

**TOWN OF MILFORD**  
**ZONING BOARD OF APPEALS**  
TOWN HALL  
52 MAIN STREET  
MILFORD, MASSACHUSETTS 01757  

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**(508) 634-2302**

**FINDINGS AND DECISION**

**RE:** Application of EM Street LLC for Comprehensive Permit (the "Application")

**DATE:** July 5, 2018

**Premises Affected:** 462-466 East Main Street, Assessors Map 30, Lot 34 (the Subject Property)

**Members participating:** David R. Consigli (Chair), Robert P. Capuzziello, Mark Calzolaio, John Dagnese, and Charles C. DiAntonio. All members attended all sessions of the public hearing or complied with the Mullin Statute.

**PROCEDURAL HISTORY**

1. On May 31, 2016, EM Street LLC (the "Applicant"), 171 Locke Drive, Marlborough, MA 01752, submitted a project eligibility application to the MassHousing (the "Subsidizing Agency") in order to develop a project with 300 dwelling units, 25% of which were proposed as affordable rental units priced at no more than 80% of area median household income (the "Project"). The Project shall be known as Brookview.

2. A Project Eligibility Letter (PEL) was issued for the Project by MassHousing on August 15, 2016. It is of significance that this PEL made note of the concerns expressed as to adequacy and availability of water supply and additionally recommended under its Determinations, at No. 2 as follows:

The applicant should be prepared to provide detailed information relative to the proposed water and sewer expansion, identify potential impacts to existing service and capacity, and discuss appropriate mitigation.

3. On November 1, 2017, the Applicant submitted a Comprehensive Permit application to the Zoning Board of Appeals (the "ZBA or "Board"). The application included architectural plans for the Project, as well as civil engineering, environmental, drainage, wastewater and stormwater management, and traffic reports prepared by experts.

4. The ZBA commenced a duly noticed public hearing on December 6, 2017.
5. With appropriate extensions agreed to by the Applicant and filed with the Town Clerk, the ZBA continued the public hearing to the following dates: January 17, 2018; February 21, 2018; March 28, 2018; April 25, 2018; and May 30, 2018.
6. On May 30, 2018, the ZBA closed the public hearing and instructed its Coordinator to draft an approval with conditions. At a meeting held on June 20, 2018 the ZBA deliberated upon the matter and considered possible approval with conditions. After discussion the ZBA voted as a condition of any approval to reduce the number of dwelling units to 250. The vote was four (4) members in favor and one (1) opposed. Member DiAntonio voting in opposition.
7. The ZBA met again on July 5, 2018 and further deliberated on the matter and the conditions which it would deem appropriate to attach to any Special Permit. A motion was made, and seconded, and voted to reconsider the question of the number of units to be allowed. After further discussion, the Board voted by a vote of 4 in favor and 1 opposed, member Dagnese voting in opposition, to limit the project approval to 268 units. After further discussion of the draft decision and some corrections and changes agreed to thereon, the Board voted unanimously to grant the Comprehensive Permit based upon the findings, and subject to the conditions set forth below.
8. The documents and exhibits set forth as Exhibit A were received during the public hearing and constitute the record for this decision. The Plan of Record is specifically identified in Exhibit A.

### **FINDINGS**

1. The Applicant is qualified to make the Application pursuant to 760 CMR 56.04 in that (a) it is or will become a "limited dividend corporation" as that term is used in G.L. c.40B, s. 21 and 760 CMR 56.02; (b) it has a funding commitment from the Subsidizing Agency; and (c) it has "control of the site" as that term is used therein by virtue of the deed recorded at the Worcester Registry of Deeds at Book 43719, Page 205.
2. The Town of Milford has not met the statutory minimum set forth in G.L. c. 40B, s. 20 or 760 CMR 56.03(3) nor is affordable housing located on sites comprising one and one-half percent or more of the total land area zoned for residential, commercial or industrial use. The development of affordable units consistent with the Application will not result in the commencement of construction of such housing on sites comprising more than three tenths of one percent of such land area.
3. The Property is located in the Business Park (BP) zoning district, as established in the Milford Zoning By-law.

4. The Project was proposed to have two five-story multifamily residential structures. Building #1 would contain approximately 150 dwelling units. Building #2 would contain approximately 150 dwelling units. Notwithstanding, the total number of units allowed in the complex shall be no more than 268. The dwelling units would have the following mix of bedrooms:

Studios	(5%)
One bedroom units:	(40%)
Two bedroom units	(45%)
Three bedroom units:	(10%)

5. The ZBA retained the following consultants to assist in the review of the Application:

Boston Consulting Group (BCG)  
Consulting Engineers Inc. (CEI)

6. Aspects of the Project were reviewed by the departments and officials of the Town of Milford, including:

Town Planner  
Fire Department  
Police Department  
Conservation Commission  
School Department  
Board of Health  
Highway Surveyor  
Town Engineer  
Sewer Department  
Board of Assessors  
Milford Water Company

7. The ZBA's consulting civil engineer CEI and the Town's Engineer reviewed the Applicant's plans and specifications and summarized their findings or reports in a several memoranda to the ZBA. CEI concluded that (1) the plan set including wetland and flood impact areas were delineated; (2) the site design and building layout plans were generally acceptable, subject to proposed revisions detailed in their findings or reports; (3) proposed traffic and circulation on the Property were generally acceptable, subject to proposed revisions detailed in the reports; (4) utility connections and service should be verified with appropriate Town authorities, but were generally adequate; (5) grading and drainage revisions were required but were not so extensive as to render the project infeasible; (6) proposed plantings and landscaping were generally adequate; (8) the existing site must be serviced by adequate water and private sewer systems; and (9) the Applicant proposed to provide 600 parking spaces on the Property and this ratio of 2.0 spaces per unit is adequate. The Consultants and Town staff made recommendations to the ZBA for conditions to mitigate impacts of the proposed Project and these are set forth as Conditions, below.

8. The ZBA's consulting traffic engineer, BSC, and the Town's Engineer and Planner reviewed the Applicant's Traffic Impact and Access Study (TIAS) and summarized his findings in a several memoranda to the ZBA. It was concluded that (1) the TIAS contained the information typically provided in such studies and was consistent with engineering guidelines; (2) the TIAS proposed an adequate traffic study area; (3) the methodology used in the TIAS to assess volume and peak hours was appropriate; (4) speed and sight distance measurements in the TIAS were appropriate for the proposed use; (5) there are no high accident locations in the TIAS study area; (6) the methodology of projecting traffic impacts attributable to the Project was appropriate; (7) the TIAS projects for level of service (LOS) impacts at nearby intersections were appropriate. The consultants and staff made recommendations to the ZBA for conditions to mitigate impacts of the proposed Project and these are set forth in the Conditions, below.

