



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

2015 SEP 17 A 11:31

Comprehensive Permit Decision
G.L. c. 40B, §§ 20-23

Project: The development and construction of 248 rental residential units in Foxborough, Massachusetts, pursuant to G.L. c. 40B

Case Number: 15-04

Applicant/Owner: Hanover R.S. Limited Partnership, including, with limitation, its successors and assigns

Locus: An 18.14 acre parcel of land at Fisher Street and South High Street. Assessor's Map 156 Parcels 6531, 4003, 8068, 8069, 8070, 8071, 8072, 8073, 8074, and 8075. Norfolk Deeds Book 6328, Page 398

Date of Decision: September 16, 2015

I. PROCEDURAL HISTORY

On April 9, 2015, Hanover R.S. Limited Partnership (the "Applicant") submitted an application (the "Application") for a Comprehensive Permit pursuant to G.L. c. 40B, to construct two hundred forty-eight (248) multifamily rental units on a parcel of land located in Foxborough, Massachusetts, at Fisher Street and South High Street (the "Project"). The parcel is shown on Assessor's Map 156 Parcels 6531, 4003, 8068, 8069, 8070, 8071, 8072, 8073, 8074, and 8075.

A duly advertised public hearing was opened on April 30, 2015 and continued on the following dates: June 4, 2015, June 30, 2015, and July 30, 2015. The public hearing was closed on July 30, 2015. The Board conducted a site visit at the Project site on May 30, 2015. The Board voted 3-0 on August 20, 2015 to issue a Comprehensive Permit for the Project subject to this Decision.

The Board engaged Beals and Thomas to peer review the plans for the Project. Beals and Thomas subcontracted the peer review of traffic projections and mitigation for the Project to Ron Müller and Associates. The Board engaged Ralph Willmer, FAICP, pursuant to the MHP Technical Assistance Program as its 40B Advisor.

II. SUBMITTED MATERIALS

The Project consists of two hundred forty eight (248) rental apartments. The following plans are the basis for this Decision and are hereby made a part of this Decision (collectively, the "Plans"):

1. Plans prepared by Bay Colony Group, Inc. entitled Domain Foxborough a 248 Unit Apartment Development Project in Foxborough MA, dated March 27, 2015 and last revised on May 27, 2015 consisting of a Cover Sheet and Sheet C-2.0 through C-6.0 along with an Elevation and Floor Plans by Wallace Garcia Wilson Architects entitled Domain Foxborough Apartments consisting of Sheet A1.1 A4.1.1 – A6.2.2, AC1.1 – AC1.4 dated March 27, 2015 and Landscape Plans entitled Domain Foxborough prepared by GWH Landscape Architecture and consisting of sheets L1.01 – L8.01 dated March 27, 2015 and last revised May 27, 2015.
2. Cross Section Site Layout Sketch prepared by Bay Colony Group for Domain Foxborough undated.
3. Cross Section Site Layout Sketch prepared by Bay Colony Group for Domain Foxborough undated.
4. Section Plan rendering a cross section of the proposed developed site from Fisher Street.
5. Fire Truck Turning Template Plan by Bay Colony Group, Inc. dated June 26, 2015.

In addition to the Plans, the following materials were submitted to and relied upon by the Board in connection with this Decision and are hereby incorporated by reference into this Decision:

1. Certificate of the Secretary of Energy and Environmental Affairs on the Environmental Notification Form dated April 24, 2015
2. Memo from Deputy Fire Chief Steve Bagley dated April 21, 2015
3. Memo from William Yukna, School Business Administrator, dated April 23, 2015
4. Memo from Building Commissioner William Casbarra dated April 27, 2015
5. Email from abutter Claudie Safstrom, 110 South High Street, dated April 27, 2015
6. Letter from State Representative F. Jay Barrows dated April 27, 2015
7. Preliminary Site Plan Review letter from George Preble, Matthew Cote and David LaPointe of Beals and Thomas, the Board's consulting engineer, dated April 29, 2015
8. Letter from Town Engineer Chris Gallagher dated April 30, 2015
9. Letter from abutter Bob Smith, 7 Samson Road, dated May 1, 2015
10. Email from Jeffrey Dirk, Vanasse and Associates, dated May 1, 2015

11. Letter from Ron Müller of Ron Müller and Associates the Board's consulting traffic engineer, dated May 4, 2015
 12. Response to Traffic Review from Jeffrey Dirk, Vanasse and Associates, dated May 6, 2015
 13. Final Traffic Review from Ron Müller of Ron Müller and Associates, dated May 7, 2015
 14. Memo from Fire Chief Roger Hatfield and Deputy Chief Steve Bagley dated May 26, 2015
 15. Letter from abutters John, Mary, Catherine, Benjamin and Margaret MacDonald, 4 Robert Street, dated June 1, 2015
 16. Memo from abutter Jim Devlin Sr., 2 Samson Road, dated June 2, 2015
 17. Letter from William Buckley of Bay Colony Group dated June 1, 2015
 18. Letter from abutter Phillip Henderson, 3 Field Stone Road, dated June 4, 2015
 19. Supplemental Site Plan Review from George Preble and Matthew Cote of Beals and Thomas dated June 3, 2015
 20. Letter from State Senator James Timilty dated June 2, 2015
 21. Email from abutter James Haskell, 97 South High Street, dated June 11, 2015
 22. Email from Jeffrey Dirk, Vanasse and Associates, dated June 24, 2015
 23. Email from Ron Müller, Ron Müller and Associates, dated June 24, 2015
 24. Letter from Atty. Frank Spillane containing letters from Briscoe Lang, PARE Corporation and trip generation information from Vanasse and Associates and Ron Müller and Associates dated June 26, 2015
 25. Letter from William Buckley, Bay Colony Group, dated June 26, 2015
 26. Letter from Kevin Weinfeld, Chairman of the Planning Board dated June 26, 2015
 27. Supplemental Site Plan Review from George Preble, Matthew Cote and David LaPointe of Beals and Thomas dated June 30, 2015
 28. Memo from Mansfield resident Mary Hourigan, 475 Chauncy Street, dated July 18, 2015
 29. Letter from Atty. Frank Spillane dated July 22, 2015
 30. Email from abutter Ann Marie Piscitelli, 2 James Street, dated July 20, 2015
 31. Email from abutter Sheila Brion dated July 28, 2015
 32. Letter from abutter Ann Marie Piscitelli, 2 James Street, dated July 30, 2015
 33. Letter from abutters John, Mary, Catherine, Benjamin and Margaret MacDonald, 4 Robert Street, dated July 29, 2015
 34. Email from abutter Falcione Family, South High Street dated July 30, 2015
 35. Email from abutter Jim & Mary Devlin, 2 Samson Road, dated July 30, 2015
 36. Letter from Ari, Christine and Nathan Weinstein, 112 So. High Street, dated July 30, 2015
 37. Email from Sean and Heidi Miller, 3 Robert Street, dated July 30, 2015
 38. List of Requested Exceptions labeled "Schedule A"
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The Plans listed below are deemed collectively the “Approved Comprehensive Permit Plan”:

