

**C O M M O N W E A L T H O F M A S S A C H U S E T T S**  
**H O U S I N G A P P E A L S C O M M I T T E E**

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R.I. SEEKONK HOLDINGS, LLC	)	
	)	
Appellant,	)	
	)	
v.	)	No. 2022-13
	)	
SEEKONK ZONING BOARD	)	
OF APPEALS,	)	
	)	
Appellee,	)	
	)	

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**DECISION ON STIPULATION AND  
ENTRY OF JUDGMENT**

In a decision dated August 26, 2022, the Seekonk Zoning Board of Appeals (Board) granted the comprehensive permit application of R.I. Seekonk Holdings, LLC (developer), with conditions.

On September 1, 2022, the developer appealed the Board's approval with conditions to the Committee. After the initial conference of counsel, the matter was stayed so the parties could participate in mediation sessions. The parties now report they reached a settlement, which resulted in an agreement between the developer and the Board regarding certain revisions to the comprehensive permit.

The Board voted on May 24, 2023 to accept the comprehensive permit, as revised by the settlement agreement ("Revised Comprehensive Permit Decision"). The project consists of 240 total rental units, with 60 affordable units, located at 800 Fall River Avenue in Seekonk.

In order to effectuate this agreement, on June 2, 2023, the developer and the Board filed a Joint Motion for Decision on Stipulation, enclosing thereto the Revised Comprehensive Permit Decision, and requesting that the Committee issue a decision directing the Board to file the Revised Comprehensive Permit Decision with the Seekonk Town Clerk within fourteen (14) days of the date of issuance of the Decision on Stipulation, and providing that if the Board fails to file the Revised Comprehensive Permit within that timeframe, Committee's Decision on Stipulation, incorporating the Revised Comprehensive Permit Decision and the parties' Stipulation, will become the operative comprehensive permit decision in this matter.

Accordingly, the parties request that the Presiding Officer endorse the Agreement for Judgment.

I have reviewed the parties' Joint Motion, as well as the Stipulation and Revised Comprehensive Permit Decision attached thereto, and I find them satisfactory. I hereby incorporate by reference the Joint Motion, the Stipulation, and the Revised Comprehensive Permit Decision, and attach them hereto.

The Board is directed to file the Decision on Stipulation and Entry of Judgment with the Seekonk Town Clerk within 14 days of this Decision on Stipulation, in accordance with 760 CMR 56.07(6), and to take any further steps necessary to formalize the permit for recording or other purposes. If the Board fails to act within 14 days of this decision, this decision shall be deemed, pursuant to the parties' joint motion, to be the Comprehensive Permit issued by the Board. *See* G.L. c. 40B, § 23; 760 CMR 56.07(6)(a).

Housing Appeals Committee

June 15, 2023

Caitlin E. Loftus  
Caitlin E. Loftus  
Presiding Officer

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOUSING APPEALS COMMITTEE

HAC NO. 2022-13

IN THE MATTER OF:  
R.I. SEEKONK HOLDINGS, LLC  
V.  
SEEKONK ZONING BOARD OF APPEALS

**STIPULATION**

The parties hereby stipulate to the issuance of the revised comprehensive permit decision voted by the Seekonk Zoning Board of Appeals on May 24, 2023 to R.I. Seekonk Holdings, LLC, and the filing of said revised comprehensive permit decision with the Town Clerk of the Town of Seekonk. A copy of the Revised Comprehensive Permit Decision is attached hereto as Exhibit "A".

Respectfully submitted,

R.I. SEEKONK HOLDINGS, LLC

By its attorneys,

/s/ Eric S. Brainsky

Eric S. Brainsky, Esq. (BBO# 663136)  
Brainsky Levinson, LLC  
1543 Fall River Avenue (Route 6), Suite 1  
Seekonk, MA 02771  
ebrainsky@brainskylevinson.com

Dated: June 6, 2023

SEEKONK ZONING BOARD OF  
APPEALS

By their attorneys,



Amy E. Kwesell (BBO# 647182)  
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**REVISED DECISION ON CHAPTER 40B COMPREHENSIVE PERMIT**  
**APPLICATION**  
**G.L. c. 40B, §§20-23**

**APPLICANT**

**RI Seekonk Holdings LLC, Trustee of the Greenbrier Village II Primary  
Condominium Trust u/d/t 12/14/2018**

**LOCATION OF PROPERTY INVOLVED**

**800 Fall River Avenue  
Seekonk Assessors Map/Plat: 8; Lot 3**

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**I. PROCEDURAL HISTORY**

1. An application for a Comprehensive Permit was submitted by RI Seekonk Holdings LLC, Trustee of the Greenbrier Village II Primary Condominium Trust u/d/t 12/14/2018 (“Applicant” or “Petitioner”) to the Seekonk Zoning Board of Appeals (“Board”) on March 25, 2021. As originally proposed by the Applicant, the project consisted of the construction of seven (7) buildings consisting of two-hundred and forty (240) rental apartments on property located at 800 Fall River Avenue, Seekonk, Massachusetts (the “Property”). The Project consists of 48 one-bedroom units, 132 two-bedroom units, 48 three-bedroom units, and 12 four-bedroom units and provides 516 parking spaces. Additionally, there will be 12 handicap accessible units (9 market rate and 3 affordable).
2. The Board’s hearing on the application was duly opened on April 20, 2021 and was continued to April 26, 2021; June 21, 2021; September 9, 2021; December 21, 2021; March 1, 2022; April 5, 2022; May 3, 2022, May 23, 2022, June 21, 2022, and July 27, 2022<sup>1</sup>. The hearing was closed on July 27, 2022. The Board deliberated on the application on August 22, 2022. Some of the hearings were held via a virtual platform (zoom webinars) due to the Governor’s March 10, 2020 declaration of a State of Emergency and limits on public gatherings. All submittals concerning the Project are part of the administrative record kept at Seekonk Town Hall and incorporated herein. All waivers requested and votes taken thereon are listed on **Exhibit A** and incorporated herein.
3. The Project is located on approximately 16.876 acres at 800 Fall River Avenue, Seekonk, Massachusetts and is identified on Seekonk Assessors Map/Plat 8, Lot 3.
4. The Property is located in the R-3 and Highway Commercial Zoning Districts. The Property consists of Lot B totaling 16.687 acres. The property is currently improved with a commercial parking lot that was previously utilized to service the adjacent

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<sup>1</sup> Continuances were requested on the following dates: 8/9/2021; 8/23/2021; 9/13/2021; 10/25/2021; 11/16/2021; 11/30/2021 and 1/24/2022.

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defunct movie theatre. On the north side is Greenbrier Drive, on the east is Greenbrier Village, an associated 412 unit rental multifamily project. Fall River Avenue is located to the west and commercial properties are located to the south. The Property is in very close proximity to Interstate 195. The Property additionally has wetlands to the northwest and east of the proposed Project.

5. Sixty (60) units will be rented to, and occupied by, households whose income is not more than 80% of the Area Median Income (“AMI”), as determined by the United States Department of Housing and Urban Development (“HUD”) and DHCD (“Affordable Units”).
6. The Applicant provided certain materials, reports, and revised plans during the course of the public hearing on the Application. During the public hearing, the Applicant was represented by Attorney Eric Brainsky and engineering consultants: Caputo & Wick, Ltd., BETA, and AJA Architects, Inc. and wetlands scientist, Brandon Faneuf from Ecosystem Solutions.
7. The Board utilized the services of Hancock Engineering, and Vanasse & Associates Inc. Lynne Sweet of LDS Consulting Group, LLC also advised the Board as its technical consultant through the Massachusetts Housing Partnership Technical Review program.
8. During the hearings the Board heard input from abutters and other interested persons and Town Departments and Boards throughout the hearing process on topics including, but not limited to, the density of the Project, increased traffic and safety concerns and wetland issues. The following Board members were present for the entire public hearing process or only missed one meeting and complied with G.L. c. 39, § 23D: Chairman Keith Rondeau; Gregory Gauthier; Robert W Read; Shane Halajko; and Donald Robillard.
9. The Original Decision is dated August 26, 2022. The Applicant appealed the Original Decision to the Housing Appeals Committee (“HAC”) on September 1, 2022. The parties were ordered by the HAC Hearing Officer to mediation and mediation occurred on April 17, 2023. On May 24, 2023 the Board, Chairman Keith Rondeau; Gregory Gauthier; Shane Halajko; and Donald Robillard voted to approve this Revised Decision.