9. The ZBA had the testimony of Milford Water Company (MWC) Manager David Condrey and the Applicant regarding the availability of water for the project. In addition to his testimony, Mr. Condrey produced a letter dated November 28, 2017 together with a report from the consulting engineers for the MWC, Tata & Howard, dated November 29, 2017 each of which was carefully considered and evaluated by the ZBA. Mr. Condrey presented testimony to further elucidate the concerns expressed in the above letters and made himself available for questions in relation to their content and the availability of water supply for the project. The MWC by Special Act of the Legislature, St. 1881, c.77, has the exclusive franchise for providing public water supply in the Town of Milford. The MWC is not an agency organization subject to control of the Town of Milford.

The applicant indicated that the only source available to it for the necessary quantity of water needed, and at appropriate pressures, would have to be the MWC. Private on-site wells are not an option for the Project. In his letter of November 28, 2017, referring to reports from Tata & Howard, the MWC manager stated as follows:

The report clearly shows that based on our current pumping capacities Milford Water Company would not be able to support the additional demands that would be placed on the system by the project without significant capital investments at our Godfrey Brook wellfield and though water supply is a priority the process involved will be very costly and time consuming.

The MWC manager concluded his letter of November 28, 2017 as follows:

In summary the Godfrey Brook wellfield has the ability to support its original permitted volume based on a report from GZA (a copy of the report can be provided upon request) but will take a significant capital investment and some time to complete. It is important to note even with the additional capacity added to the system the demand placed on it by this project will impact future needs of the community as we move forward.

The ZBA is concerned not only with the lack of capacity of the MWC to supply and support the project, but also with the significant adverse effects upon the public health and

welfare which could be caused by the demands of the Project, even if and when the MWC may be able to undertake system improvements that might facilitate additional water supply. Under all of these circumstances the ZBA must weigh these serious concerns against the regional need for affordable housing.

The ZBA is also cognizant of (2) other applications now pending before it under General Laws Chapter 40B seeking to establish significantly sized multi-unit apartment buildings each of which complexes will have similar need for public water supply. In addition, these other properties, like the site here at issue, are on sites currently zoned and available for commercial and/or industrial development, which development typically would have lighter water system demands. Each of the pending projects has been, or will likely be, significantly reduced as to the number of dwelling units, based upon considerations including impacts upon the Milford water supply.

The ZBA was also concerned with the public safety considerations raised by the single access/egress roadway serving the site and the dwelling units and the very significant length of said roadway, far beyond that which would ever be allowed for any market development in Milford or most other communities. Very significant to the number of units sought to be permitted, there is no second means of access or egress, not even for emergency vehicles. Even with a widening to a boulevard style access/egress roadway, these same public safety considerations exist, and, in the view of the ZBA, the access/egress roadway length requires a reduction in units in order to ameliorate, to some degree, those public safety concerns.

The ZBA was also concerned in relation to the overall ground conditions of the Premises and the ability of the developer to establish a safe and effective on-site sewer disposal system. There was, and is, great concern about the ability of the site, with the number of units proposed, to support the proposed on-site disposal system.

The ZBA recognizes the difficult traffic conditions which exist on East Main Street and connecting arteries. Any level of development will, to some degree, exacerbate those conditions during peak hours. Fewer dwelling units will, obviously, lessen those effects to some degree.

All of the above factors caused the ZBA to consider whether or not denial of the Project application would be the appropriate course of action. Ultimately, the ZBA determined that the project could be approved, but with the conditions below limiting the number of units and requiring MWC approval of water supply availability prior to any construction. At the continued hearing on July 5, 2018 the applicant did agree that it would accept the limitation of 268 units.

10. Subject to the conditions below and based upon the testimony and information considered by the ZBA from technical consultants, Town officials, Town staff, the Milford Water Company, and others, the ZBA finds that the need for the affordable housing produced by the Project, as limited herein, outweighs the local concerns identified during the public hearing process.

## **DECISION**

Pursuant to G.L. c.40B, the Zoning Board of Appeals of Milford, after a public hearing and findings of fact, hereby grants a Comprehensive Permit to the Applicant for the construction of 268 dwelling units on the Property, with associated infrastructure and improvements, subject to the following conditions. The term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Zoning Board of Appeals. Unless otherwise indicated herein, the Board of Appeals may designate an agent or agents to review and approve matters set forth herein.

### **CONDITIONS**

Any grant of a comprehensive permit hereunder shall be dependent upon compliance with all of the following terms and conditions:

#### **A. REGULATORY CONDITIONS.**

1. Construction of all facilities and amenities upon the premises shall be undertaken in substantial compliance with the Plan of Record as such may be modified by the conditions herein, with the specific terms of any conditions stated herein to have precedence over said plan of record in the event of any inconsistencies.
2. The total number of dwelling units that may be constructed at the Premises shall be limited to a maximum of 268 dwelling units, notwithstanding the 300 units shown on the Plan of Record. Parking shall be provided at a ratio of 2 spaces per unit.
3. As a condition of any approval hereunder, at least 25% of the units shall be and shall remain affordable and shall be marketed to eligible households whose annual income may not exceed 80% of area median income (AMI), adjusted for household sized, as determined by the United States Department of Housing and Urban Development (the "Affordable Units"); and, subject to approval by DHCD, the Affordable Units and the remaining units shall be eligible to be included in the Town's Subsidized Housing Inventory (SHI), as maintained by DHCD.
4. The Applicant shall notify the ZBA and the Town Administrator when building permits are issued and cooperate with the preparation of request forms to add the units to the SHI.
5. The Affordable Units shall permanently remain affordable, for so long as the Project is not in compliance with the Town's Zoning By-law, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.

6. A springing affordable restriction and regulatory agreement shall be signed with the Town and recorded at the Registry of Deeds as set forth below.
7. The Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the Subsidizing Agency. The Affordable Units and the market rate units shall be constructed on substantially the same schedule. No building shall contain less than a roughly proportional share of the Affordable Units. The Affordable Units shall be indistinguishable, as viewed from the exterior, from the market rate units.
8. The Applicant shall execute a Regulatory Agreement that shall be countersigned by the Subsidizing Agency as required under G.L. c.40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement.
9. The Affordable Units shall not be segregated from the market rate units. If the Project is intended to be occupied in phases, the Applicant shall provide notice of such intent to the ZBA with a construction/occupancy phasing plan containing an acknowledgement that 25% of the units in each such phase shall consist of affordable units.
10. The Applicant shall annually recertify to the Subsidizing Agency, or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an affordable unit. If a previously eligible tenant becomes ineligible to occupy an affordable unit, the Applicant may charge the tenant a market rate rent; however, the Applicant shall comply with the Subsidizing Agency's requirements for converting another unit to an Affordable Unit. Upon request, the Applicant shall provide the Town with all necessary information to determine whether the required affordability levels are in place.
11. The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Subsidizing Agency, the ZBA and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Worcester County Registry of Deeds against the Property prior to issuance of any building permit for the Project. ZBA endorsement of said Town Regulatory Agreement shall not be unreasonably withheld.
12. The Town Regulatory Agreement: (i) shall only become effective if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require that the Project shall remain a rental project so long as the Project does not conform to local zoning; (iii) shall require that at least twenty five (25%) percent of the apartments in the project shall be rented in perpetuity to low and moderate income households as that term is defined in M.G.L. Chapter 40B, Sections 20-23; (iv) shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c.40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is

imposed hereunder; and (iv) shall restrict the number of allowed units and bedrooms as set forth in the Comprehensive Permit and if the Comprehensive Permit is modified in the future, then the Applicant shall request a modification of the Town Regulatory Agreement to conform to the Permit as modified.