1. Plans prepared by Bay Colony Group, Inc. for Domain Foxborough, dated March 27, 2015 consisting of an Index Sheet and Sheets C-2.0, C-3.0, C-3.1, C-4.0, C-5.0, C-5.1, C-5.2, and C-6.0, and as revised May 27, 2015 consisting of Sheets C.4.0, C.5.0, C.5.1, C.5.2, and C.6.0.
2. Site Plans prepared by GWH Landscape Architects for Domain Foxborough, dated March 27, 2015, and consisting of Sheets L1.01, L2.01, L3.01, L4.01, L5.01, L6.01, L7.01, L8.01, and Photometric Lighting Plan, as revised through Revision Plan 1 dated May 27, 2015.
3. Architectural Plans prepared by Wallace Garcia Wilson Architects Inc., dated April 7, 2015, or March 27, 2015, and stamped March 27, 2015, and consisting of site drawings, Unit Floor Plans and Interior Elevations, Building Plans and Exterior Elevations, Garage Plans and Exterior Elevations, Fire Assemblies and Typical Construction Details, Club/Leasing Office Plans and Elevations, Landscape Drawings and Civil Drawings as listed on the Architectural Sheet Index labeled Sheet A0.1.

III. GOVERNING LAW

The law governing this case is The Comprehensive Permit Act, G.L. c. 40B, §§ 20-23 (the “Act”); the regulations promulgated by the Massachusetts Department of Housing and Community Development (“DHCD”) Housing Appeals Committee, 760 CMR 56.00 (the “Regulations” or “40B Rules”); and the Rules and Regulations of the Town of Foxborough Zoning Board of Appeals (the “Board” or the “Board of Appeals”).

The Act prevents the possible use by cities and towns of exclusionary local bylaws to exclude needed low and moderate income housing. Board of Appeals of Hanover v. Housing Appeals Committee 363 Mass. 339 (1973). The purposes of the Act are satisfied if (a) a town has qualified low or moderate income housing in excess of 10% of the year round housing units reported in the latest decennial census or which is on sites comprising 1.5% or more of the town’s total land area zoned for residential, commercial, or industrial use, or (b) if the application results in the commencement of qualified low and moderate income housing construction on sites comprising more than 0.3% of such total area or 10 acres, whichever is larger, in one year. See, e.g., Arbor Hill Holdings Limited Partnership v Weymouth Board of Appeals, Housing Appeals Committee No. 02-09 (9/24/03). If a town satisfies one of these thresholds, “the local zoning board may deny an application for a comprehensive permit, and the Housing Appeals Committee has no authority to order a local board to issue one.” Zoning Bd. of Appeals of Wellesley v. Ardmore Apartments, Ltd., 436 Mass. 811, 815-816 (2002)

To qualify towards a municipality's Subsidized Housing Inventory, housing must be included in the definition of "low or moderate income housing." This term is defined broadly under G.L. c. 40B, § 20 as follows:

any housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing as defined in the applicable federal or state statute, whether built or operated by any public agency or any nonprofit or limited dividend organization.

The term "low or moderate income housing" is further defined in the 40B Rules at 760 CMR 56.02 to include:

any units of housing for which a Project Administrator provides a Subsidy under any program to assist the construction or substantial rehabilitation of low or moderate income housing, as defined in the applicable federal or state statute or regulation, whether built or operated by any public agency or non-profit or Limited Dividend Organization. If the applicable statute or regulation of the Project Administrator does not define low or moderate income housing, then it shall be defined as units of housing whose occupancy is restricted to an Income Eligible Household.

IV. FINDINGS OF FACT

The Board of Appeals finds each of the following facts:

1. The Applicant is Hanover R.S. Limited Partnership. It is represented by Attorney Francis J. Spillane of Spillane & Spillane, 83 Mechanic Street, Foxborough, MA 02035. Prior to taking title to the Project site, the Applicant will form an affiliate which is a "limited dividend organization."
2. The Applicant is qualified to make the Application pursuant to 760 CMR 56.04 in that (a) it is a "limited dividend organization" as that term is used in G.L. c. 40B, § 21 and 760 CMR 56.02; (b) the project is fundable by a Project Administrator under a low and moderate income housing subsidy program as evidenced by the site approval letter issued by the Massachusetts Housing Finance Agency (the "Project Administrator"), dated March 16, 2015, and (c) it has "control of the site."
3. The Applicant proposes to comply with the limited dividend requirement of G.L. c. 40B, § 20, by executing and recording a Regulatory Agreement in accordance with the rules governing the Federal Home Loan Bank of Boston New England Fund program, and agreeing to restrict its annual distributions to not exceed ten percent (10%) of the Project's imputed equity.