II. JURISDICTIONAL FINDINGS

10. The Applicant received a Project Eligibility Letter (“PEL”) from the Massachusetts Housing Partnership (“MHP”) dated January 4, 2021 and submitted copies to the

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Board with the original application. According to the PEL, 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 has formed a limited dividend organization (as defined in 760 CMR 56.02), RI Seekonk Holdings, LLC, which has a principal place of business of 350 South Main Street, Providence, Rhode Island. The Applicant has agreed to conform to the limited divided requirements of M.G.L Chapter 40B.
- b. The Applicant owns the Property via a Master Deed recorded with the Bristol County (North) Registry of Deed in Book No. 24861 and Page No. 322. According to the PEL, the Applicant has shown threshold evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.
- c. The Applicant has agreed to execute a Regulatory Agreement that limits its total profit and directs the redistribution of excess profit in accordance with the regulations adopted by the Massachusetts Department of Housing and Community Development (“DHCD”).

### III. FACTUAL FINDINGS

11. The Board engaged peer reviewers to review issues concerning civil engineering, traffic, site design, architecture, traffic, and stormwater impacts of the Project. The Board also sought comments from Town Departments and abutters in the surrounding area.
12. The Board is aware that the goal of G.L. c. 40B is to promote the development of affordable housing while considering the Local Concerns. Pursuant to 760 CMR 56.02, Local Concerns involve 1) the need to protect the health or safety of the occupants of a proposed Project or of the residents of the municipality; 2) to protect the natural environment; 3) to promote better site and building design in relation to the surroundings and municipal and regional planning; 4) or to preserve Open Spaces. With the Project as conditioned, and the substantial waivers granted, the Board is of the opinion that this decision will promote affordable housing while taking into consideration Local Concerns.
13. The ZBA utilized an independent peer reviewer, Hancock Engineering to review the civil engineering, stormwater, landscaping and lighting aspects of the Project and provide conditions for the Project.

14. The Project, with 240 units is substantially larger than otherwise would be allowed under current zoning. The Applicant provided documentation supporting the conclusion that water capacity in the local municipal infrastructure is sufficient to serve the Project needs safely and without significant impact to existing users. Further, the Project will utilize an existing Wastewater Treatment Plant (“WWTP”) permitted by the Massachusetts Department of Environmental Protection (“MassDEP”) pursuant to 314 CMR 5.00. However, there are concerns related to the WWTP not functioning properly resulting in numerous trucks utilized in pumping the system almost daily.
15. The Board was presented with significant traffic concerns resulting from the Project and the Applicant has made adjustments to the Project plans to address some of these concerns.
16. A December 2, 2009 Certificate of the Secretary of Energy and Environmental Affairs on the Final Environmental Impact Report (“FEIR”) for Greenbrier Condominiums indicates that despite the proposed mitigation measures, Greenbrier Village would degrade operations at the Route 114A/ County Street intersection, especially for the northbound and southbound through-movements during the AM peak period and requested a mitigation plan.
17. The Board recognizes that plan revisions and conditions are required to address traffic issues which signify health and safety concerns of the potential occupants of the Project as well as the residents of Seekonk, which is a Local Concern. The ZBA hired an independent peer reviewer, Vanasse & Associates to review the traffic generated by the Project and provide appropriate conditions to minimize traffic and make the Property and surrounding area safer.
18. The Conservation Agent expressed concern regarding the proposed activity in the wetland resource areas and buffer zones and provided testimony and recommendations to the Board. Additionally, an outstanding Order of Conditions exists related to the Greenbrier Village Project.
19. In consideration of the need for affordable housing in Seekonk and the Local Concerns discussed above, the Board finds that granting this Comprehensive Permit with the conditions and waivers contained below, provides a significant number of affordable housing units consistent with Local Needs.
20. The Applicant was afforded ample opportunity to address the conditions discussed during the public hearing and did not challenge the conditions on the grounds that

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they either singly or in the aggregate rendered the Project uneconomic. Therefore, the Board finds that such conditions will not render the project uneconomic.

21. The Board acknowledges concerns raised by abutters and other interested parties, including concerns relating to construction impacts, Project design, project density, public safety, increased traffic and wetland impacts. The Board has addressed these concerns by the imposition of appropriate conditions.
22. The Board's grant of this Comprehensive Permit shall not be construed to either confirm or deny any property rights with regard to the Project or neighboring properties.

#### IV. CONDITIONS

##### A. **General**

A.1 Except as may be provided for in the following Conditions, particularly Condition A.3 below, 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.1 , which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans" or "Final Plans"). The Approved Plans consist of the following:

The Plan Set consists of the following sheets:

Cover Sheet dated: 11/6/2020  
Survey Map dated: 12/7/2020  
Site Plan C-101 through C-101.3 dated: 12/8/2021  
Drainage Plans: C-201.1 through C-201.3, dated: 7/23/2021  
Location Plans: C-301.1 through C-301.3, dated: 12/8/2021  
Drainage/BMP Details: C-801 through C-903, dated: 7/23/2021  
Building 1 & 4 Plans: A-101 through A-104, dated: 11/6/2020  
Building 2 Plans: A-201 through A-204, dated: 11/6/2020  
Buildings 3 & 7 Plans: A-301 through A-304, dated: 11/6/2020  
Buildings 5 & 6 Plans: A-401 through A-404, dated: 11/6/2020  
Typical Section: A-501, dated: 11/6/2020  
Site Elevations: A-601, dated: 11/6/2020  
Site Distance Plan: SD-1, dated: 1/2022  
Landscape Plans: L-101 through L-102, dated: 12/8/2021  
Snow Storage Plan: SNOW, dated: 2/16/2022  
C-101 with Planting Schedule: 12/8/2021  
Photometric Plan ES-101 dated 04-08-22 (with cut sheets)

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Site Lighting Photometric Plan dated 6/16/2022 AJA Group, Inc.

- A.2 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.3 The Project shall consist of not more than two hundred and forty (240) units in the following configuration:
  - 48 one-bedroom units;
  - 132 two-bedroom units;
  - 48 three-bedroom units; and
  - 12 four-bedroom units.439 parking spaces.  
Additionally, there will be 12 handicap accessible units (9 market rate and 3 affordable).
- A.4 All parking spaces are to be shown on the Final Plan as hereinafter defined in generally the same configuration as shown on the Approved Plans. Visitor parking, and all other forms of parking are prohibited in the Project driveway.
- A.5 Affordable units shall be interspersed evenly throughout the Project, as approved by the Subsidizing Agency during Final Approval.
- A.6 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Seekonk Zoning Bylaw and other local by-laws and regulations as specified therein. Some of the waivers granted by the Board have been granted conditionally, as set forth in Exhibit A. Those conditions are expressly incorporated by reference as conditions of approval to this Comprehensive Permit. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23, and no waivers of any requirements otherwise within the Board's jurisdiction under G.L. c.40B, §§20-23 have been granted except for those expressly granted by the Board as set forth in Exhibit A. To the extent the Approved Plans reflect a waiver not expressly granted in Exhibit A, the terms and conditions of Exhibit A shall govern. No waiver of building permit or inspection fees and water hook-up fees has been granted except as specifically stated and conditioned. Any subsequent non-de minimis revision to the Final 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).