13. The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town and shall require that the Affordable Units shall remain affordable rental units in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town's Zoning Bylaws or for the longest period allowed by law, whichever period is longer.
14. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto; however, the Town may request and shall be provided by the Applicant with all information that is provided to the Subsidizing Agency and may take any steps allowed under G.L. c.40B and 760 CMR 56.00 in relation to excess profits and enforcement of affordability provisions.
15. When the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. Chapter 40B, Sections 20-23.
16. Paragraphs 11 to 15, above, shall not be used or construed or otherwise exercised in conflict with the holdings in ZBA of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At such time as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee. Said monitoring fee shall be reasonably consistent with the monitoring fees required by the Subsidizing Agency.
17. (a) To the extent allowed under G.L. c. 40B and the regulations promulgated thereunder and other applicable law, with respect to at least 70% of the affordable units, the Applicant shall provide a preference category for Milford residents as follows:

Residents of Milford  
Parents and children of Milford residents  
Veterans  
Employees of the Town  
Employees in the Town



- (b) The Town shall be responsible for providing the Applicant with all necessary information and data to support the local preference request as further detailed herein.
  - (c) This preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein.
  - (d) The foregoing local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant.
18. The Applicant shall submit to the ZBA a report on marketing activity at the Project during the initial lease-up of the Project demonstrating compliance with the local preference requirement pursuant to the plan approved by the Subsidizing Agency as set forth below.
19. The ZBA acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, 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. If the ZBA or its designee does not provide such information within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or DHCD, then this condition shall be void.
20. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above.
21. If at any time it appears that the Applicant is in violation of the affordable housing restriction with the Town at any time when said restriction is in effect as described above, following a hearing of which the Applicant has been given prior notice, then the ZBA may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.
22. Profits from the Project in excess of those allowed under applicable law and regulations shall be utilized as provided in the regulatory agreement with the Subsidizing Agency and as required and provided for under G.L. c.40B and 760 CMR 56.00.
23. The Applicant shall annually provide the ZBA or its designee with copies of any and all documents and statements provided by the Applicant to the Subsidizing

Agency or its designated auditor of the Applicant's costs and revenues for informational purposes upon request by the Town.

24. The Town, by and through the ZBA or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
25. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Commissioner and the ZBA.

**B. GENERAL CONDITIONS.**

1. The Applicant shall comply with all local by-laws, rules and regulations of the Town of Milford and its boards, officers and commissions, unless expressly waived hereunder or as provided on the Plan of Record referenced herein.
2. Except as specifically waived by this decision, the Project shall conform to all applicable state and federal laws, codes, regulations, and standards including, but not limited to, the following:
  - (a) International and Massachusetts Building, Plumbing, Fire Protection, Elevator, Access and Electrical Codes;
  - (b) The Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the associated Regulations 310 CMR 10.00 and approval granted under DEP File No.: 250-906 as amended;
  - (c) Massachusetts Department of Environmental Protection Wastewater Regulations;
  - (d) EPA and DEP Stormwater requirement and accepted industry best management practices for construction of the drainage infrastructure; and
  - (e) U.S. Army Corps of Engineers, Regulatory Program under Section 404 of the Clean Waters Act.
3. There shall be no exterior construction activity, including fueling of vehicles, on the Premises before 7:00 a.m., or after 7:00 p.m., Monday through Friday and before 8:30 a.m. or after 4:30 p.m. on Saturday. There shall be no construction on the Premises on the following days unless a special approval for such work has been issued by the Milford Police Department: Sundays or the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The Applicant agrees that the hours of operation shall be enforceable by the Milford Police Department.

4. All utilities within the Premises shall be installed underground.
5. The interior and exterior of all buildings and structures shall be constructed substantially as represented in the Application, as revised, and on the Plans of Record.
6. The Project shall be served by private on-site sewer, at the Applicant's sole expense. All facilities shall be installed as shown on the Plan of Record.
7. No foundation or building permit shall be issued until the Applicant has demonstrated that the Milford Water Company or successor entity will provide sufficient water supply for domestic use and fire suppression.
8. The Project shall be subject to the review and approval of MA DOT, with the Applicant to return to the ZBA for waivers, as desired and necessary. The Town will use its best efforts to assist the Applicant in working with the MassDOT to ensure the requested changes.
9. All water and wastewater infrastructure facilities for the Project shall be constructed and fully operational prior to the issuance of the first occupancy permit for the Project; provided, however, that the required water and sewer infrastructure shall not include building service tie-in infrastructure for any building that has not yet been built or for which an occupancy permit has not yet been requested.
10. All lighting for the Project shall be maintained in such a way that lights shall be shielded and directed so as to avoid light trespass exceeding 0.5-foot candles at the property line or unshielded point sources of light visible from public ways or adjacent properties unless otherwise noted on the Plan of Record. A lighting plan shall be submitted to the Building Commissioner for his approval prior to construction of said infrastructure and prior to issuance of any Certificate of Occupancy for a unit, the lights as detailed shall be installed as shown on the plan. The Applicant shall pay a reasonable peer review consultant fee if requested by the Building Commissioner.
11. A final landscaping plan shall be presented to the ZBA for its review and approval prior to installation. Said review shall not require a new public hearing or amendment to this decision and shall not be unreasonably withheld.
12. Final design plans for the storm water management system shall comply with Department of Environmental Protection regulations and the requirements of Continental Environmental Incorporated, the ZBA's Stormwater peer review engineer, dated December 28, 2017.
13. All utility work and any other roadwork, within any public right of way shall be performed and conducted in conformance with the regulations of the Town and MassDOT, if applicable, including requirements for street opening permits and

trench permits. Contractors shall be duly licensed as required by the Town of Milford. All such work shall be performed in accordance with current engineering and construction standards.

14. Any internal sidewalk and street trees to be planted adjacent to the sidewalk shall be installed before issuance of the final occupancy permit for the Project.
15. All structures and site improvements within the Project site shall remain private in perpetuity, including any and all ways, parking areas, street lighting, drainage, buildings, sewer and water infrastructure and the Applicant shall bear the cost of maintenance, repairs, replacement, snow plowing and trash removal for same in perpetuity.
16. The Applicant shall provide 24/7 monitoring of the Project, either by on-site management or an off-site management entity that is available by phone 24/7. In the event the Applicant engages a management company, the Applicant shall post the name and telephone number of the management company in each building in a prominent place and shall provide the ZBA and Town with a current copy of the management contract upon request.
17. Fire hydrants shall be located as required by the Fire Chief and shall be operational when the first framing of any structure begins. A more detailed, readable utility layout requested by the Fire Chief shall be provided and phased if necessary.
18. The Project's multi-family dwellings shall be sprinklered, including attics and storage spaces. The Applicant shall submit final fire alarm/sprinkler plans to the Fire Chief for review and approval. The Project shall install the sprinklers in compliance with M.G.L. c. 148, §26I, which shall require a sprinkler system designated per NFPA code as 13.
19. The Applicant shall ensure that all underground water pipes shall have water tight joints.
20. No Certificate of Occupancy for any building or phase shall be issued until the infrastructure or common facilities or common improvements specified in this decision and set forth on the plans of record, as such may be amended, are constructed and installed so as to adequately serve said building or phase, or adequate security has been provided, reasonably acceptable to the ZBA, and approved as to form by the ZBA's legal counsel, to ensure the completion of such improvements. No such performance guarantee shall be requested until all drainage facilities and the base course of the pavement have been installed. The choice of performance guarantee shall be governed by the provisions of G.L. c. 41, § 81U (excluding the statutory covenant which shall not apply in this matter) and shall be approved as to form by the ZBA's legal counsel. The ZBA shall notify the Building Commissioner, in writing, of such completion or performance guarantee. The Applicant shall have all statutory choices of performance guarantees available