4. The "Project Site" (or "Property" or "Site") as defined in the Application and as supplemented by documentation and site plans filed with the Board of Appeals, is the real property consisting of an approximately 18.14 acre+/- parcel of land at the corner of Fisher Street and South High Street in Foxborough, Massachusetts. The parcel is shown on Assessor's Map 156 Parcels 6531, 4003, 8068, 8069, 8070, 8071, 8072, 8073, 8074, and 8075 and referenced at the Norfolk County Registry of Deeds in Book 6328 Page 398.
5. The Applicant maintains "site control" of the Property within the meaning of 760 CMR 56.04(1)(c). The Applicant controls the Site by virtue of a purchase and sale agreement with the current owner of the Property.
6. The most recent state Subsidized Housing Inventory ("SHI") dated December 5, 2014, indicates that 8.9% of the Town of Foxborough's housing stock is affordable. Therefore, the Town does not meet the 10% threshold under G.L. c. 40B, § 20. Further, there was no evidence submitted that the percentage of land area in Foxborough devoted to affordable housing utilizes more than 1.5% of the land in Foxborough zoned residential, commercial, and industrial, as defined by the Massachusetts Department of Housing and Community Development ("DHCD").
7. Foxborough's Housing Production Plan, approved by DHCD on December 5, 2012, established an annual production goal of thirty-four (34) units eligible for inclusion on the state's Subsidized Housing Inventory. In exchange for meeting annual production goals, communities receive certain protections for additional Comprehensive Permit applications. This threshold has not been met.
8. The Applicant submitted a list of requested waivers and exceptions from Foxborough's local bylaws and regulations as part of the Application, and further submitted an updated list of requested waivers and exceptions on July 30, 2015. The only exceptions granted by the Board are those exceptions listed in Schedule A of this Decision.
9. Based on the testimony of the Applicant's traffic engineer and the Board's traffic peer reviewer, the traffic study submitted and amended reflects a reasonable estimate of the number of daily trips and the dispersal of those trips. The anticipated level of traffic can be managed by the existing road system with mitigation as listed in the conditions of this Decision.
10. Municipal water is available at the location of the Project and the supply is adequate.
11. The Project will be connected to municipal sewer located on Fisher Street approximately one hundred forty (140) feet east of the location of the Project.

12. The Applicant has agreed to construct a secondary access for emergency purposes as requested by the Foxborough Fire Department and as shown on the Approved Comprehensive Permit Plan.

V. CONDITIONS

A. General Conditions

- A.1 This Decision shall be noted on the endorsed Approved Comprehensive Permit Plan. This Decision shall be recorded at the Norfolk Registry of Deeds. Proof of recording shall be forwarded to the Board of Appeals and the Building Commissioner prior to issuance of any building permit.
- A.2 Any revisions to the Approved Comprehensive Permit Plan that are deemed substantive by the Town of Foxborough Building Commissioner (the "Building Commissioner") shall be subject to review by the Board of Appeals in accordance with 750 CMR 56.05(11).
- A.3 The Applicant shall maintain a copy of the endorsed Approved Comprehensive Permit Plan and this Decision at the Site during construction.
- A.4 Except as explicitly waived pursuant to those exceptions (the "Exceptions") that are set forth in the attached Schedule A, the Applicant shall comply with all local bylaws, rules and regulations of the Town of Foxborough and its boards and commissions.
- A.5 Subject to the Exceptions, the Applicant shall pay all customary fees of the Town of Foxborough imposed generally with respect to construction projects and for the purposes of monitoring compliance of the construction and occupancy of the Project.
- A.6 The Applicant shall copy the Board of Appeals on all correspondence between the Applicant and any Federal, Commonwealth of Massachusetts, or Town of Foxborough official, board or commission that concerns the conditions set forth in this Decision.
- A.7 Subject to the Exceptions, the Applicant shall comply with the Massachusetts State Building Code and any local regulations of the Building Commissioner. Subject to the Exceptions, the Applicant shall pay all required fees for all building permits including any fees customarily charged for inspections and permits.
- A.8 This Decision shall be binding on the Applicant and its successors and assigns, and shall run with the land. In the event that the Applicant sells, transfers or

assigns its interest or any part of its interest in the Project, this Decision shall be binding upon the purchaser, transferee or assignee of such interest.

- A.9 Subject to the issuance of building and occupancy permits, this Decision permits the construction, use and occupancy of two hundred forty-eight (248) residential units on the Site. The construction and use of the Site shall be in conformity with the Approved Comprehensive Permit Plan, except as the same may be amended, modified or revised by the Board of Appeals pursuant to the Act and the Regulations.
- A.10 The Board of Appeals shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision. If at any time it appears that the Applicant is in violation of this Decision, then the Board of Appeals following a hearing of which the Applicant has been given at least seven (7) business days prior notice may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law to cause the Applicant to comply with this Decision.
- A.11 The Comprehensive Permit shall become final on the date that this Decision is filed with the Foxborough Town Clerk, provided that in the event of any appeal of this Decision the Comprehensive Permit shall become final on the date that the last appeal is decided or otherwise finally resolved.
- A.12 The Comprehensive Permit shall expire in the event that construction work with respect to the Project does not commence within three (3) years of the later of the date hereof or the final resolution of any appeals concerning this Decision.
- A.13 Any amendment, revision or other modification of this Decision and/or the Approved Comprehensive Permit Plan shall be subject to the provisions of 760 CMR 56.05(11).
- A.14 Failure of the Applicant to adhere to and comply with the provisions of this Decision and the Approved Comprehensive Permit Plan shall be deemed to constitute a violation thereof unless the Board of Appeals has amended, revised or modified the same.