- A.7 The Board shall have the power, at a public meeting and without further public hearing to correct technical errors in this Comprehensive Permit or to address the Applicant's noncompliance with any terms of conditions thereof.
- A.8 The Project shall comply with all local regulations of the Town of Seekonk and its boards, commissions and departments unless specifically waived herein.
- A.9 The Applicant shall copy the Board, 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.
- A.10 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Official or other Town Departments, the Building Official or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days for applications for only one (1) building, sixty (60) days for permit applications for two (2) or more buildings simultaneously, following submission. For submissions that require assistance from an outside consultant, as determined by the Building Official or applicable Department Head, the specified time period shall not begin until the consultant's fee has been fully funded by the Applicant, if applicable.
- A.11 INTENTIONALLY OMITTED.
- A.12 The sidewalks, access ways, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Seekonk 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, drainage and landscape maintenance. In this regard, no access way or internal driveway within the Project shall be dedicated to or accepted by the Town.
- A.13 The Board may designate individuals or municipal departments with expertise to review various aspects of the Approved Plans for consistency with the Comprehensive Permit.

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A.14 The Applicant shall submit to the Building Official (with a copy to the Board for informational purposes only) prior to any Site Development Activities (defined as site clearing, tree removal, grading, installation of erosion control measures by phase, or trenching of utilities), a Construction Management Plan as set forth in Condition C.1, and the following information:

i. 25% plans including the redlight proposal and 25% of the entire corridor and complete application have been submitted to MassDOT proposing the traffic reconfiguration, improvements and installation of traffic lights on Fall River Avenue between Cole Street and Greenbrier Drive. Copies of any submissions to MassDOT will be submitted to the Town. If necessary, the Building Official or Department of Public Works will forward any submittal to the Board's Traffic Engineer for review.

A.15 Applicant must obtain rights of access for work proposed on any property outside of its ownership and/or control.

A.16 There shall be no other Permanent marketing or identification signage other than that shown on the Final Plan consisting of two signs.

A.17 INTENTIONALLY OMITTED

A.18 Following the passage of the appeal period, the Applicant shall record this Decision at the Bristol County (North) Registry of Deeds, and provide proof of said recording to the Board of Appeals staff and Building Department. **No building permits will be issued until this condition is satisfied.**

A.19 Construction Documents. Not less than sixty (60) days prior to the application for a building permit, and to the degree that the following plans are not part of the plan set described herein, the Applicant shall submit final Construction Documents to the Building Department (copied to the Board for informational purposes), for purposes of confirming that the construction plans are consistent with the requirements of this Decision.

a. Final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts. Said plans shall be reviewed by the Building Official, as to whether or not the final plans conform to the approved Plans and the conditions of approval. If the Building Official takes no action within 60 days of receipt, the plans shall be deemed to conform.

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- b. Final Engineering Drawings and Plans (e.g. the "Final Plans") that conform to the requirements of this Comprehensive Permit, and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Where applicable, sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record and the Professional (Civil) Engineer of record and approved by DHCD. The Final Plans shall be submitted to the Building Official at least sixty (60) days prior to the anticipated date of the submission of an application for building permit(s) (the "Final Site Plan Submission Date").
- c. Final Plans shall include the location of walkways to outer doors of each building if and as applicable which shall include walkways to stairs, deck, paths and access at the rear of each unit or building if and as applicable. Final Plans shall provide grading detail between the common driveways and the buildings.
- d. The Final Plans shall be in accordance with the conditions of this Decision. If no written response or comments have been given to the Applicant by the Building Official concerning the Final Plans within sixty (60) days after the Final Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- e. The Final Plans submittal shall include the following detail and supporting information:
  - i. Final construction plans including at a minimum current versions of all plans and details included in the Approved Plans and any supplemental details or plans needed to document compliance with the conditions. (See Section C below);
- f. Final Stormwater Report documenting compliance with the Massachusetts Stormwater Management Standards and Stormwater Handbook;

The Construction Documents shall be reviewed and approved by the Building Department and, if so required by the Building Official, a Third Party Reviewer for consistency with this Decision and the State Building Code. All construction plans shall be stamped by a registered architect or registered professional engineer, as may be applicable. In addition to review by the Building Official, may engage, at the Applicant's expense and upon prior agreement to scope of services, one or more agents to review the plan(s) and make recommendations for approval or disapproval to the degree that a plan or plans are inconsistent with this decision. Pursuant to

G.L. c. 44, § 53G, the Applicant shall submit \$5,000.00 initially at the time of the building permit application and shall be required to supplement the account if the amount drops below \$1,500.00.

A.20 Fire Department Plans. Prior to any Building Permit issuance, the Applicant shall provide the following:

- a. Civil Engineering plans with an appropriate code review of the requirements as stated in NFPA 101, 527 CMR 1.00 ch 10 & 14, to the extent applicable.
- b. Engineered Fire protection drawings with an appropriate code review, and corresponding permit applications for the appropriate Fire protection systems as required by 527 CMR 1.00 ch 13.
- c. Engineered Drawings with appropriate code review to accommodate Fire Department and Water Supply as required by 527 CMR 1.00 Ch. 18.
- d. A code compliant snow storage plan
- e. A code compliant road plan to accommodate the Fire Department's largest piece of apparatus (70,000 lbs plus storage of heavy equipment).

At the conclusion of the construction phase, an appointment shall be made with the Fire Department to conduct an acceptance test of the fire protection systems prior to signing the certificate of occupancy.

A.21 As-built Plans. Within sixty days of issuance of the final certificate of occupancy, the Applicant shall provide "as-built" plans of the access roads, building, water, and electrical distribution systems to the Board of Appeals, Fire Department, Building Department and Department of Public Works; such plans shall be approved by the Board or its agent for consistency with this decision. The Applicant shall provide these plans in digital format acceptable to the Town including but not limited to a format compatible with the Town's Geographic Information System (GIS). Additionally, a paper copy of the As-Built plan stamped by a registered land surveyor shall be submitted to the Building Department.

The digital copy of the final set of approved as-built plans must follow the five requirements listed below unless waived by the Building Department:

- a. All plans and specifications must be submitted on electronic media (thumb drive, CD or DVD\_ROM) using an IBM-PC or compatible file format). Acceptable file formats include: AutoCAD \*.dwg, AutoCAD \*.dxf, Arc View \*.shp, Revit, or ArcGIS Geodatabase \*.mdb. The files must be identical to the printed plan and contain all information included on the written plan. Upon project completion, a digital submission of the "as-built" plan is required prior

to receiving a Certificate of Completion from the Building Department.

- b. All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83 and vertical datum of NGVD88.
- c. Each feature type must be organized in the digital CAD or GIS data structure as a separate layer using logical layer names. For example, there must be separate CAD layers for buildings, roads, parcel lines, and wetlands. Having all these features in a single CAD layer or GIS file will not be accepted.
- d. Documentation of the data format must be provided with a description of the CAD layers and list of the types of features placed in each layer. Submission of multiple files must also include a list of the files and their purpose.
- e) The data submitted must include documentation on the method used to gather the data, the name of the person(s) responsible for preparing the data, contact information, an estimation of the horizontal and vertical accuracy, and the date of data capture. All media shall be free from any and all defects and viruses, and labeled as to their contents.

A.22 Except as otherwise waived, the Applicant shall promptly pay the reasonable fees of consultants for post-permit review to determine consistency with this Permit and for the cost of inspections during the construction phase, all as may be deemed necessary or appropriate by the Building Official.

A.23 Copies of all required legal documents including, but not limited to, the Regulatory Agreement shall be submitted to the Board and, if necessary, Town Counsel for review and comment.

A.24 The Applicant shall provide the Board with copies of any required documents, reports, and statements provided by the Applicant to the Subsidizing Agency for informational purposes.

A.25 Review of the Applicant's obligations shall be done in accordance with the Regulatory Agreement. The Applicant shall comply with the requirements of the Project's subsidizing agency and applicable laws, regulations and guidelines.