under G.L. c. 41, §81U at all stages of construction up until request for certificate of occupancy. The Applicant acknowledges that a letter of credit is not a suitable form of surety under G.L. c.41, §81U, ¶7.

21. No stormwater pond or other water collection area to be constructed by the Applicant as part of the Project shall hold water for more than 72 hours, to prevent the breeding of mosquitos. The Applicant shall implement any necessary mosquito control measures to protect residents of the Project and nearby residents in the event that water collects for longer than 72 hours.
22. Final drawings showing on-site water distribution system and wastewater system shall be submitted to the Highway Surveyor and Town Engineer.
23. Prior to issuance of Building Permits, the Applicant shall:
  - (a) Provide to the Building Commissioner a final Stormwater Pollution and Prevention Plan to address specific sedimentation, erosion and dust control, which illustrates, at a minimum, locations of measures such as hay socks, silt fence, sedimentation basins, and all other erosion controls on the plans, and provides detailed construction sequencing and methods to protect the infiltration capacity of each infiltration system, all in conformance with the requirements of the Conservation Commission during the Order of Conditions process.
  - (b) Obtain a National Pollutant Discharge Elimination System General Permit (NPDES) from the United States Environmental Protection Agency, as necessary for construction of the Project at the Premises.
  - (c) Provide procedures that outline the specific operation and maintenance measures for all stormwater/drainage facilities, including any temporary facilities that shall be employed to minimize or eliminate the threat of transmission of mosquito borne diseases to the residents of the Project and nearby residents.
  - (d) Have demonstrated that the Milford Water Company or successor entity will provide sufficient water supply for domestic use and fire suppression.
24. Prior to issuance of Building Permits, the Applicant shall conduct, or submit a report if completed, a hydrant flow test to determine available flow and pressure to fight a fire and provide the results of such test to the Milford Water Company and Fire Chief. In the event that there is insufficient water pressure or volume for fire protection, plans shall include on-site improvements such as a fire pump or off-site improvements to the Milford Water Company water distribution system as required to maintain a residual pressure of 20 psi in the municipal water distribution system. The procedure for flushing, disinfecting and pressure testing of the water mains shall be approved by the Milford Water Company.

25. Upon approval of this permit, and when requested, the Applicant shall provide the School Superintendent, ZBA and Board of Selectmen with an estimate of the number of school aged children who will reside at the Property, so that the Town can plan for the expected additions to the school population.
26. The Applicant shall provide and obtain approval for separate Operations and Maintenance Plans and then adhere to them as follows:
  - (1) The drainage infrastructure and all related appurtenances, which shall be consistent with the O&M Plan approved by the Conservation Commission;
  - (2) The access ways, parking area, common areas, trash removal, snow removal; and
  - (3) Additional site areas that are identified by the Conservation Commission to require ongoing maintenance.
27. Fertilizer, pesticide and herbicide use shall be minimized to the extent consistent with good landscape maintenance practice.
28. Road salt shall not be used for vehicular parking areas.
29. Dumping of landscape debris, including leaves, grass clippings and brush, within 50 feet of any wetland shall be prohibited.
30. No disturbance or construction work shall be done and no portion of any or structure or any pavement shall be placed any closer to any wetland than as depicted on the Plan of Record, and any future proposal to alter this condition shall require advance approval by the ZBA of a modification to the plans and this permit, except as expressly and clearly shown on the Plan of Record.
31. The Project shall not be gated.
32. All grading shall be consistent with the Plan of Record as revised and as approved by the ZBA during the public hearing based upon the peer review obtained during the public hearing.
33. The Applicant shall provide post-permit documents and plans required in this Decision to the ZBA which shall forward such documents and plans to its peer review engineers and special counsel, if deemed necessary. The ZBA's peer review engineers and counsel shall provide an estimated cost for a peer review to the ZBA and the Applicant for review of materials for completeness and compliance with this Decision.
34. Once the Applicant has provided a completed set of post-permit documents and plans and the peer review funds are in place, the ZBA shall have 45 days to obtain

the necessary peer review comments and to determine whether the final design submittals and plans conform to the conditions set forth in the Comprehensive Permit.

35. If the ZBA votes to determine that deficiencies exist in the post-permit documents and plans, the ZBA shall notify the Applicant of the deficiencies and the Applicant shall have an opportunity to cure the deficiencies and the Applicant and the ZBA may mutually agree to extend the 45-day period for review to cure the deficiencies.
36. If the deficiencies are not timely cured, then the ZBA may vote to determine that the relevant conditions of the Comprehensive Permit have not been satisfied and the Applicant may avail itself of any avenue of appeal that may exist or may take further action to make additional submissions to the ZBA and its peer review consultant, to try to obtain the approval required by this condition, so long as this Comprehensive Permit has not lapsed and so long as the Applicant pays the reasonable fees of the peer review consultant.
37. Subject to approval of MassDOT, the Applicant shall patch each trench for any work that occurs in a public way for the Project for the full length and width of the disturbance caused by each trench with a thickness of 2 inches of compacted binder course material (unless the in-situ pavement thickness is greater than 2 inches, in which case, the existing greater in-situ thickness shall be matched) and shall overlay, curb-to-curb, the full width and length of any public way disturbed during construction; and the curb-to-curb overlay shall be a minimum of 1.5 inches of compacted thickness or appropriate roadway thickness and size as required by the regulating authority, MassDOT. This shall occur after construction of the Project is completed, at the Applicant's sole expense.
38. Residential Buildings shall have elevators and the radio intercom infrastructure requested by public safety officials. This shall include bi-directional amplifiers for police and fire communications.
39. Each residential building shall be equipped with elevators that return to the ground floor when a power outage occurs.
40. A detailed operation plans for the health club, if any, shall be provided to the ZBA and the Board of Health, to make sure that all applicable safety requirements are satisfied before any occupancy permit for the health club is issued.
41. The Applicant shall provide the ZBA and the Board of Health, before any occupancy permit issues, with an adequate operations plan for the storage and collection of solid waste and recycling, to make sure that odor and nuisance problems are avoided. The hours for trucks to collect or otherwise service the solid waste and recycling containers shall occur only during daylight hours between the hours of 7:00 a.m. and 7:00 p.m.

