Board finds that a secondary means of access is not necessary for the Project based upon said standard and the safety modifications made by the Applicant.
- G.5 The Applicant has agreed to allow the Wenham Fire Department and the Wenham Police Department, to install and maintain emergency communication devices for the Town on the site and/or on the building. This equipment can be linked to the backup generator for further security benefit.
- G.6 The Applicant has agreed, at the request of the Town, to establish Maple Woods, as a short term emergency shelter location for public need.

**H. Water, Septic, and Utilities**

- H.1 The water, septic, and drainage utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town of Wenham requirements and protocols.
- H.2 The Project shall comply with all water quality and water quantity recommendations made by the IRWA in correspondence to the Board (through E. Cademartori, Town Planner) dated January 16, 2015, which recommendations the Applicant accepted in writing on January 26, 2015. The purpose of such recommendations is to minimize water use and maximize water quality protection in the design, construction, and ongoing operation of the Project.

- H.3 Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit and the like.
- H.4 Septic system approval is subject to conditions imposed by the Board of Health in its approval letter of April 22, 2015 and the HWG letter of April 8, 2015.
- H.5 Drainage access easements and grading easements necessary for construction of the stormwater system are adequately addressed as set forth in the April 9, 2015 letter from Regnante, Sterio & Osborne LLP to the Board. The Board requires that such easements be executed and recorded at the Registry of Deeds prior to construction.
- H.5 Any water damage to abutting properties, specifically septic systems, which are directly caused by Maple Woods impact on area drainage or water tables shall be the Applicant's responsibility to ameliorate.

**I. Other General Conditions**

- I.1 This decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later. In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- I.2 This permit prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site.
- I.3 The Applicant or its designee shall be responsible for the operation and regular maintenance of all pedestrian walkways, parking areas, and other common facilities shown or described in the Approved Plans and materials, including, but not limited to, regular snow plowing.
- I.4 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or both of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations and/or enforce these conditions; or (b) have access to, and inspect, examine and make copies of all of the books and records of the Applicant pertaining to the project. If the Town brings any claim to enforce these conditions, and the Town

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finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

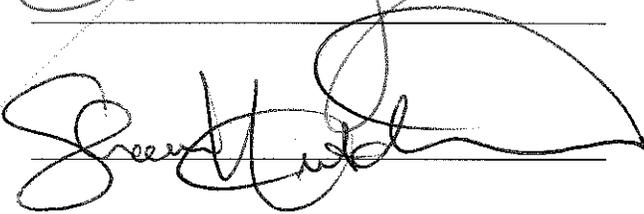
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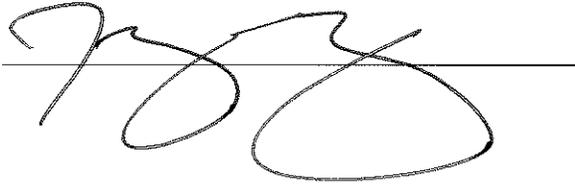
**RECORD OF VOTE**

The Board of Appeals voted 3-0 at its public meeting on May 26, 2015, to unanimously grant a Comprehensive Permit subject to the above-stated Conditions, with this decision as attested by the signatures below.

Members in favor:

  
\_\_\_\_\_

  
\_\_\_\_\_

  
\_\_\_\_\_

Dated : July 1, 2015

Filed with the Town Clerk on July 1, 2015.

  
\_\_\_\_\_  
Town Clerk

RECEIVED-TOWN CLERK  
WENHAM, MA 01984  
2015 JUL -1 AM 9:46

**Notice:** Appeals, if any, 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, Wenham, Massachusetts.

**Exhibit A**  
**Submittals Received During Public Hearing Process**

**I. Materials from Applicant:**

1. Pro forma dated June 9, 2014.
2. September 18, 2014 Submittal and Plan from Siemasko + Verbridge
3. Architectural Plans dated October 7, 2014 prepared by Siemasko + Verbridge
4. October 9, 2014 Application Packet (with exhibits)
5. October 31, 2014 letter from Harborlight Community Partners
6. November 5, 2014 Traffic Impact Assessment from MDM Transportation Consultants, Inc.
7. December 1, 2014 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA
8. December 3, 2014 letter from Harborlight Community Partners to Wenham ZBA
9. December 10, 2014 letter from C. G. Johnson Engineering, Inc., to Wenham ZBA (with exhibits)
10. January 12, 2015 letter from Regnante, Sterio & Osborne LLP to the Wenham ZBA
11. January 14, 2015 letter from MDM Transportation Consultants, Inc., to Wenham ZBA
12. January 26, 2015 letter from Harborlight Community Partners to the Wenham ZBA (water issues)
13. January 26, 2015 letter from C. G. Johnson Engineering, Inc., to Wenham ZBA
14. January 28, 2015 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA
15. January 28, 2015 letter from MDM Transportation Consultants, Inc., to Wenham ZBA
16. January 28, 2015 letter from Meridian Associates to the Wenham ZBA – response to peer review of Horsley Witten
17. February 25, 2015 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA
18. Revised Waiver list dated February 25, 2015