A.26 The Board or its agent(s) may enter onto, view, and inspect the subject Property during regular business hours, with prior written notice, with consent not to be unreasonably denied or delayed and until as-built plans are approved, to ensure

consistency with the Comprehensive Permit, subject to applicable safety requirements. After completion of construction, the Town's inspection officials shall have authority subject to prior written notice, with consent not to be unreasonably denied or delayed to enter the common areas of the property for purposes of ensuring consistency with this Decision.

**B. Affordability**

- B.1 In perpetuity, a minimum of 25% of the rental units shall be low or moderate-income units, meaning that they shall be rented to, and occupied by, households whose income is not more than 80% of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD ("Affordable Units"). Affordable units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Applicant shall be responsible for maintaining records sufficient to comply with DHCD guidelines for the location of Affordable Units in the Project and occupancy of such Units by income-eligible households. The Project shall not be age-restricted.
- B.2 Upon completion of the Project, and in perpetuity, 100% of the rental units shall meet the criteria for inclusion in the DHCD's Subsidized Housing Inventory.
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the sale or rental of any units and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements.
- B.4 The Affordable Units shall be dispersed evenly throughout all of the buildings as follows:
  - 12, one-bedroom units;
  - 33, two-bedroom units;
  - 12, three-bedroom units; and
  - 3, four-bedroom units
- B.5 With regard to the Affordable Units, the utility costs shall be included in the rental amount.
- B.6 Parking for the Affordable Units shall be equal to the parking for market-rate units. Further, the interior materials and appliances and the exteriors of Affordable Units shall be equal to or identical to market-rate units.

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- B.7 The Applicant shall cooperate with the preparation of request forms to add the Affordable Units to the Town's SHI. The Applicant shall notify the Board and the Planning Department when occupancy permits are issued and cooperate with the preparation of request forms to add the units to the Town's SHI permanently. The units shall remain affordable units, for so long as the Project is not in compliance with the Town's Zoning Bylaw, or for the longest period allowed by law, if longer, so that the units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.
- B.8 A local preference for the initial rent-up of the project may be established subject to, and solely in accordance with the requirements of, the subsidizing agency and applicable law.
- B.9 Prior to issuance of a building permit for the Project, the Applicant shall submit a draft Regulatory Agreement with MHP (or its successor or assign or its designee), in accordance with the terms of the subsidy program and the Subsidizing Agency's affordable housing restrictions pursuant to the approved funding program. The Applicant shall provide to the Board a copy of the final executed Regulatory Agreement and shall record the same at the Bristol County (North) Registry of Deeds.
- B.10 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. If requested by the Board, the Applicant shall enter into a Springing Permanent Restriction/Regulatory Agreement with the Town, in a form substantially similar as that which is attached hereto as Exhibit B the Applicant and its counsel (the "Town Regulatory Agreement"), which shall be recorded with the Bristol County (North) Registry of Deeds prior to issuance of a certificate of occupancy for the Project and signed by all necessary parties, including all mortgagees and lien holders of record.
- B.11 The Town Regulatory Agreement: (i) shall only become effective if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require that the Project shall remain 25% affordable so long as the Project does not conform to local zoning; (iii) shall 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.

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- B.12 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 units shall remain affordable in perpetuity, meaning, specifically, for so long as the Project does not conform to the Town Zoning Bylaw or for the longest period allowed by law, whichever period is longer.
- B.13 If and when the Town Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee, to the full extent allowed by M.G.L. Chapter 40B, Sections 20-23. However, this clause shall not be used or construed or otherwise exercised in conflict with the holdings in Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At such time as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee.
- B.14 If at any time it appears that the Applicant is in violation of an affordable housing restriction, then the Board may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.
- B.15 The Town, by and through the Board or its designee, shall have continuing jurisdiction over the Project solely to ensure consistency with this Comprehensive Permit.
- B.16 The Applicant shall comply with all final approval requirements, as per the Project's subsidizing agency. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Official and the Board.

#### **C. Submission Requirements**

- C.1 Prior to any construction or Site Development Activities (defined as "site clearing, tree removal, grading, installation of erosion control measures by phase, or trenching of utilities, all as set forth in the Construction Management Plan, which shall include provisions governing construction phasing for the Project") on the Property, whether or not pursuant to a building permit, the Applicant shall:

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- a. Deliver to the Board a check in the amount of \$5,000.00 to be used for the Building Official to retain outside experts for review to confirm consistency with the Permit and for construction inspections. Said funds shall be deposited by the Building Official in an account pursuant to G.L. c. 44, s. 53G and shall only be used for necessary and proper reviews and construction inspections associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the Project. If at any time the Building Official reasonably determines that there are insufficient funds to cover the costs of technical reviews and construction inspections, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Building Official in a reasonable amount as may be determined by the Building Official.
- b. Pursuant to this Decision, obtain any and all Federal, State and local permits and approvals required for Site Development Activities as set forth in the Construction Management Plan.
- c. The Board and Fire Department shall be provided a copy of the Stormwater Pollution Prevention Plan submitted along with the National Pollutant Discharge Elimination System permit filing. The Applicant shall employ a competent person on the Property during all construction activities trained in handling and reporting potential fluid spill.
- d. Provide the Board and Building Official with recording information documenting the fact that an Order of Conditions for the Project issued by the Conservation Commission or MassDEP has been recorded in the Bristol County (North) Registry of Deeds and that all appeals have been exhausted.
- e. Provide the Board and Building Official a copy of all agreements granting access over any property in which work is proposed or access is required to complete the work shown on the Final Plans including but not limited to the Wastewater Treatment Plant.
- f. Determine the volume of cuts/fills needed for the Project and provide such information to the Board, signed by the Registered (Civil) Engineer of record.

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- g. A Construction Management Plan shall be submitted to the Building Official for review and approval, defined as including, the following: (1) project construction phasing, (2) methods to ensure public safety and site security, (3) operating hours, (4) contractor parking and equipment and material laydown, (5) controls to limit noise and vibration, (6) controls to manage air, dust, stormwater, and sediment, (7) waste disposal and materials re-use and (8) traffic management. The Applicant shall also include in its Construction Management Plan, a plan for ensuring health and safety concerning disturbance and stockpiling of potentially contaminated soils on site as required by applicable state regulations.
- h. Other than site work and such other work as may be authorized in writing by the Building Official, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Building Official has approved the Final Plans as being in conformance with this Decision.
- i. The Construction Management Plan shall also provide a 24-hour contact person for the Applicant who will be available to respond to local officials or area residents reporting issues or problems that may arise during construction.
- j. Applicant shall also make the following submissions:
  - 1. Submit to the Building Official a construction schedule outlining the entire development of the Project.
  - 2. Submit to the Board and the Fire Department a Site-Specific Safety Plan including but not limited to emergency contacts information for the job team, muster point for emergency personnel, emergency response plan, sign-in area for all site visitors, designated employee parking area, and designated fueling area. All employees on site shall be responsible for understanding the plan and, at any point during the construction process; the Project shall be subject to inspection by the Building Official for compliance of all site personnel.
- k. Provide a construction sequencing plan to the Building Official prior to issuance of building permits. Plan should show construction trailer location, stock-piling areas, equipment fueling areas, equipment nightly storage plan, material laydown areas, emergency muster point, emergency access locations, temporary construction dumpster locations, and hazardous material storage area if any.

1. Prior to any Site Development Activities, the contractor shall install all erosion control measures in accordance with the schedule for the first phase of work as set forth in the Construction Management Plan and schedule a site walk with appropriate Town personnel including, but not limited to representatives from the Conservation Department and Building Department.