B. Construction Conditions

- B.1 The Applicant shall comply with each of the following requirements prior to commencing the construction of any of the buildings that are part of the Project:
 - (a) Obtained a building permit for each building to be constructed;
 - (b) Sent and filed with the Board of Appeals a copy of the required notice regarding the start of construction for the Project under the National

Pollutant Discharge Elimination System ("NPDES") stormwater permit;
and

- (c) Filed with the Building Commissioner for review and approval thereby for consistency with this Decision, final architectural and engineering plans detailing the approved design of the Project, including final grading and drainage plans, utility plan, lighting plan, and drawings for the buildings to be constructed that provide a scaled depiction of the floor plans, building materials and colors, and front, rear and side elevations of all buildings on the Site. Such architectural drawings shall be signed by a Massachusetts Registered Architect.
- B.2 The Applicant may submit a building permit application prior to the issuance of Final Approval by the Project Administrator; provided, however, that no construction (including either site work and/or building construction) shall commence until the Applicant has received Final Approval from the Project Administrator and, subject to the Exceptions, has received such building permits and other permits and approvals from the Town of Foxborough as the Project may require.
- B.3 The Applicant shall provide not less than seven (7) days written notice to the Board of Appeals and to residential abutters of the Site of the date on which construction of the Project is to commence and the anticipated construction schedule. For purposes of this Condition B.3, "abutters" shall mean the parties entitled to mailed notice of the public hearing on the Application under .G.L. c.40A, § 11.
- B.4 The Applicant shall use reasonable efforts to provide safe and convenient vehicular access to the Site during the duration of construction of the Project.
- B.5 The Applicant shall submit a construction schedule to the Building Commissioner prior to the start of construction and thereafter semi-annually or as required by the Building Commissioner to assist in project status update and review.
- B.6 The Applicant shall reimburse the Town of Foxborough in an amount not to exceed five thousand dollars (\$5,000.00), which amount shall be deducted from the fees paid by the Applicant for building permits and for any expenses that the Town incurs for inspections during the construction phase that are performed by any person other than the Building Commissioner or other employee of the Town.
- B.7 The Applicant shall comply with any requirements of the United States Postal Service concerning central mailbox units for residents of the buildings on the Site, and shall show the location(s) of any such mailbox unit(s) on the Site Plans. Any such mailbox unit(s) shall be approved as to style and location by the local Postmaster General of the United States Post Office.

- B.8 The Applicant shall exercise reasonable efforts to reduce or eliminate nuisance conditions in and around the Site during construction operations. The Applicant shall at all times during construction of the Project use all reasonable means to minimize inconvenience to residents of units situated on the Site.
- B.9 Except as may be authorized by the Building Commissioner, the hours of operation for external construction activities on the Site shall be between 7:00 am and 7:00 pm, Monday thru Saturday. No external construction activity shall be permitted on Sundays or on such legal holidays as recognized by the Commonwealth of Massachusetts.
- B.10 The Applicant shall implement dust control measures whenever necessary or when directed by the Building Commissioner or the Director of the Town of Foxborough Department of Public Works (the "DPW Director"), such measures to be subject to approval thereby, notwithstanding that other construction work on the Project may be suspended as a result thereof. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by applicable Federal and Commonwealth of Massachusetts regulatory agencies.
- B.11 The Applicant shall exercise reasonable efforts to ensure that noise from Project construction activities does not exceed acceptable levels as set forth by applicable Federal and Commonwealth of Massachusetts regulatory agencies. The Applicant shall cease any loud activities which exceed such regulatory standards when directed by the Building Commissioner. Blasting activities conducted in accordance with this Decision and applicable law shall comply with all applicable noise restrictions.
- B.12 The Applicant shall exercise reasonable efforts and shall implement reasonable and necessary controls to ensure that vibration from Project construction activities does not unreasonably extend beyond the Site and create a nuisance or hazard for property abutters. Blasting activities conducted in accordance with this Decision and applicable law shall comply with such restrictions regarding vibration.
- B.13 The Applicant shall implement traffic safety measures concerning traffic both on the Site and in its vicinity during the construction phase of the Project in order to provide safe and convenient vehicular access in and around the Site, and shall submit a construction traffic mitigation plan to the Building Commissioner for the review and approval thereby.
- B.14 The Applicant shall submit an earth removal plan to the Building Commissioner for the review and approval thereby, which such plan shall address earth removal from the Site, designate the areas on the Site on which the Applicant will stockpile debris, fill and excavated materials, and address earth removal traffic issues. Excavated materials shall be stabilized by the Applicant to prevent

erosion and to control dust. All debris shall be removed from the Site and disposed of in accordance with applicable law upon completion of construction and prior to as-built approval. At no time shall any debris be buried or disposed of on the Site. Notwithstanding the foregoing, submission of an earth removal plan shall not be required for material removed during construction of the Project that is required for installing foundations of the buildings.

- B.15 The Applicant may construct the Project in one or more phases, subject to such requirements concerning construction activities in each phase as the Building Commissioner may require.
- B.16 All utilities within the Site shall be installed underground. A final utility plan shall be submitted to the Building Commissioner prior to the issuance of any building permits for the review and approval thereby.
- B.17 No building areas shall be left in an open, unstabilized condition for a period that is longer than one hundred eighty (180) days or as may be governed by NPDES. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.
- B.18 Construction vehicles shall be parked at all times on the Site or on off-Site property, and not on any side street (such side streets to specifically include, without limitation, Fisher Street and South High Street).
- B.19 A blasting professional licensed by the Commonwealth of Massachusetts shall perform all blasting on the Site after proper pre-blast inspections have been conducted and all required permits have been obtained from the Town of Foxborough Fire Department in accordance with all applicable Town of Foxborough and Commonwealth of Massachusetts regulations. A Town of Foxborough Fire Department detail will be required during blasting on the Site.
- B.20 The Applicant shall submit an "As Built Plan" to the Building Commissioner within ninety (90) days after occupancy or use of the final residential building in the Project. Such plan shall show all pavement, buildings, stormwater management structures, utilities, and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations, and shall be signed by a registered land surveyor or civil engineer certifying that the Project as built conforms and complies with the conditions of this Comprehensive Permit.
- B.21 All buildings and residential units on the Site shall be connected to municipal water and sewer facilities. Such connections shall be made at the Applicant's cost and expense.