42. Any irrigation system to be installed must be done only in full compliance with the specifications of the Milford Water Company and the Town of Milford and alternate sources of water will be explored.
43. The toilets shall have a 1.28-gallon maximum flush capacity.
44. The bathroom faucets shall have 1.0 gallon per minute maximum aerators.
45. The showerheads shall have 1.5 gallon per minute maximum flow.
46. All water and sewer construction and materials shall be in accordance with Town of Milford or the Milford Water Company's requirements.

**C. CONSTRUCTION AND BONDING.**

1. The Applicant shall provide the ZBA and its agents with authority to enter the Premises during construction of the Project (subject to conformance with applicable health and safety requirements, including, but not limited to hard hat, safety glasses, reflective vests and work boot requirements), with or without prior notice to determine conformance with this Decision.
2. The Applicant shall pay all of the ZBA's and Town's prior and outstanding peer review and legal fees, if any, within 30 days of the issuance of the Comprehensive Permit. The Applicant shall pay for all post-permit peer review, post-permit inspections, and post-permit legal fees by establishing or continuing the escrow account now established pursuant to G.L. c. 44, s. 53G. No occupancy permit shall issue if any authorized outstanding bill for any fee is 30 days overdue.
3. The Applicant shall abide by orders issued by the Building Commissioner in conformance with applicable law in conjunction with construction of the Project, subject to the Applicant's rights of appeal under applicable law.
4. Work and operations within the buffer zones within 100 feet of wetlands shall be governed by the Conservation Commission unless waived herein and as denoted on the Plan of Record.
5. Prior to construction, physical barriers shall be installed to provide tree protection and along the limit of the clearing line. Erosion controls and tree protection measures shall be continuously maintained throughout the course of construction. Adjacent public streets shall be swept as needed to remove sediment and debris. Disturbed areas shall be brought to final finished grade and stabilized permanently against erosion as soon as practicable. Bare ground that cannot be permanently stabilized within 60 days shall be stabilized using annual rye grass following U.S. Natural Resource Conservation Service (NRCS) procedures.



6. With respect to the work to be done by Applicant on private ways within the Property, no certificates of occupancy shall be issued by the Town until the Applicant has substantially completed all site drainage and utility work appurtenant to any portions of the site for which an occupancy permit is to be issued and has installed a binder course of pavement on driveways and parking areas within the Property.
7. Prior to the issuance of the first certificate of occupancy, a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, shall be provided to the Town, in an amount to be determined by Board's consulting civil engineer performing the construction inspections sufficient to ensure the completion of the top coat of paving and completion of all trench repair work and all other work require such as loaming and seeding along the roadway edges and the blending in of abutting driveways. The surety shall be held in accordance with the Town's normal procedures and any surety release that occurs shall be made only upon the satisfactory completion of the work in question as voted by majority vote of the ZBA of Appeals after receiving the recommendation of the consulting civil engineer and applicable Town agencies.
8. To the extent that landscaping for the Project is not completed prior to the issuance of the first certificate of occupancy, the Applicant shall provide the ZBA a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, and shall be in an amount to be determined by the ZBA in consultation with all relevant Town ZBAs and officials and other consultants based upon the Applicant's reasonable estimate of the costs to complete such landscaping work.
9. The work to be secured shall include any landscape screening and fencing along the limit of work boundary.
10. In addition, the Applicant shall provide surety sufficient to loam and seed any disturbed areas which are yet to be developed as per the plans. Such surety shall be held by the Town Treasurer until the Treasurer is notified by the ZBA to release the surety. Requests to reduce the surety may be submitted as the landscaping work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The amount of the surety retained shall be based on the cost estimate of the remaining work, and the surety shall be fully released upon the completion of the landscaping work.
11. Prior to the issuance of any building permit, the Site and Engineering Plans, finalized as necessary as provided in this Decision, shall be signed and sealed by a Massachusetts Professional Engineer and a Massachusetts Registered Landscape Architect and filed with the ZBA and the Building Inspector, and shall include the following:

- (a) Utilities, including on-site utilities and connections to utilities in adjacent public ways, which shall conform to all requirements of municipal departments or private utility companies having jurisdiction and to all applicable codes;
  - (b) Stormwater Pollution and Prevention Plan (SWPPP) notes that address mitigation of sedimentation and erosion, including details relating to any temporary drainage basins;
  - (c) Letter from the Project architect confirming that the Project complies with Architectural Access Board (AAB) Regulations; and
  - (d) Details of any temporary construction signs.
- 12. A surety instrument, that shall not expire until it is satisfactorily replaced or released, in an amount to be determined by the ZBA in consultation with Town ZBAs and officials and other consultants shall be given to the Town by the Applicant prior to starting any activity authorized by this approval ("Authorized Activity") within a public way, on Town property or in any Town easement to ensure the proper and timely completion of all such work that shall be held by the Town Treasurer until the Treasurer is notified by the ZBA to release the surety.
- 13. Requests to reduce the surety may be submitted as work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The surety retained shall be based on the work remaining.
- 14. Prior to starting any Authorized Activity, the Applicant and the general contractor shall hold a preconstruction meeting with the Building Inspector, Conservation Agent, and Highway Superintendent representative to review this approval.
- 15. Prior to starting any Authorized Activity, the Applicant shall provide to the Building Commissioner:
  - (a) the company affiliation, name, address and business telephone number, cell phone number, and email address of the construction superintendent who shall have overall responsibility for construction activities on site;
  - (b) a copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Premises have been paid;
  - (c) certification from the Applicant that all required federal, state and local licenses and permits have been obtained;
  - (d) proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work;

- (e) proof that street signage is in place to ensure that emergency personnel can locate the site to provide emergency services to protect and secure the site and construction personnel; and
  - (f) at least 48 hour written notice. If activity on site ceases for longer than one month, 48 hour written notice prior to restarting work.
- 16. During construction, at the end of each work day, the Applicant shall cause all erosion control measures to be in place and shall cause all materials and equipment to be secured. Upon completion of all work on site and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the ZBA shall be notified in writing of the final disposition of the materials.
- 17. Blasting, if any shall be performed in a manner approved by the Fire Department and Building Department so as to prevent injury or property damage to the residents of the Town and proper evidence of insurance shall be provided to the Building Inspector before blasting begins.
- 18. Within ninety (90) days of completion of the Authorized Activities and prior to the issuance of any certificate of occupancy, the Applicant shall submit to the ZBA two sets of As-Built Plans for all infrastructure improvements and, if applicable, evidence of compliance with this Comprehensive Permit and any other permits required for the construction of the improvements contemplated by this Comprehensive Permit. The As-Built Plans shall be provided both in paper form and as AutoCAD plans, in a version approved by the Town Engineer so as to be compatible with the Town Engineer's software and hardware. The site engineer of record shall provide a written description of any material deviations from the Building Permit plans.
- 19. All catch basins and detention basins shall be cleaned at the end of construction. Thereafter, the Applicant and/or Applicant's successor shall be responsible for maintaining the site's storm-water management system in accordance with generally accepted practice, as the same may, from time to time, change.
- 20. A plan to implement adequate erosion and sedimentation control measures in compliance with any Order of Conditions for the Project shall be submitted by the Applicant to the Conservation Administrator for approval that such measures comply with the Order of Conditions, prior to the start of any Authorized Activity. Said measures shall be maintained throughout the Project and until all disturbed areas have been permanently stabilized with either an adequate vegetative or asphalt cover in accordance with the Plans of Record.
- 21. Any further soil testing shall be done by a Massachusetts Registered Professional Engineer who is a Licensed Soil Evaluator who shall observe soil conditions in the

subsurface stormwater disposal area and shall relocate or modify the design of the facility if impervious soils or bedrock are present within the limits of the excavation.