C.2 Prior to the issuance of any building permits, the Applicant shall:

- a. Submit to the Building Official (with a copy to the Board for informational purposes only) evidence of Final Approval from the Subsidizing Agency, Massachusetts Housing Partnership, as required by the Project Eligibility Letters and the Chapter 40B regulations.
- b. Submit to the Building Official (with a copy to the Board for informational purposes only), a fully executed copy of the Regulatory Agreement and Monitoring Services Agreement for the Project and evidence of recording the same. The Building Official shall also be provided with evidence of a subsidy funding commitment by Massachusetts Housing Partnership prior to the issuance of any building permit.
- c. Submit a complete building permit application with 100% building design plans and construction drawings for the building(s) pertaining to that application.
- d. Submit a signed application to the Building Official and include location and details of every sign to confirm its consistency with this Decision.
- e. Submit Final Plans and required supporting material to the Fire Department (with a copy to the Board for informational purposes only) for the Fire Department's review and approval prior to the submittal of any building permits or construction of any utility infrastructure servicing the Project.
- f. Confirmation in writing from the Seekonk Water District that the necessary capacity is available for the Project.
- g. Provide a copy of the permit from the MassDEP that the Greenbrier Village WWTP can be utilized for this Project.
- h. Obtain all necessary electrical, plumbing, and other permits required to

begin construction on the building for which the building permit is sought.

- i. The existing gates associated with Greenbrier Village must be in working order prior to the issuance of the first building permit.
- j. Traffic Improvements: Prior to the issuance of a building permit for the 5<sup>th</sup> through 7<sup>th</sup> Buildings, the Applicant must have complied with the following schedule regarding the proposed traffic mitigation measures on Fall River Avenue including the reconfiguration of the intersection and addition of a traffic light on Fall River Avenue (hereinafter the “Traffic Improvements”).
  - i. A building permit and certificate of occupancy may be issued for the 5<sup>th</sup> Building upon the Applicant’s submission and MassDOT’s acceptance of One Hundred Percent (100%) plans for the Traffic Improvements.
  - ii. Building permits and certificates of occupancies may be issued for Buildings 6-7 upon issuance of a permit from MassDOT to install the Traffic Improvements or MassDOT’s rejection of a permit for said Traffic Improvements (rejection being that the proposed Traffic Improvements were rejected by MassDOT in substance, not due to submission deficiencies on behalf of the Applicant).
  - iii. The issuance of the building permits and certificates of occupancy for Buildings 6-7 is conditioned upon the Applicant’s submission of a surety in a form/amount that is acceptable to the Town’s Building Official and Public Works Director (bond, letter of credit, etc.) to cover the cost of all Traffic Improvements that are approved by MassDOT plus an agreed upon contingency percentage. In the event that MassDOT rejects the Traffic Improvements based on substance and not due to submission deficiencies on behalf of the Applicant, no surety would be required and the Applicant will be entitled to procure building permits and certificates of occupancy for Buildings 6-7 upon submission of the required documentation and materials for those permits/certificates to the Building Official.

C.3 Staging area(s) for construction equipment and deliveries must be constructed before any buildings are started. Area(s) must be on the Property and not block access in and out of the Property.

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

- D.1 The Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads.
- D.2 The Applicant shall adhere to strict compliance with this Decision.
- D.3 Adequate provisions shall be made by the Applicant to control and minimize dust on the Property during construction in accordance with the Construction Management Plan. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project and shall employ water-based street sweeping so as to avoid clouds of dust in and around the public and private ways and surrounding neighborhood.
- D.4 During the construction process, up-to-date Material Safety Data Sheet must be kept on site with any materials brought onto the site and used on site by the construction team.
- D.5 Prior to the issuance of the Certificate of Occupancy for the first building, the Applicant shall provide certification from MassDEP the WWTP has been constructed and is fully operational.

Submit engineer's interim certification of compliance with utilities plan and profiles (as applicable) to the Seekonk Building Official.

- b. Obtain acceptance from the Seekonk Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.
- c. Submit as-built plan of stormwater basins and infiltration units associated with the portion of the site seeking a certificate of occupancy along with certification by Applicant's Civil Engineer of compliance with the conditions of approval for the stormwater management system set forth in the final approved stormwater management plans.

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D.6 Prior to issuance of the certificate of occupancy for each building, the Applicant shall provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the as-built portion of the Project applicable to the building seeking said certificate of occupancy has been constructed in compliance with the Final Plans in all material respects, or noting where there are differences.

**E. Project Design and Construction**

E.1 Prior to the commencement of any Site Development Activities, the Applicant and the site general contractor shall attend a preconstruction conference with the Building Official and other Town staff. If Applicant has obtained a demolition permit, Applicant may proceed with demolition of existing structures in accordance with the terms and conditions of the permit. The Applicant shall further meet monthly with the Building Official and other Town staff if requested by the Building Official and/or any other Town Staff member until construction is complete.

E.2 All vernal pools (as defined by the Massachusetts Wetlands Protection Act as codified by 310 CMR 10.00, hereinafter "Vernal Pools"), certified and non-certified shown on the Plans shall not be disturbed and appropriate erosion controls shall be installed pursuant to the Construction Management Plan and inspected by the Conservation Department. In no event shall the Vernal Pools be filled or disturbed during construction and for the life of the Project.

E.3 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.

E.4 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer and shall be equipped with a four (4) foot chain link fence for safety purposes.

E.5 During construction, the Applicant shall comply with the Construction Management Plan referenced in Condition C.1.

E.6 Utilities, including but not limited to telephone, electric, and cable, shall be located underground from Cole Street.

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- E.7 Construction activities shall be conducted between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. In addition, no exterior work shall be conducted except snow management or work to prepare the site for a weather event, on Sunday or on the following National holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas.
- E.8 Burning or burial of construction or demolition debris on the Property is strictly prohibited. All such materials are to be removed from the Property in accordance with applicable law, and Applicant shall provide manifests/bills of lading to the Town certifying the removal of any waste or contaminants from the Project site. The Applicant shall also include a dumpster location and management plan for approval by the Building Official prior to commencement of Site Development Activities at the Property including a dumpster emptying and removal protocol from a duly licensed and insured private contractor approved by the Building Official. Due to the Project's proximity to wetlands and residences, all construction dumpsters shall be covered nightly to prevent blow out of trash debris. Covers shall be rain-repellant to mitigate water infiltration into the dumpsters and run-off of liquids from the dumpsters.
- E.9 During construction, the construction area shall be secured against unauthorized entry or vandalism by construction security fencing, and all construction materials shall be stored or stockpiled in a safe manner. Parking of all vehicles and equipment must be on site during construction. Parking, staging or off-loading of vehicles or equipment on public ways is prohibited.
- E.10 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by paving or loaming and seeding exposed areas. All 2:1 slopes or steeper areas shall be permanently stabilized with rip rap or vegetated cover.

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- E.11 Except for reasonably sized windrows along pavement edges, snow shall be stored within the areas of the Property designated on the Approved Plans and shall not be stored anywhere on the interior roadways or wetland resource areas (as that term is defined by the Massachusetts Wetlands Protection Act), in compliance with all applicable DEP regulations and in a manner that maintains Fire Department access at all times. To the extent snowfall exceeds the capacity of the designated snow storage on the site; the Applicant shall truck the excess snow off-site. All Snow storage shall be a minimum of 50' from any wetland as that term is defined by the Massachusetts Wetlands Protection Act.
- E.12 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.13 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to residents of the Project, as well as emergency vehicles.
- E.14 The Construction Management Plan shall also include provisions securing the site. Permanent fencing shall comply with the plans and any Order of Conditions or Superseding Order of Conditions.
- E.15 Prior to the commencement of any Site Development Activities on the Property, the Applicant and the site general contractor shall submit a dust mitigation plan and air quality management plan to the Building Official. Water must be used to mitigate any dust caused by rock crushing, soil sifting, or any other dust creating operation.
- E.16 The Applicant shall restrict idling of construction equipment during construction phase of project for more than 5 min per MassDEP requirements. All construction equipment shall be limited to starting times dictated by the construction permit and order of conditions set forth herein.

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E.17 The re-fueling of equipment or vehicles within 100' of a buffer zone and over catch basin structures is prohibited.

**F. Roadway and Traffic Safety Conditions**

F.1 Access and egress to the Project along with the internal driveways to each Building shall be designed and constructed in accordance with the Approved Plans, excluding the waivers granted by the Board.