- B.22 Should the Applicant determine that it must enter any property of others to construct the Project, the Applicant shall obtain temporary easements, licenses or written permission, as appropriate, from each such property owner prior to such entry. Any off-site work or improvements shall be subject to the Applicant's ability, in the exercise of reasonable efforts, to obtain such easements.
- B.23 Should the Applicant determine that it must enter any property of the Town of Foxborough other than roadways to construct the Project, this Decision shall be deemed to grant the Applicant any necessary temporary easements, licenses or other permission for such entry, subject to the review and approval of the engineering plans and specifications for the applicable work by the Building Commissioner or DPW Director.
- B.24 The Board of Appeals and its authorized representatives, the Building Commissioner and the DPW Director shall have authority to enter the Site during construction of the Project to ensure compliance with this Decision, the Comprehensive Permit, building permits, and such other permits, statutes, regulations and bylaws that are applicable to the Project and the construction.
- B.25 No certificate of occupancy for a residential unit in any phase of the Project shall be issued, and no lease of any unit located in such phase shall be permitted, until (i) all infrastructure described herein and as shown on the Approved Comprehensive Permit Plan has been constructed or installed so as to adequately serve such units and the buildings within which such units are situated, and (ii) all conditions of the Comprehensive Permit that require action or resolution by the Applicant prior to the issuance of any certificate of occupancy have been completed as required by this Decision to the satisfaction of the Building Commissioner.

C. Traffic and Safety Conditions

- C.1 The Applicant shall install traffic signs on the Site at such location or locations as determined to be necessary and appropriate by the DPW Director, and shall bear the cost of all such signage and installation. At a minimum, the following signs shall be installed:
- (a) A standard "STOP" sign shall be installed at the intersection of the Site driveway and Fisher Street at the expense of the Applicant prior to the issuance of a certificate of occupancy for the first residential unit on the Site, and thereafter shall be maintained at such location by the Applicant at its expense; and
 - (b) A standard street sign identifying the name of the Site roadway shall be installed at the expense of the Applicant prior to the issuance of any

building permit, and thereafter shall be maintained by the Applicant at its expense.

- C.2 Traffic improvements and signage shown on the Approved Comprehensive Permit Plan or as set forth in this Decision shall be completed in accordance with the standards set forth in the most recent edition of the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD), and shall be in place prior to issuance of an occupancy permit for the first residential unit.
- C.3 The Applicant shall obtain approvals concerning the name of the Site roadway from all Town of Foxborough officials having jurisdiction therefor, to the extent that such roadway is being used as the Project address by any department of the Town of Foxborough.

D. Landscaping, Fencing, and Screening

- D.1 The Applicant shall install and maintain during construction of the Project any and all necessary tree protection fencing and other protective measures for existing trees and plants which are designated on the final plans for the Project to be preserved on the Site. The tree protection fencing shall be located so that construction activities and site alterations do not disturb the root zone of the trees designated for preservation. The Town of Foxborough Tree Warden or the Building Commissioner may order that the protective measures be relocated to better protect the trees to be preserved. The Applicant shall replace any trees designated to be preserved that are damaged, destroyed or removed as a result of construction activities.
- D.2 Street trees, vegetative screening, if any, and fencing around the Site shall be installed per this Decision and the Approved Comprehensive Permit Plan, and shall be maintained by the Applicant. Damaged trees, fencing or screening shall be replaced by the Applicant in accordance with this Decision and the Approved Comprehensive Permit Plan as soon as reasonably possible.

E. Residential and Affordability Requirements

- E.1 The residential units in the Project shall be and shall remain rental units in perpetuity, unless the Board of Appeals approves their conversion to an alternative form of residence such as condominium or cooperative ownership.
- E.2 Not less than twenty-five percent (25%) of the residential units within the Project (the "Affordable Units"), representing sixty-two (62) units, shall be made available for lease by Households earning eighty percent (80%) or less of the area median income, adjusted for Household size, as published by the United States

Department of Housing and Urban Development for the Boston-Cambridge-Quincy, MA-NH Metro FMR Area, or otherwise as permitted by the Act.

- E.3 The residential units in the Project shall consist of the following:
- (a) One hundred twenty-two (122) one (1)-bedroom units, of which twenty-five percent (25%), or thirty-one (31) units, shall be Affordable Units;
 - (b) One hundred two (102) two (2)-bedroom units, of which twenty-five percent (25%), or twenty-five (25) units, shall be Affordable Units; and
 - (c) Twenty-four (24) three (3)-bedroom units, of which twenty-five percent (25%), or six (6) units, shall be Affordable Units.

Notwithstanding the foregoing, the Applicant shall be permitted to adjust by not more than ten percent (10%) the number of one (1) and two (2)-bedroom units, provided that in no event shall such adjustment cause the number of Affordable Units to be less than twenty-five percent (25%) of the one (1)-bedroom units and less than twenty-five (25%) of the two (2)-bedroom units.

- E.4 The Affordable Units shall not be distinguishable from the market-rate units.
- E.5 The Affordable Units shall be dispersed among and within the buildings on the Site as approved by the Project Administrator.
- E.6 The Applicant shall prepare an Affirmative Fair Housing Marketing Plan to be approved by the Project Administrator or its designee.
- E.7 The Affordable Units shall be leased to qualified Households at rental prices deemed affordable in accordance with the applicable regulations and guidelines of the Project Administrator. The Project Administrator shall monitor compliance with such affordability requirements. In the event the Project Administrator refuses to monitor compliance with the affordability requirements (or engage a third party to perform such monitoring), the Applicant shall notify the Board of Appeals, and the Board of Appeals or its designee may elect to exercise such responsibility, subject to approval by the Project Administrator.
- E.8 The Applicant shall obtain the approval of the Project Administrator or its designee prior to marketing the rental of the Affordable Units of a lottery plan (the "Lottery") that shall be used for the initial selection of lessees of the Affordable Units. The Lottery shall be conducted as a fair lottery process in accordance with such requirements as the Project Administrator may impose.