22. During construction, the location of any and every stormwater disposal area shall be protected to prevent compaction by heavy equipment and to prevent contamination of the area with soils and material that may reduce infiltration rates for the existing soils.
23. The Applicant shall be permanently responsible for the following at the Project:
  - (a) all plowing, sanding, and snow removal. Snow shall be piled in designated locations as shown on the Approved Plans or alternate locations acceptable to the Fire Chief. In the event that snow impairs roadways such that the travel area is less than eighteen feet wide, and all designated snow removal locations have been exhausted, at the direction of the Fire Chief, the Applicant shall cause snow to be transported from the Project to an off-site location for the legal disposal thereof;
  - (b) all site maintenance and establishing a regular schedule for site maintenance;
  - (c) repairing and maintaining all on-site roadways, including drainage structures and utilities therein and the infrastructure within the Project;
  - (d) conducting annual inspection, maintenance and cleaning of all elements of the drainage system, including but not limited to catch basins, drain manholes, detention basins, swales and pipelines;
  - (e) maintaining all any and all easements shown on the Plans; and
  - (f) site lighting.
24. Prior to issuance of the first certificate of occupancy, the Applicant shall obtain approval from the U.S. Postmaster of any location to be used for mail boxes and parcel delivery areas.
25. Prior to commencing Authorized Activity, the Applicant's final construction plans shall provide that the construction of the Project shall be performed in accordance with all applicable laws and regulations regarding noise, vibration, dust, sedimentation control and blocking of Town roads and the Applicant shall install aprons at entry points and provide for dust control in the form of sweeping and spraying of water whenever necessary.
26. No stumps or construction debris shall be buried or disposed of at the Property.

27. The Applicant shall use all reasonable means to minimize inconvenience to residents in the general area, during construction.
28. The Applicant shall expend commercially reasonable efforts to EITHER develop an on-site irrigation well in accordance with all applicable laws and regulations and shall diligently pursue approvals for same within 12 months of the commencement of construction and before any occupancy permit issues OR the Applicant shall advance a drip irrigation system utilizing the tertiary treated PWTF water in compliance with DEP regulations.
30. Any Permit granted hereunder is granted to the Applicant and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the ZBA, as required by 760 CMR 56.05(12)(b).
31. Any changes to the Project after issuance of the Permit shall be reviewed and approved by the ZBA in accordance with 760 CMR 56.05 (11). The Project shall be constructed substantially in accordance with the Plans. Proposed and reasonable adjustments to the Plans following the issuance of this Comprehensive Permit decision are allowed. Substantial changes shall be submitted to the Building Commissioner (or other appropriate department head in Milford) who may determine whether the adjustment constitutes a "change". Adjustments may be approved directly by the Building Commissioner with input from appropriate department heads. Any proposed insubstantial or substantial change shall be submitted to the Zoning Board of Appeals for review and authorization in accordance with applicable regulatory provisions.
32. Building construction may begin simultaneously with the commencement of construction of the infrastructure, but no occupancy permit shall issue unless and until all of the infrastructure necessary for the occupancy permit shall be substantially permitted and completed and have any necessary temporary or final sign offs.

**D. SPECIAL CONDITIONS.**

1. The final design of the Project shall employ two lanes exiting the main driveway onto East Main Street. The Applicant shall make every reasonable effort, with the assistance of the Town, to obtain MassDOT approval for this design, barring which the plan shall show a single lane exiting the main driveway as was originally proposed.
2. The Board's approval of this Project is for the entire 116 +/- acres. Other than the multifamily dwellings with accessory parking and other improvement, no other structures or uses shall be allowed, with the exception of roof-mounted photovoltaics or passive and active recreation facilities, unless approved by the

Board. The Board hereby allows the passive and active recreation uses set forth in Exhibit C.

3. Prior to the issuance of the first certificate of occupancy, the Applicant shall make improvements to Whispering Pine Road as shown on Exhibit D.
4. Final plans shall enlarge the front parking area by four (4) spaces.
5. Final plans shall reflect parking spaces at a ratio of 2 spaces per dwelling unit.
6. Final plans shall be reviewed by the Fire Department with regard to hydrant locations and access to buildings.
7. The roadway from East Main Street into the project shall be widened to a boulevard style layout in construction as reflected in the Plan attached hereto as Exhibit "E".
8. Notwithstanding the content of the Record Plans, the roadway will be constructed in a boulevard style as shown on Exhibit "E" and the parking area near East Main Street will contain 14 spaces as shown on said Exhibit "E".
9. Any Final Plans, or interim plans, to be provided pursuant to the provisions of the decision shall be provided both in hardcopy and electronically for ease of review and distribution.

**E. LAPSE.**

1. Any Comprehensive Permit granted hereunder shall lapse three years from the date that it takes final effect (i.e., the date that it is filed with the Town Clerk, subject to tolling in the event of any appeal and as provided in 760 CMR 56.05(12)(c)), unless the Comprehensive Permit is duly recorded before the three-year period lapses and unless construction on the Project has commenced within such period.
2. In addition, construction in accordance with this Comprehensive Permit shall be completed within five years of the Permit taking final effect or approval of any further construction of any unit not already begun shall lapse. The Applicant may apply to the ZBA for reasonable extensions of these deadlines for good cause but must do so before any lapse occurs.

**F. WAIVERS.**

1. The Applicant shall comply with the State Building Code and the Town of Milford Zoning Bylaw as of the date this Application was filed with the ZBA, and all other local development controls as of the date of this Application, except as expressly

waived and provided for herein. Any waiver not expressly granted or not shown on the approved Plan of Record is hereby not granted. Grant of the Comprehensive Permit and the Waivers is expressly conditioned upon compliance with all of the conditions of approval and with continued adherence to the facts and circumstances noted in the Findings of Fact.

2. The Waivers in Exhibit B were granted.

**G. VALIDITY OF PERMIT.**

This permit shall not be valid until recorded with the Registry of Deeds and evidence of such recording is provided to the Building Inspector and the ZBA. Any modification of this permit shall be subject to 760 CMR 56.07(4) or any successor regulation thereto. Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by M.G.L. c. 40A, § 17 or M.G.L. c. 40B, §20 et seq., as applicable.

**MILFORD ZONING BOARD OF APPEALS**

By: , Chairman  
David R. Consigli, Chairman

7/11/18

On July 5, 2018, the Zoning Board of Appeals voted to authorize Chairman Consigli to execute the decision on behalf of the ZBA.