F.2 Any reduction in the number of parking spaces for the Project, absent a corresponding reduction in the number of units, shall constitute a substantial change pursuant to 760 CMR 56.05(11).

F.3 Internal sidewalks shall be constructed as shown on the Final Plans. Applicant shall install ADA compliant wheelchair ramps with detectable warning panels at the sidewalk transitions to the internal driveways.

F.4 Appropriate directional and safety signage shall be installed and maintained on the internal driveways as shown on the Final Plans approved by the Fire Department. All stop signs to be installed shall be consistent with the current Manual on Uniform Traffic Control Devices (MUTCD) standards and guidelines.

F.5 The Applicant shall maintain the sight distance at the entrance by limiting/trimming vegetation. The sight distance shall be maintained under the Town Public Works Department.

F.6 Any internal crosswalks shall comply with the current MUTCD.

F.7 Bicycle racks will be located throughout the site to encourage the use of bicycles. Additionally, the Applicant will develop accommodations for car sharing services (e.g., ZipCar).

F.8 5% percent of parking spaces will be reserved for low-emission vehicles and will be located closer to building entrances to promote the use of clean fuel vehicles.

F.9 The Applicant shall be responsible for signage and a temporary flashing light on Cole Street calling for left hand turn only during construction, which routes traffic away from Luther's Corner temporarily (i.e. temporarily requiring a left turn only onto Fall River Avenue).

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F.10 The Applicant should commit to the implantation of a Transportation Demand Management (TDM) program that is inclusive of the following elements:

- a. A transportation coordinator should be assigned for the Project to coordinate the TDM program;
- b. Information regarding public transportation services, maps, schedules and fare information should be posted in a central location and/or otherwise made available to residents;
- c. A “welcome packet” should be provided to residents detailing available public transportation services, bicycle and walking alternatives, and commuting options;
- d. Pedestrian accommodations should be incorporated within the Project site and extend to the planned sidewalk along Cole Street (shown on the Site Plan);
- e. Secure bicycle parking should be provided consisting of both weather protected bicycle parking and exterior bicycle racks; and
- f. A central mail drop should be provided.

F.11 The Sight Distance Plan should be included as a part of the Final Plans and should include the note as requested without modification.

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

G.1 Sprinkler systems shall be installed in all buildings pursuant to State Law.

G.2 The Project shall comply with NFPA-13 and applicable building codes.

G.3 Posted no parking restrictions on internal Project driveways with appropriate markings and signs shall be provided, as shown on the Final Plans.

G.4 Storage areas for any chemicals and/or hazardous materials more than household quantities used for maintenance, cleaning or any other reason if any shall be shown on the Final Plan (location) and described in a report to the Building Official, Seekonk Conservation Commission and Fire Department which shall be updated as needed. Said report shall contain a waste stream profile for any hazardous material generated on site during construction. Removal of hazardous materials from site to be conducted by MassDEP approved vendor.

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

H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.

- H.2 Fire hydrants shall be placed as shown on the Approved Plans, subject to the final approval of the Seekonk Fire Department. If the Seekonk Fire Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.3 The service size for the domestic water service for each individual building should be verified by the Seekonk Water District and information on the fire service size and requirements should be verified by the Fire Department prior to the issuance of the building permit for the individual building in question. The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Seekonk Water District and the Fire Department respectively.
- H.4 All water improvements necessary to serve the Project must be shown on Final Plans including all details and supporting information required by the Seekonk Water District. The water servicing individual structures are to be completed, and interim as-built plans must be submitted to and approved by the Seekonk Water District before any certificate of occupancy for said individual structures may be issued. All operation, maintenance and repair of water infrastructure within the Project will be the sole responsibility of the Applicant and/or its successor.
- H.5 All sanitary sewer improvements necessary to serve the Project must be shown on Final Plans including all details and supporting information required by the MassDEP and Building Official. The sanitary sewers servicing individual structures are to be completed, and interim as-built plans must be submitted to and approved by the Building Official before any certificate of occupancy for said individual structures may be issued. All operation, maintenance and repair of sewer infrastructure within the Project will be the sole responsibility of the Applicant and/or its successor.
- H.6 The Project shall meet all applicable stormwater management standards to be documented on the Final Plans and approved by the Building Official in accordance with the schedule set forth in the Construction Management Plan prior to issuing a building permit. Stormwater management facilities shall be constructed as shown on the Final Plans.
- H.7 To the extent practicable, the Applicant shall incorporate use of fixtures designed to reduce water usage.

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H.8 The Applicant shall procure an Order of Conditions from the Seekonk Conservation Commission or Superseding Order of Conditions from MassDEP for all improvements requiring such approvals under the Massachusetts Wetlands Protection Act and associated Regulations. The Massachusetts GIS mapping system indicates three potential Vernal Pools on the site, therefore, a wetland scientist shall make a field determination if there are certifiable vernal pools, as defined in the Wetlands Protection Act, 301 CMR 10.00.

- a. The Applicant shall comply with all terms and conditions of the Order of Conditions or Superseding Order of Conditions for the Project. No work may proceed pursuant to this Comprehensive Permit until the Order of Conditions or Superseding Order of Conditions is recorded in the Bristol County (North) Registry of Deeds.
- b. All terms and conditions of an Order of Conditions issued for the Project are expressly incorporated as conditions to this Comprehensive Permit and shall remain enforceable conditions under the Comprehensive Permit. Should an appeal of the Order of Conditions result in a modification of the final plans and/or any condition herein, such modification will be subject to 760 CMR 56.05(11).
- c. Any fill used in the Project shall be clean fill, and shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or part of any of the foregoing.

H.9 Fertilizers and/or pesticides used by the maintenance company must be appropriate for use near wetland resource areas. Any road de-icing material used by facility management must meet regulatory requirements and any Order of Conditions or Superseding Order of Conditions for use near wetland resource areas, as they are defined by the Massachusetts Wetlands Protection Act, 310 CMR 10.00.

H.10 Stormwater Management Conditions.

- a. **Prior to starting any Site Development Activities.** The SWPPP shall be provided to the contractors during construction and a copy must be kept on site during construction.
- b. The Applicant shall comply with the SWPPP during construction.
- c. The post development impervious areas shall be consistent with the impervious areas shown on the design plans, which were used to analyze and size the stormwater management system.

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- d. The as-built conditions shall closely match the drainage areas shown on the post-development drainage map included in the stormwater report.
- e. Any imported fill shall have the same drainage characteristics as the existing site soils for which the stormwater analysis and design are based.

H.11 Stormwater Management Maintenance. The SWPPP and the stormwater Operations and Maintenance Plan (O&M Plan) shall be consistent with the Stormwater Management Report referenced herein, and last revised January 2022. In the event a management company is engaged, such guidelines shall be incorporated by reference in the management contract.

H.12 In the event that the Applicant or its successor fails to maintain the stormwater management system in accordance with such guidelines for operation and maintenance, after notice to the Applicant or successor and the failure to reasonably cure, the Town may perform necessary maintenance or repairs and the Applicant or successor hereby authorizes the Town to enter the Property for this purpose. In such event, the Applicant or successor shall reimburse the Town for any and all expense associated therewith; in the event of nonpayment, the Town may place a lien on the Property and any improvement thereupon. All costs incurred by the Town in connection with its performance of such required maintenance on the Property shall be reimbursed by the Applicant or its successor to the Town within thirty (30) days of receipt of the Town's invoice for such costs, which shall constitute a municipal charge or fee, pursuant to M.G.L. c. 40, §§57 and 58.