To the maximum extent permitted by applicable Federal and Massachusetts law, and subject to any requirement imposed by the Project Administrator that the

Town of Foxborough justify the same, first preference for the rental of up to seventy percent (70%) of the Affordable Units shall be given to Households that meet one or more of the following preference criteria:

- (a) At least one member of the Household is a resident of the Town of Foxborough;
- (b) At least one member of the Household attends Foxborough Public Schools;
- (c) At least one member of the Household is an employee of the Town of Foxborough or the Foxborough Public Schools;
- (d) At least one member of the Household is currently employed within the Town of Foxborough.

The initial selection of lessees for the Affordable Units, including the administration of the Lottery, shall be administered by a consultant retained by the Applicant, subject to the approval of the Project Administrator.

Disputes concerning qualification of any person claiming a preference as provided above shall be resolved in accordance with the Project Administrator's rules.

The provisions of this section are intended to complement and not to override or supersede any applicable Massachusetts, local, or Federal law, including without limitation, fair marketing regulations of the DHCD, the Massachusetts Commission Against Discrimination, the Project Administrator, or any authority with jurisdiction and like purpose, to provide low and/or moderate income housing.

E.9 Affordable Units shall be leased contemporaneously with the market-rate units in the Project in accordance with a rental marketing plan that shall be subject to approval by the Project Administrator. A copy of such rental marketing plan shall be filed with the Board of Appeals.

E.10 Prior to the issuance of any building permits, a Regulatory Agreement that is in the form approved by the Project Administrator shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that the Applicant's profit shall be limited as defined by G.L. c. 40B, §§ 20 – 23, the Regulatory Agreement and the Regulations, as well as the applicable subsidy program and cost certification guidance.

As this Decision grants permission to construct the Project under the Act, and as the Applicant has obtained the benefits of a Comprehensive Permit, the Project shall remain subject to the affordability restrictions imposed by this Decision so

long as the Project is not in compliance with the Town of Foxborough zoning requirements that otherwise would be applicable to the Site and the Project but for the Comprehensive Permit's waiver of local bylaws and other local requirements to promote affordable housing. It is the express intention of this Decision that the period of affordability shall be the longest period permitted by applicable law, provided that in no event shall the period of affordability be less than ninety-nine (99) years, subject to the standard exceptions pursuant to applicable regulations.

The Project Administrator in accordance with 760 CMR 56.05(6)(c) has the sole responsibility to establish and enforce profit limitations on the Applicant as set forth in 760 CMR 56.04(8).

F. Stormwater Management System

- F.1 Stormwater shall be managed in accordance with the Massachusetts Stormwater Management Policy and the accompanying two-volume publication, "Managing Stormwater in Massachusetts," dated March 1997, or any applicable revisions thereto, as prepared by the Massachusetts Department of Environmental Protection and the Massachusetts Office of Coastal Zone Management.
- F.2 All required sedimentation and erosion controls shall be in place prior to the commencement of each phase of the Project's construction. The Applicant shall install approved oil and grease traps in the catch basins. The best management and maintenance practices for the Site shall be complied with at all times, including after the issuance of certificates of occupancy for the residential units situated on the Site.
- F.3 The Applicant at all times shall be responsible for maintaining and repairing the drainage structures and stormwater management system within the Project.
- F.4 The drainage system for each phase of construction shall be functional (re: stabilized, rip-rap installed, basins greased, etc.) prior to a certificate of occupancy being issued for any unit constructed in such phase of the Project.

G. Lighting

- G.1 A photometric plan shall be submitted to the Building Commissioner prior the issuance of the first building permit for any phase of the Project. Such lighting plan shall specify type and height of proposed lights, number of fixtures, and be full-cut fixtures reducing light pollution. The Board of Appeals reserves the right to require the Applicant to adjust the level of lighting, the type of lighting fixtures, or the location of individual lights on the Site to address any concerns or issues that the Board of Appeals or the Building Commissioner may have with the level of lighting spillage onto abutting properties or any roadway adjacent to the Site.

- G.2 The Applicant shall be responsible at all times for payment of monthly utility and other applicable costs of and relating to Project lighting.

H. Site Maintenance

- H.1 The Applicant shall be responsible at all times for utilities on the Site, including the Site's water distribution system, garbage and refuse collection system, sewer collection system and stormwater system, street lights, street trees, and other common amenities.

- H.2 The Applicant shall be responsible at all times for the maintenance, sweeping, removal of snow, and sanding of the Site's internal roadways and driveways so as to permit the safe and convenient access to the Site and the buildings thereon by residents of the Site, emergency vehicles and others. The Site's internal roadway shall be a private way. The Town of Foxborough shall have no responsibility to maintain such roadway.

I. Mitigation

- I.1 The Applicant shall complete the following offsite traffic mitigation measures:
- (a) Prior to the issuance of the final occupancy permit for the Project, the Applicant shall design and implement an optimal traffic signal timing and phasing plan for the Route 140/Fisher Street intersection and the Route 140/Forbes Boulevard intersection, at a total anticipated cost of approximately thirty thousand dollars (\$30,000.00).
 - (b) One (1) year after eighty percent (80%) of the residential units of the Project are occupied, the Applicant shall conduct a post-development traffic monitoring and resident survey program in order to evaluate the success and to refine the elements of the Transportation Demand Management program and to validate the trip projection for the Project, at an anticipated cost of approximately fifteen thousand dollars (\$15,000.00).
 - (c) Prior to issuance of a building permit for the Project, the Foxborough Board of Selectmen shall notify the Applicant whether the Applicant (i) is to pursue the design and construction of an approximately one hundred (100) foot long right-turn only lane on the Fisher Street approach to Route 140, at an anticipated cost of approximately one hundred fifty thousand dollars (\$150,000.00) (the "Design/Permit Option"), or (ii) is to make a mitigation payment to the Town of Foxborough in the amount of one hundred fifty thousand dollars (\$150,000.00) (the "Payment Option").