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19. Picture set dated February 25, 2015 from Seimasko + Verbridge
20. March 5, 2015 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA
21. March 18, 2015 transmittal from C.G. Johnson Engineering, Inc., to the Wenham Health Agent
22. March 10, 2015 letter from Seimasko + Verbridge
23. March 11, 2015 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA
24. March 25, 2015 project narrative from Ulrich Bachand Landscape Architecture, LLC
25. March 30, 2015 letter from Ulrich Bachand Landscape Architecture, LLC to the Wenham ZBA
26. April 3, 2015 Maple Woods Noise Analysis submitted by Siemasko + Verbridge
27. April 6, 2015 Financial Summary from Harborlight Community Partners to the Wenham ZBA
28. April 9, 2015 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA
29. April 10, 2015 letter from Meridian Associates to the Wenham Conservation Commission
30. April 13, 2015 response from Seimasko + Verbridge on comments from Narrow Gate
31. April 15, 2015 letter from Regnante, Sterio & Osborne LLP to Wenham ZBA (extension until 6/5/15)
32. Three (3) April 21, 2015 letters from C.G. Johnson Engineering, Inc. to the Wenham Board of Health
33. April 22, 2015 transmittal from C.G. Johnson Engineering, Inc. to the Wenham Board of Health
34. April 27, 2015 letter from C.G. Johnson Engineering, Inc. to the Wenham Conservation Commission
35. Permit Site Development Plans from Meridian Associates (revised through April 27, 2015)

**II. Peer Review Materials**

1. December 30, 2014 Traffic Peer Review Report from Weston and Sampson
2. January 5, 2015 letter from Horsley Witten Group

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3. January 22, 2015 letter from Horsley Witten Group
4. February 18, 2015 email from Janet Bernardo to Emilie Cademartori
5. February 11, 2015 Request for Design Review Services
6. February 18, 2015 letter from Horsley Witten Group to Wenham ZBA
7. February 27, 2015 letter from the Cecil Group to Wenham ZBA
8. April 2, 2015 report from Narrow Gate Architecture Ltd to the Wenham ZBA
9. April 8, 2015 letter from Horsley Witten Group to the Wenham ZBA
10. April 13, 2015 report from Narrow Gate Architecture Ltd to the Wenham ZBA

### **III. Comments and Submittals from Town Boards and Town Departments**

1. October 29, 2014 Wenham Water Commission meeting minutes
2. October 29, 2014 letter from Wenham Board of Health to Wenham ZBA
3. October 31, 2014 Memorandum from Wenham Water Department to Wenham ZBA
4. November 4, 2014 email from Police Chief Thomas Perkins to Emilie Cademartori
5. November 4, 2014 letter from Wenham Fire Department to Wenham ZBA
6. January 29, 2015 email from Jeffrey Baxter (Fire Prevention Officer) to Emilie Cademartori
7. March 5, 2015 Memorandum from Wenham Planning Board
8. March 5, 2015 email from Jeffrey Baxter to Robert Blanchard
9. March 6, 2015 Memorandum from Bill Tyack (Wenham DPW Director)
- 10.
11. March 11, 2015 email from Wenham Council on Aging to Emilie Cademartori (with attached, undated letter)
12. March 11, 2015 Memorandum from Wenham Water Department to Wenham ZBA
13. March 12, 2015 email from Harriet Davis (Wenham Community Preservation Committee) to Emilie Cademartori
14. April 16, 2015 email from DEP regarding the septic system

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15. April 22, 2015 Board of Health Septic Permit and letter for conditions
16. May 11, 2-15, Memorandum from Conservation Commission to Wenham ZBA.

**IV. Public Comments**

1. July 7, 2014 letter from Vivian Sears to Wenham ZBA
2. November 19, 2014 letter from Daniel Hill, Esq. to the Wenham ZBA
3. December 7, 2014 letter from Louis Terranova to Wenham ZBA
4. Undated Memorandum to Wenham ZBA file re Response to December 7, 2014 letter of Louis Terranova
5. January 9, 2015 letter from Daniel Hill, Esq. to Wenham ZBA
6. January 16, 2015 letter from Ipswich River Watershed Association to Emilie Cademartori
7. January 28, 2015 letter from Daniel Hill, Esq. to Wenham ZBA
8. February 23, 2015 from Tetra Tech to Wenham ZBA
9. February 23, 2015 letter from Paul Berthiaume to Wenham ZBA
10. March 10, 2015 letter from Daniel Hill, Esq.
11. March 10, 2015 Letter from Joshua Anderson to Wenham ZBA
12. April 15, 2015 letter from Daniel Hill, Esq. to the Wenham ZBA
13. April 15, 2015 letter from Tetra Tech to the Wenham ZBA and the Wenham Conservation Commission
14. April 24, 2015 letter from Daniel Hill, Esq. to the Wenham Conservation Commission (regarding the septic system)
15. May 26, 2015 letter from Daniel Hill, Esq., to the Wenham ZBA
16. May 26, 2015 letter from H&H Associates, LLP, to the Wenham ZBA