**I. Infrastructure**

I.1 The following portions of the Project shall be and shall remain forever private and the Town of Seekonk shall not have, now or ever, any legal responsibility for their operation, maintenance, repair, or replacement:

- a. The entire on-site stormwater management system and all stormwater and water connections, lines and equipment required from the public way to the Property;
- b. The WWTP or subsequent/alternative sanitary sewer system;
- c. Any sidewalks, driveways, roads, utilities, drainage systems, water system, fire protection, gas if applicable, electric, telephone, and cable system and all other non-public infrastructure shown on the Final Plans as serving the Project, including but not limited to plowing, sanding, snow removal, and landscape maintenance;
- d. Property lighting, landscaping and screening.
- e. Gates associated with Greenbrier Village.

- I.2 Final plans to note the type of native tree plantings proposed for the development. Additionally, a 2.5" minimum caliper be specified for all trees.
- I.3 All lighting shall be dark sky compliant and shielded. There shall be a minimum of 0.2 foot candles (fc) for all parking areas and 0.5 fc for accessible parking areas and crosswalks.

**J. Other General Conditions**

- J.1 This Decision prohibits the parking or storage of any unregistered vehicle on the Property, and likewise prohibits the service of any vehicles on the Property, except during construction.
- J.2 Any evidence of illegal dumping or contamination of soil or groundwater encountered during construction shall be reported as required under applicable federal, state or municipal regulations to the Massachusetts Department of Environmental Protection ("MassDEP") and the Seekonk Board of Health.
- J.3 Trash and recycling services are not the responsibility of the Town.
- J.4 The landscaping shall be maintained in perpetuity by the Applicant/Owner. Dead or diseased plantings shall be replaced within six (6) months in accordance with growing and weather conditions.
- J.5 The Applicant shall work with the Seekonk School Department to identify a safe location for the school bus stop and ensure that the planned stop location has adequate sight lines. Details of the specific location and any accommodations shall be included in the Final Plans and reviewed by the School Department and applicable public safety personnel.
- J.6 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 more 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 under these conditions; or (b) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions.

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J.7     If any part of this Decision is for any reason held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of any other portion of this Decision.

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### **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 with conditions for the construction of 240 housing units pursuant to Chapter 40B, §§ 20-23, for the development described above.

### **RECORD OF VOTE**

On May 24, 2023, the Board, on a motion made by Donald Robillard, seconded by Gregory Gauthier, voted 4-0 to approve the **Comprehensive Permit** application (including the Waivers as shown in Exhibit A hereto) of RI Seekonk Holdings LLC or its nominee to allow for the proposed Development at 800 Fall River Avenue known as “Greenbrier II”, consisting of a total of 240 housing units pursuant to Chapter 40B, §§ 20-23.

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

This Comprehensive Permit Decision shall be a master permit, which shall subsume all local permits and approvals normally issued by local boards, as that term is defined in 760 CMR 56.00 et seq. Upon presentation of this Comprehensive Permit and subsequent more detailed Final Plans as required pursuant to this Decision and in order to obtain other relevant approvals, together with final approval from DHCD pursuant to 760 CMR 56.04(7), all Local Boards shall take all actions necessary, including but not limited to issuing all necessary permits, approvals, waivers, consents, and affirmative action such as plan endorsements and requests for waivers, after reviewing such plans only to ensure that they are consistent with this Comprehensive Permit (including any waivers or lack of waivers set forth herein), the final approval of the Subsidizing Agency, and in compliance with applicable state and federal laws, regulations, and codes.

Any comprehensive permit granted hereunder shall lapse three years from the date that it takes final effect as set forth in 760 CMR 56.05(12)(c).

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

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**NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK**

I hereby certify that this is a true copy of the Revised Decision rendered by the Board of Appeals and filed in the office of the Town Clerk on Seekonk, June 21, 2023,

Date: June 21, 2023

Attest:

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

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**EXHIBIT A**  
**WAIVERS:**

**Exhibit “A” – Waivers**

Pursuant to the Waiver List revised and submitted to the Board, the Applicant has requested, and the Board has granted, certain waivers from the Seekonk Zoning Bylaws and other local by-laws and regulations as specified in the attached Exhibit A.

On August 22, 2022, the Board, on a motion made by Robert Read and seconded by Don Robillard, voted 5-0 to approve **Exhibit A**.

No waivers are granted from requirements that are beyond the purview of G. L. c. 40B, §§20-23, and no waivers have been granted other than those set forth in **Exhibit A**. Any waiver not listed is hereby denied.

<u>Seekonk Zoning By-Laws</u>				
<u>Section</u>	<u>Description</u>	<u>Existing Requirement/Project Notes</u>	<u>Request</u>	<u>Granted/ Waived</u>
		<u>Project Notes and/or explanations</u>		
4	<u>Use Regulation</u>			
4.1.1.3	R-3	Low Density	Exception requested	
4.1.2.2	Highway Business	Commercial/Large volume of traffic	Exception requested	
4.2	Use Table			
4.2.3	R-3: Residential Uses	Multifamily Dwelling Units are Prohibited	Exception requested	
4.2.5	Highway Business	Multifamily Dwelling Units are Prohibited	Exception requested	
4.2.3.3	Multifamily Dwelling Units	Multifamily Dwelling Units are Prohibited	Exception requested	
5	<u>Dimensional Requirements</u>			
5.1.4	Dimensional Table <u>R-3</u>			
	Area	40,000 S.F.	Exception not requested	
	Frontage	150'	Exception requested	
		<i>Existing frontage is 150.16' on Cole Street. We request to reconfigure the existing parcel and create a new parcel for the project with no frontage on a public way but in excess of 150' of frontage on Greenbrier Drive which is a private road via a Right of Way.</i>		
	Front Yard	50'	Exception not requested	

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		<i>No exception is believed not to be required from this requirement since no buildings will be constructed within a fifty (50) front yard from an existing public way.</i>		
	Rear Yard	70'	Exception requested	
		<i>Exception requested to allow a five (5) foot rear yard, provided that no structure is within 20' of another structure on an adjacent parcel. Please note that portions of the proposed site infringe on the existing Greenbrier Village development and some lot line adjustments are proposed and will be required to achieve the (5) five foot rear yard.</i>		
	Side Yard	35' + 5' per story	Exception requested	
		<i>Exception requested to allow a five (5) foot side yard, provided that no structure is within 20' of another structure on an adjacent parcel. Please note that portions of the proposed site infringe on the existing Greenbrier Village development and some lot line adjustments are proposed and will be required to achieve the (5) five foot rear yard.</i>		
	Height	40' or 3 Stories	Exception not requested	
8	<b>Development and Design Standards</b>			
8.4	<b>Landscaping</b>			

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8.4.5 Requirements for Site Plan Review		
8.4.5.1		A minimum 10 foot landscaped buffer around the perimeter of all sites shall be provided. A 25 foot buffer containing landscaping, a grassed earth berm, a fence, masonry wall or some combination of these screening devices, shall be provided on each side. which adjoins or faces the side or rear lot line of a parcel in residential use or in a residence district to buffer non-residential sites from residential areas
		<i>Exception requested to allow the minimum five (5) foot landscape buffer, because some of the proposed buildings will be within five (5) feet of the parcel boundary.</i>

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8.4.5.2		Each double row of parking spaces shall be terminated by landscaped islands which measure not less than ten feet in width and not less than 36 feet in length. The interior of parking lots shall have at a minimum landscaped center islands at every other double. row. Pedestrian paths may be incorporated within the landscaped area provided a minimum of four feet, exclusive of paved areas, is maintained for all landscaped areas. Said double rows of parking spaces shall not exceed twenty (20) adjacent spaces or ten (10) spaces in each row.	Exception requested.	
8.4.5.6		Garbage collection, recycling areas, utility areas and other outside storage areas shall be screened by a planted buffer strip along three sides of such a facility. Planting material should include a mixture of evergreen trees and shrubs.	Exception requested.	
		<i>Exception requested to allow alternate screening methods/materials.</i>		
8.8	<b>Signs</b>			
8.8.5	Signs - Residential District			