Filed with Town Clerk on: July 11, 2018

Sent to Applicant, certified mail, on: July 11, 2018

Notices to interested parties mailed on: July 11, 2018



## **EXHIBITS**

- A Document List
- B. Waiver List
- C Recreational Area Allowed Uses
- D Whispering Pines Improvements
- E. Roadway Boulevard Exhibit Plan

**Exhibit A**  
**Document List**

The following documents were received during the public hearing:

1. Comprehensive Permit Application, property located at 462-466 East Main Street, Milford, Massachusetts dated November 1, 2017.
2. Plans entitled "Robsham Village in Milford, Massachusetts" dated October 23, 2017. These plans are the "Plans of Record."
3. Letter from William J. Touhey, Jr., Fire Chief to David R. Consigli, Chairman dated December 4, 2017.
4. Letter from Patrick J. Kennelly, Milford Planning Board to David R. Consigli, Chairman dated December 4, 2017.
5. Letter from Larry L. Dunkin, AICP, Town Planner to David R. Consigli, Chairman dated December 5, 2017.
6. Letter from John Mainini, Director/Superintendent of Milford Sewer Department to David R. Consigli, Chairman dated December 5, 2017. Attaching letter from Tata & Howard dated July 12, 2016.
7. Letter from Michael Dean, Town Engineer to David R. Consigli, Chairman dated December 4, 2017 with attachments.
8. Letter from David L. Condrey, Manager of Milford Water Company to Gerald M. Moody, Town Counsel dated November 28, 2017.
9. Letter from Tata & Howard, Engineers to David L. Condrey dated November 29, 2017.
10. Letter from Thomas J. O'Loughlin, Police Chief to Milford Zoning Board of Appeals dated November 17, 2017.
11. Letter from Kenneth C. Evans, Chairman Milford Board of Health to Milford Zoning Board of Appeals dated November 30, 2017.
12. Report of Comprehensive Environmental Incorporated on Robsham Village dated December 28, 2017.
13. January 2, 2018 BSC Group Transportation Peer Review letter.

14. January 2, 2018 letter from Planning Board Chairman to David R. Consigli, Chairman.
15. Letter from Larry L. Dunkin, Town Planner to David R. Consigli, Chairman.
16. January 16, 2018 VHB response to comments of BSC Group Inc.
17. Letter from Department of Environmental Protection dated January 24, 2018 approving HydroGeologic Evaluation and authorizing application for an Individual Groundwater Discharge Permit.
18. Hydraulic Graph Sheet on Water Supply, Bennett Sullivan Associates Inc., dated 12-19-2017.
19. Memo from David Formato P.E., Onsite Engineering Inc., February 5, 2018: RE: Robsham Village Water Resource Recovery Facility (On-Site Sewer System).
20. Letter from Sam Offei-Addo, P.E., BSC Group to David Consigli February 9, 2017: RE: Response to Comments on VHB's Response to BSC's Transportation Peer Review.
21. Letter from Randy J. Finke, Vice President Fire Sprinkler Design Inc., dated February 19, 2018.
22. Bennett Sullivan Associates Inc., Hydraulic Calculations on Robsham Village, dated: 2-16-18.
23. Letter from Steven J. Trettle, dated January 15, 2018.
24. Email from Michael Dean, Town Engineer to David Consigli dated February 21, 2018.
25. December 11, 2017 letter from Biels & Thomas Inc., to Steven M. Zieff.
26. March 15, 2018 email from Larry Dunkin to Steven Zieff et al. with entrance/exit alternative attached.
27. Email from Steven Zieff to Gerald Moody dated March 22, 2018; RE: Robsham parking spaces.
28. March 22, 2018 email from Bob Hartzel of Comprehensive Environmental Inc.; RE: Robsham Village 40B Review Response Letter.

29. Letter from Comprehensive Environmental Inc. to David R. Consigli; RE: Robsham Village Comprehensive Permit Application (40B) Review of Parking Requirements; dated March 26, 2018.
30. March 27, 2018 letter from Matthew P. Doyon of CEI to David R. Consigli; RE: Review of Fire Water Supply.
31. March 26, 2018, letter from Comprehensive Environmental Inc., to Milford Zoning Board of Appeals; RE: Review of Parking Requirements.
32. March 27, 2018, letter from Comprehensive Environmental Inc., to Milford Zoning Board of Appeals; RE: Review of Fire Water Supply.
33. Email from Matthew Doyon of CEI to Gerry Moody dated April 12, 2018; RE: Robsham Village Fire Sprinkler Calculations.
34. Letter from Comprehensive Environmental Inc., to Zoning Board of Appeals dated April 12, 2018; RE: Review of Comprehensive Permit Application of Robsham Village.
35. May 25, 2018; Permit Plan set – October 23, 2017 revised May 21, 2018 (Sheets C2.1-C6.2) (The Plan of Record).

*Development: Robsham Village*

*462-466 East Main Street, Milford, Massachusetts*

**EXHIBIT B**  
**LIST OF APPROVED WAIVERS**

The Board of Appeals authorizes the following waivers from the requirements of the Milford Zoning Bylaw and other local by-laws, rules, and regulations listed in this Exhibit B if and only if the Comprehensive Permit for the Project containing the Conditions identified in the attached Comprehensive Permit Application is finally issued and only to the extent necessary and sufficient to construct, occupy, and maintain the project in accordance with the Comprehensive Permit, the Conditions, and Plans and Specifications listed in the Comprehensive Permit Decision, and provided that the project is in fact constructed in accordance with the Comprehensive Permit, the Conditions, and the Plans and Specifications. Once the project has been fully constructed and certificates of occupancy have been issued, these Waivers, the Comprehensive Permit and the Conditions shall not authorize any further waiver of the Milford Zoning Bylaws or other local bylaws, rules, or regulations; any proposed further modification of the project or any unit within the project thereafter must conform to the Milford Zoning Bylaw and other local bylaws, rules, and regulations, subject to the regulations concerning modifications of comprehensive permits found at 760 CMR 56.05(11).

## EXHIBIT B-1

### TOWN OF MILFORD – ZONING BY-LAWS

In supplementation of the general information contained on page 1 of Exhibit A, the applicant believes the following waivers are required for issuance of the Comprehensive Permit and therefore requests the permit granting authority issue waivers relative to the following requirements:

Section Number	Title	Requirement, Waiver Requested
Section 1.4.2	PERMIT PROCEDURE	The zoning by-law requires all applications to be submitted to the Building Commissioner. The Zoning Board of Appeals shall act as the comprehensive permit permitting authority.
Section 1.5	ZONING COMPLIANCE	Section 1.5 requires the applicant to obtain a zoning certificate from the Building Commissioner. The Zoning Board of Appeals shall act as the comprehensive permit permitting authority.
Section 1.15.2	SITE PLAN	The zoning by-law requires construction of a new building to obtain site plan approval. The Zoning Board of Appeals shall act as the comprehensive permit permitting authority. The applicant requests the ZBA to waive the Site Plan Approval requirement.
Section 2.2.1; Section 2.3	USE REGULATION SCHEDULE	The zoning by-law prohibits multi-family use in the Business Park zoning district. The proposed project seeks authorization for the construction of three hundred (300) dwelling units in two structures. The applicant requests a waiver from this prohibited use.
Section 2.4.4.2	NUMBER OF BUILDINGS PER LOT	The zoning by-law permits any number of principal buildings on a single lot contingent that each building meets all requirements for the district. The proposed project consists of two buildings. The applicant requests a waiver from this requirement.