In the event that the Board of Selectmen elects the Design/Permit Option prior to the issuance of a building permit for the Project, the Applicant shall use commercially reasonable efforts to obtain all approvals necessary to design and then construct such right-turn only lane.

Notwithstanding the foregoing, construction of such right-turn only lane is subject to the prior approval of the Massachusetts Department of Transportation ("MassDOT"). In accordance therewith, the Applicant (i) shall submit to MassDOT such application and review materials that are required thereby prior to the issuance of a building permit for the Project, (ii) shall use commercially reasonable efforts to pursue approval by MassDOT, and (iii) shall keep the Board of Appeals informed of its progress concerning such efforts.

In the event of approval by MassDOT, the Applicant shall commence construction of such right-turn only lane within three (3) months of its receipt of the indirect access permit for such work.

In the event that MassDOT does not approve such right-turn only lane, or in the event that approval from MassDOT is not received within twelve (12) months of the date on which the Applicant has submitted to MassDOT its request for approval of such right-turn only lane, the Applicant instead of constructing such lane shall make a mitigation payment to the Town of Foxborough in the amount of one hundred fifty thousand dollars (\$150,000.00) less the actual third party out-of-pocket costs incurred by the Applicant in connection with designing and pursuing approvals from MassDOT as described above. Such payment shall be made prior to the issuance of the final certificate of occupancy for the Project for the purposes of such roadway improvements and safety as the Board of Selectmen may determine.

In the event that the Board of Selectmen elects the Payment Option or fails to make either election prior to the issuance of a building permit for the Project, the Applicant prior to issuance of any such building permit shall make a mitigation payment to the Town of Foxborough in the amount of one hundred fifty thousand dollars (\$150,000.00) for the purposes of such roadway improvements and safety as the Board of Selectmen may determine. The Applicant shall have no further responsibility under this Condition I.1(c) after payment of such amount.

- I.2 The Applicant shall make a mitigation payment to the Town of Foxborough in the amount of one hundred fifty thousand dollars (\$150,000.00) prior to the issuance of the first building permit for the Project. Such amount shall be held by the Town in a Mitigation Fund, with the specific purposes for use of such amount to be determined by the Foxborough Board of Selectmen.

- I.3 The Applicant shall construct a sidewalk connection along the Project site driveway to the school bus waiting area on Fisher Street prior to the issuance of the first certificate of occupancy for the Project, at an anticipated cost of approximately seven thousand dollars (\$7,000.00).
- I.4 The Applicant shall construct a bus stop shelter at the school bus waiting area on Fisher Street prior to the issuance of the first certificate of occupancy for the Project, at an anticipated cost of approximately ten thousand dollars (\$10,000.00).
- I.5 The Applicant shall submit a plan to the Building Commissioner that shall be subject to approval thereby to construct a sidewalk along Fisher Street from the Project entrance to the west entrance of the Comfort Inn prior to the issuance of the first certificate of occupancy for the Project, at an anticipated cost of approximately seven thousand dollars (\$7,000.00).
- I.6 The Applicant shall construct and shall maintain in perpetuity a seven (7) foot high wooden fence along the Site's property line with the residential neighbors on South High Street and along the Site's property line with South High Street prior to the issuance of the first certificate of occupancy for the Project, at an anticipated cost of approximately fifty-five thousand five hundred dollars (\$55,500.00).
- I.7 The Applicant shall purchase sixteen (16) additional trees to be located as shown on the Planting "Plan Exhibit A" referenced above as "Plans" item #7 under Submitted Materials prior to the issuance of the first certificate of occupancy for the Project, at an anticipated cost of approximately twenty-four thousand dollars (\$24,000.00).
- I.8 The Applicant shall provide the Foxborough Board of Water & Sewer Commissioners with an Inflow and Infiltration Assessment Report of the sewer main from Fisher Street to Forbes Boulevard prior to the issuance of the first certificate of occupancy for the Project, at an anticipated cost of approximately six thousand five hundred dollars (\$6,500.00).
- I.9 The Applicant shall transfer by Deed for one dollar (\$1.00) each to the four (4) South High Street direct residential abutters land totaling approximately 0.5 acres as illustrated on Bay Colony Group, Inc. Sheets C-4.0, C-5.0, C-5.1, and C-6.0, with an estimated value of approximately one hundred ten thousand dollars (\$110,000.00).

The amount described as an "anticipated cost" in each of Conditions I.1(a), I.1(b), I.3, I.4, I.5, I.6, I.7 and I.8 is the amount that is estimated for performance of such respective condition. The Applicant shall be required to perform and complete each such

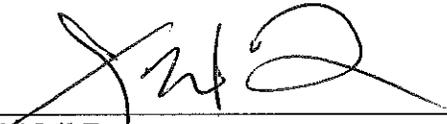
condition as set forth therein regardless whether the cost and expense that it incurs and expends to do so is less than or greater than such amount.

This Decision shall be of no effect until recorded in the Norfolk County Registry of Deeds or Norfolk County District of the Land Court, as appropriate, after certification by the Foxborough Town Clerk as required by G.L. c. 40B, §§ 20-23. Any person aggrieved by the issuance of this Comprehensive Permit has a right of appeal to the Land Court or the Superior Court pursuant to Section 17 of the Zoning Act (G.L. c. 40A).