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8.8.5.3		One double-faced sign not in excess of one (1) square foot per face is permitted to advertise taking of boarders, earth removal, or home occupation. Such signs may be combined with the residence identifications sign for a single double-face sign not in excess of two (2) square feet per face.	Exception requested	
		<i>Exception requested to allow a sign for the proposed multifamily residential development.</i>		
8.8.5.4		For permitted uses, other than residential, in Residential Districts or as limited otherwise, one double faced sign of not over twelve (12) square feet per face is permitted.	Exception requested	
		<i>Exception requested to allow a sign for the proposed multifamily residential development.</i>		
<b><u>Seekonk Conservation Commission General Wetlands Protection By-Laws</u></b>				
		<i>Exception requested to not adhere to Seekonk Conservation Commission General Wetlands Protection By-Law, so that the Massachusetts Wetlands protection Act would be the minimum requirements for this project.</i>		
9	<b>Definitions</b>			

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		<p>The term "vernal pool" shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife.</p>	Exception requested	
		<p><i>Exception requested that the definition of "vernal Pool" be as defined by the State of Massachusetts Wetland Protection Act (WPA). Most particularly that following language in quotes "as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by Massachusetts Division of Fisheries and Wildlife" be stricken from the definition of "vernal pool".</i></p>		
<b><u>Seekonk Conservation Commission Wetland Regulations</u></b>				

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		<i>Exception requested to not adhere to Seekonk Conservation Commission Wetland Regulations, so that the Massachusetts Wetlands protection Act would be the minimum requirements for this project.</i>		
1.4.4	Filing Fees	Filing fees are payable at the time of submission of Request for Determination or Notices of Intent. Checks or money orders should be payable to "Town of Seekonk", with the exception of the recording fee.	Exception requested	
		<i>Exception requested that only the State of Massachusetts Wetland Protection Act (WPA) fees are required.</i>		
1.4.4.2	Notice of Intent	In addition to any fees mandated by state law, the proponent shall pay to the Town of Seekonk the local filing fee, which shall be as set forth in APPENDIX E: FILING FEES FOR NOTICES OF INTENT.	Exception requested	
		<i>Exception requested that only the State of Massachusetts Wetland Protection Act (WPA) fees are required.</i>		
1.4.5	Consultant Fees			

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1.4.5.1	Statement of Interest	<p>The consultant fee may only be invoked with respect to compliance with the ByLaw; it may not be used to determine compliance with the Massachusetts Wetlands Protection Act. The Commission must strive to limit the amount and scope of the consultant's work.</p>	Exception requested	
		<p>The applicant has the burden of proof (1) that the proposed activity will not have a significant, unacceptable or cumulative effect upon any of the wetland values of the ByLaw, and (2) that the activity will comply with the performance standards established for each resource area. It is the applicant's responsibility to familiarize itself with the requirements of the ByLaw and these regulations and to file a complete application. However, the applicant shall be allowed the opportunity to furnish additional information in the course of the public hearing, including information deemed necessary by the Commission to evaluate the impacts of the proposed activity on resource areas.</p>		

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		The consultant fee shall be invoked only on a case-by-case basis, and not as a rule. Even if the Commission decides that the services of an independent consultant are necessary, the Commission has the discretion not to pass on to the applicant any or all of those costs		
<b>2.2</b>	<b>Performance Standards</b>			
2.2.1.1	Activities in Resource Areas			
2.2.1.1.c		In order to preserve water quality, all unvegetated drainage outfall structures (including outfall pipes, and riprap or velocity dissipaters) shall be set back at least 50 feet horizontally from the edge of the wetland resource area; the Commission may require an additional setback (not to exceed a total setback of 100 feet horizontally from the wetland resource area) due to conditions affecting water quality, including but not limited to slope, soil infiltration rates, vegetative cover, and the effectiveness of the proposed stormwater Best Management Practices in preventing erosion and channelization within the Buffer Zone and in promoting infiltration, sheetflow runoff, and removal of sediments, nutrients and other pollutants.	Exception requested	

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		<i>Exception requested to allow all unvegetated drainage outfall structures to be within five feet from the edge of the wetland resource area proper with no additional setback requirements and to allow perpetual maintenance.</i>		
<b>2.2.2</b>	<b>Specific Standards</b>			
2.2.2.1	Buffer Zone	Where an activity is proposed within the Buffer Zone, the Commission shall presume that the activity has a high likelihood of altering any resource area adjacent to the Buffer Zone unless the proponent proves by a preponderance of the credible evidence that either:	Exception requested	
		a) The Buffer Zone does not play a role in the protection of any of the wetland values of the Bylaw; or		
		b) the activity shall occur in such a manner that any potential adverse environmental impacts on any of the wetland values are avoided.		
		Notwithstanding any of the above, the placement of impervious surface in the Buffer Zone is limited to the greater of:		
		a) 25% of the Buffer Zone; or		
		b) the percentage of the Buffer zone covered by previously-placed impervious surface due to activity allowed at the time it was placed.		

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2.2.2.2	Buffer Strip	Where an activity is proposed within the Buffer Zone to a wetland, vernal pool, bank or beach, or isolated land subject to flooding, the Commission shall require that a continuous Buffer Strip (at least 25 feet wide) of undisturbed, natural vegetation be maintained between the proposed activity and the resource areas(s). In the course of reviewing proposed activities within the buffer zone, the Commission may require that a buffer strip be created where none currently exists, where, in the judgment of the Commission, damage has occurred due to previous activities.	Exception requested	
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		<p>In designing a project to meet this performance standard, the applicant shall take into account not only proposed construction activity, but also realistic future use of the site. As an example, in the case of construction of a single-family residence, it shall be presumed that such future use includes a yard, and that the yard shall extend at least 25 feet horizontally from the structure, exclusive of any portion of the Buffer Strip. Typically, the Commission shall expect new structures sited at least 50 feet from wetland resource area(s), and that a Buffer Strip significantly greater than 25 feet will be provided where slopes exceed 25%.</p>		
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		<p>When partial encroachment of proposed structures into the 25-foot “yard” setback is unavoidable, the applicant may mitigate the encroachment by increasing the Buffer Strip area by an amount equal to or greater than the encroachment into the “yard”. The following guidelines are offered: (1) The encroachment should not exceed 10% of the total recommended “yard” setback for the lot; and (2) The encroachment should not exceed one quarter of the recommended width of the total setback from the resource area.</p>		
		<p>It is the applicant’s responsibility to demonstrate to the Commission’s satisfaction that realistic future use of the site is not likely to result in intrusion into, or alteration of, the Buffer Strip. The Commission may require the applicant to submit a use plan and narrative as part of that demonstration. At the Commission’s request, the applicant shall demonstrate to the Commission’s satisfaction that work or activities proposed at the edge of the Buffer Strip are necessary and that reasonable alternatives, including reducing the scale and scope of the project or adjusting other setbacks, do not exist.</p>		

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		<i>Exception requested to allow all the installation of improvements to be within five feet from the edge of the wetland resource area proper (Bordering Vegetated Wetland) with no additional setback requirements for a vernal pool outside of the state defined resource area and to allow perpetual maintenance of all areas developed under this exception.</i>		
<b><u>Town By-Laws</u></b>				
		<i>Exception requested to not adhere to Seekonk Conservation Commission General Wetlands Protection By-Law, so that the Massachusetts Wetlands protection Act would be the minimum requirements for this project.</i>		
17A	<b>Earth Removal</b>	Permit for Earth removal in excess of eight (8) cubic yards	Exception requested	

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		<i>Exception requested to obtain an earth removal permit, or the earth removal permit be granted as part of the Comprehensive Permit.. This project will grossly exceed the earth removal quantity and therefore and exception is requested from this requirement.</i>		
17B	<b>Placement of Fill</b>	Permit for Placement of Fill in excess of thirty (30) cubic yards	Exception requested	
		<i>Exception requested to obtain a permit for placement of fill, or the placement of fill permit be granted as part of the Comprehensive Permit. This project will grossly exceed the placement of fill quantity and therefore and exception is requested from this requirement.</i>		

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