**Exhibit B**  
**Waivers of Local Regulations**

Harborlight Community Partners – Revised Waiver List (February 25, 2015)

The Project shall be exempt from the following provisions of the Wenham Zoning By-laws, applicable to lots located within the Residential Zoning District (waivers granted for provisions identified as “yes” in the column labeled “Waiver Requested”):

REGULATION/ SECTION #	REQUIRED/ PERMITTED	PROVIDED	WAIVER REQUESTED
USE	Single-Family Housing	Multi-Family Rental Housing	YES
Lot Area	40,000 s.f.	151,555 s.f.	NO
Frontage	170 ft.	58.6 ft.	YES
Lot Width	100 ft.	295 ft.	NO
Front Yard	20 ft.	415 ft.	NO
Rear Yard	15 ft.	34 ft.	NO
Side Yard	15 ft.	32 ft.	NO
Maximum Height (Ft.)	35	34 ft. 9 in.	NO
Maximum Lot Coverage	50%	49.4%	NO
Structures Per Lot	1	1	NO

11.0 Other Exemptions (See 760 CMR 56.05(2)(h))

In addition, pursuant to G.L. c. 40B, §§ 20-23 and the regulations promulgated thereunder, the Project shall be exempt from the provisions of other local by-laws listed below, as requested by the Applicant:

1. The Project shall be exempt from the following additional provisions of the Wenham Zoning Bylaws, effective with amendments through 2012:

a. Section 5.2.6.2 - Restricting an access driveway to a residential dwelling to not more than five hundred feet (500’). The Applicant requests a waiver of this provision, to allow an access driveway to the Project to be approximately eight hundred and fifty feet (850’).

b. Section 7.1.1 – Limiting signage on the property to one sign pertaining to the use thereof or having the name and occupation of the occupant or occupants, and no such sign shall exceed two square feet in area. Waiver requested to allow two signs, the first (a fence sign) containing 12 square feet, and the second located in the stone wall containing 12 square feet.

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c. Section 10.1 – Prohibiting the grading and redistribution of earth on the site without a Special Permit issued by the Planning Board, where earth redistribution exceeds 1,000 cubic yards pursuant to the issuance of a building permit. Waiver requested authorizing the grading and redistribution of earth on the Site in the approximate amount of approximately 2,500 cubic yards. The Applicant will comply with the performance standards contained in Section 10.1.3.1.

d. Section 13.5 - Requiring Site Plan Review for construction of a residential structure with two (2) or more dwelling units. Waiver requested allowing the construction of a single structure with sixty (60) dwelling units without the requirement of Site Plan Approval.

2. The Project shall be exempt from the provisions of the Subdivision Rules and Regulations of the Planning Board in the Town of Wenham, with revisions through 1984, as the Project does not constitute a subdivision. The foregoing notwithstanding, the Project would require the following waivers if the Rules and Regulations were applicable:

a. Section 5.4.1.1.2(a) - Requires all pipes except sub-drains to be reinforced concrete pipe. Waiver requested to allow the use of HDPE pipes, which is the standard in the construction industry.

b. Section 5.4.1.1.2(b) - Requires drain pipes to be concrete pipe twelve inches (12") or larger in diameter, and all pipe located under roadways shall be reinforced. This section also required at least three feet (3') of cover over drain pipes. Waiver requested to allow the use of HDPE pipe with a minimum of two feet (2') of cover over the pipe.

c. Section 5.5.3.1 - Requires sidewalks within a subdivision to be separated from the road pavement by a seeded grass plot. Waiver required to allow portions of the sidewalk to be located directly adjacent to the access driveway and parking lot (as shown on the Site Plans).

3. The Project shall be exempt from the following provisions of the Town of Wenham Water Resource Protection Bylaw and the Town of Wenham Water Resource Protection Bylaw Regulations:

a. Section 10.07 (requiring a bond or other form of surety).

b. Section 10.54(3) regarding limit of work and buildings. As recommended by the Conservation Commission, the Project is deemed a subdivision lot (two or more units) with lot preparation done in conjunction with road construction. A waiver is necessary for the fifty foot (50') limit of work and the seventy foot (70') limit of building, to allow grading approximately thirty-five feet (35') from the wetlands line, and to allow a building within fifty-four (54') of the wetland line.

4. No substantive waivers of the Wenham Board of Health regulations are necessary.

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5. The Project shall be exempt from the filing fee requirements established by the Zoning Board of Appeals, Planning Board, Conservation Commission, or other Town entity, except for fees specifically relating to Comprehensive Permit Applications.