<b>Section Number</b>	<b>Title</b>	<b>Requirement, Waiver Requested</b>
Section 2.5	INTENSITY OF USE SCHEDULE	The zoning by-law prohibits structures to be more than sixty (60) feet in height or five (5) stories, whichever is less. The proposed project has a roof elevation of three hundred and ninety-one and one half (391.5) feet. The first-floor elevation is three hundred and thirty-nine (339) feet and the garage is at three hundred and twenty-eight (328) feet. The average finish grade adjacent to the building will be between the first floor and garage at an average three hundred and thirty-five (335) feet more or less, resulting in an average building height of fifty-six and one half (56.5) feet. The parking garage is more than five (5) stories. The Applicant requests waivers from this section as needed.
Section 3.4.1(a)	OFF-STREET PARKING REQUIREMENTS	The zoning by-law requires two spaces per dwelling unit. Applicant requests a waiver from the minimum parking spaces required by the by-laws.
Section 3.4.2	PARKING DESIGN	Applicant requests waiver to design the parking spaces as proposed by the project plans.
Section 3.4.4(d)	PARKING LANDSCAPING REQUIREMENTS	Applicant requests waiver to design the parking spaces as proposed by the project plans.
Section 3.4.4(d)(1)	LANDSCAPED BUFFER STRIPS	Applicant requests waiver to design the parking spaces as proposed by the project plans.
Section 3.7	EARTH REMOVAL REGULATIONS	The by-law prohibits and regulates the removal of earth. The applicant requests a waiver from these requirements to allow the removal of earth per the project plans. The Zoning Board of Appeals shall act as the comprehensive permit permitting authority.
Section 3.8	OBSTRUCTIONS IN REQUIRED YARDS	The zoning by-law require that all yards required by the by-law be provided as open, unobstructed space. The applicant requests a waiver from this requirement to allow the proposed project as proposed.
Section 3.9	SIGN REGULATIONS	The zoning by-law prohibits and regulates signs. The applicant requests a waiver from these requirements to allow signs as proposed in the project plans.
Section 3.16	INDIVIDUAL LOT DRAINAGE	Applicant seeks a waiver from this Chapter as the Zoning Board of Appeals is provided with the authority to issue all local approvals. The Project does meet the intent of the DEP Stormwater Handbook.

EXHIBIT B-2

MILFORD GENERAL BY-LAWS

In supplementation of the general information contained on page 1 of Exhibit A, the applicant believes the following waivers are required for issuance of the Comprehensive Permit and therefore requests the permit granting authority issue waivers relative to the following requirements:

Section Number	Title	Requirement, Waiver Requested
Article 8	PLANNING BOARD	Applicant seeks a waiver from this section as the Zoning Board of Appeals is provided with the authority to issue all local approvals.



## EXHIBIT B-3

### ARTICLE 33 MILFORD WETLANDS ADMINISTRATION BY-LAW

In supplementation of the general information contained on page 1 of Exhibit A, the applicant believes the following waivers are required for issuance of the Comprehensive Permit and therefore requests the permit granting authority issue waivers relative to the following requirements:

Section Number	Title	Requirement, Waiver Requested
Article 33	WETLANDS ADMINISTRATION BYLAW	<p>Applicant seeks a waiver from this section as the Zoning Board of Appeals is provided with the authority to issue all local approvals.</p> <p>Applicant will Comply with the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 and 310 CMR 10.00 et. seq.</p>
Section 2	PURPOSE	<p>The purpose of the Milford Wetlands and Water Resources Protection Regulations is to provide a greater degree of protection of wetlands, buffer zones, and related water resources, than the protection of these resources areas provided under M.G.L. c. 131, § 40. Applicant requests a waiver from these requirements and states further that the Project will Comply with the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 and 310 CMR 10.00 et. seq.</p>
Section 3	JURISDICTION	<p>The Milford Wetland by-law provides the Conservation Commission with the jurisdiction to enforce the wetlands' by-laws. Applicant seeks a waiver from this section as the Zoning Board of Appeals is provided with the authority to issue all local approvals.</p>
Section 4	APPLICATIONS FOR PERMITS AND REQUESTS FOR DETERMINATION	<p>Per the Milford regulations, a written application is required to be filed with the Conservation Commission. Applicant seeks a waiver from this section as the Zoning Board of Appeals is provided with the authority to issue all local approvals. Applicant will Comply with the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 and 310 CMR 10.00 et. seq.</p>
Section 5	NOTICE AND HEARINGS	<p>Applicant requests waiver from public hearing to address local wetlands by-laws. Applicant will have a public hearing on State WPA.</p>
Section 6	PERMITS, DETERMINATIONS, AND CONDITIONS	<p>Applicant seeks a waiver from this section as the Zoning Board of Appeals is provided with the authority to issue all local approvals.</p>

Section 8	ENFORCEMENT	Section 8 provides the Conservation Commission with the authority to enter the property to enforce Article 33. The Zoning Board of Appeals is provided with the authority to issue all local approvals.
Section 9	BURDEN OF PROOF	The regulations place the burden on the applicant of proving by a preponderance of the credible evidence that the work proposed in the application will not have unacceptable significant effect upon the wetland values protected by this Article. The Applicant requests a waiver from this burden and further states that it will comply with the Massachusetts Wetlands Protection Act, G.L. c. 131, § 40 and 310 CMR 10.00 et. seq.

## EXHIBIT B-4

### RULES AND REGULATIONS OF THE MILFORD SEWER DEPARTMENT

In supplementation of the general information contained on page 1 of Exhibit A, the applicant believes the following waivers are required for issuance of the Comprehensive Permit and therefore requests the permit granting authority issue waivers relative to the following requirements:

Section Number	Title	Requirement, Waiver Requested
Article 1	SCOPE	<p>The proposed project will be serviced with a private onsite wastewater treatment plant. The applicant will not be connecting into the municipal sewer system. Therefore, the sewer regulations do not apply.</p> <p>The project will comply with Title V standards.</p>

Development: Brookview  
462 – 466 East Main Street, Milford Massachusetts

Exhibit C  
Recreational Area Allowed Uses

Passive

Walking

Hiking

Dog walking with sanitary collection stations

Bird watching, photography

Active

Running

Bicycling

Snowshoeing

Cross-country Skiing

Multiuse tennis / basketball

Lawn sports; croquet, horseshoes, bocce, ultimate Frisbee

Swing set / kids tot lot

Structure(s)

Warming huts,

Picnic / food prep sheds,

Storage sheds,

Sanitary / handwashing areas