The foregoing is a true copy of Decision No. 15-04 as issued by the Board of Appeals of Foxborough, Massachusetts. Original counterpart copies of this Decision have been filed with the Foxborough Town Clerk and the Foxborough Planning Board.

**FOXBOROUGH ZONING BOARD
OF APPEALS**

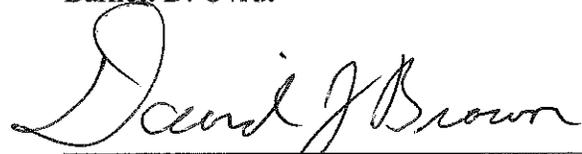
Dated: September 16, 2015



J. Neil Forster



Barnett D. Ovrut



David J. Brown

SCHEDULE A

DOMAIN FOXBOROUGH
FISHER STREET & SOUTH HIGH STREET
COMPREHENSIVE PERMIT
M.G.L. c. 40B

LIST OF REQUESTED EXCEPTIONS

In conformance with M.G.L. c. 40B, the Applicant requests exceptions from the following Code Of The Town Of Foxborough and Rules and Regulations of the Town of Foxborough:

CODE OF THE TOWN OF FOXBOROUGH CHAPTER 275 ZONING

1. Section 3.0. Use Regulations Table 3-1 Table of Uses, Use Group G. Residential #4 Multifamily dwellings: Multi-family dwellings are not permitted within the Highway Business (HB) zoning district and are not permitted within the Residential and Agricultural (R-40) zoning district. Exceptions are requested under Section 3.0. Table 3-1 for residential multi-family dwellings within the Highway Business (HB) zoning district and within the Residential and Agricultural (R-40) zoning district where multi-family dwellings are not allowed.
2. Section 3.0. Use Regulations Table 3-1 Table of Use, Use Group L Accessory Uses #8 Accessory structures to multifamily structures: The seven (7) garage structures located throughout the apartment complex are considered by the Building Commissioner as accessory structures to the principal multifamily structures. Accessory structures to multifamily structures are not permitted within the Residential and Agricultural (R-40) zoning district and require a special permit from the Board of Appeals within the Highway Business (HB) zoning district. Exceptions are requested under Section 3.0 Table 3-1 for the seven (7) accessory garage structures within the Residential and Agricultural (R-40) zoning district where such accessory structures are not allowed and within the Highway Business (HB) zoning district where a special permit is required from the Board of Appeals.
3. Section 4.0. Dimensional Requirements, Section 4.1.1. and Table 4-1 Dimensional Regulations for Uses in Residential and Neighborhood Business District: Section 4.1.1. states "All residential structures shall conform to the dimensional regulations set forth in Table 4-1." Table 4-1 states that multi-family dwellings require 32,250 square feet of area for the first 3 units and 6,125 square feet of area for each additional unit, building height is limited to the greater of 2.5 stories or 35 feet (note 3), and no more than eight dwelling units are allowed on a lot (note 2). The required area for a 248 unit apartment community would be 1,532,875 square feet. The Site contains 790,178 square feet of land area. All the buildings, except for the club house/leasing office, are four (4) stories and 60 feet in height. The apartment community will contain five (5) apartment buildings, one (1) club house/leasing office, and seven (7) garage structures. Exceptions are requested under Section 4.1.1 and Table 4-1 for required area (790,178 square feet of land area provided where 1,532,875 square feet is required), building

height (4 stores and 60 feet provided where 2.5 stories or 35 feet is allowed), and number of dwelling units on a lot (248 units provided where 8 units are allowed).

4. Section 4.0. Dimensional Requirements Table 4-2 Dimensional Regulations for Uses in Nonresidential Districts: Table 4-2 states that within the Highway Business (HB) zoning district building height is limited to 3 stories and 40 feet. An exception is requested under Table 4-2 for building height (4 stories and 60 feet provided where 3 stories and 40 feet is allowed).

5. Section 4.0 Dimensional Requirements, Section 4.1.4.: Section 4.1.4. states "One dwelling per lot. Only one dwelling structure shall be located on a lot, unless otherwise expressly permitted by these bylaws." An exception is requested under Section 4.0 Section 4.1.4. for the number of dwelling structures located on a lot (five (5) dwelling structures and one (1) club house/leasing office provided where one dwelling structure is allowed).

6. Section 4.2. Special dimensional requirements, Section 4.2.3.: Section 4.2.3 states "Accessory structures to existing multifamily structures shall only be allowed by special permit from the Board of Appeals; provided that if the structure is shown on a special permit application to construct a multifamily structure, it may be approved as a part of the application." The seven (7) garage structures are accessory structures to the principal multifamily structures. An exception is requested under Section 4.2.3. for seven (7) accessory garage structures where accessory structures to a multifamily structure are not allowed in the Residential and Agricultural (R-40) zoning district and requires a special permit from the Board of Appeals within the Highway Business (HB) zoning district.

7. Section 6.0 General Regulations, Section 6.1. Off-street parking and loading requirements, Section 6.1.1. and Table 6-1: Section 6.1.1. states "If any structure is constructed...off-street parking shall be provided in accordance with Table 6-1 and 6-2." Table 6-1 requires 558 parking spaces for the proposed apartment community. The number of parking spaces being provided under the proposed apartment community is 447 spaces. Exceptions are requested under Section 6.1.1. and Table 6-1 for parking spaces (447 spaces are provided where 558 spaces are required).

8. Section 6.0 General Regulations, Section 6.1. Off-street parking and loading requirements, Section 6.1.2.3.: Section 6.1.2.3. states "New developments requiring site plan review must provide the required accessible parking on site..." The number of parking spaces being provided is 447 spaces and the required spaces is 558 spaces. An exception is requested under Section 6.1.2.3. for the required parking on site (447 spaces provided where 558 spaces required).

9. Section 6.0. General Regulations, Section 6.1. Off-street parking and loading requirements, Section 6.1.7.6.: Section 6.1.7.6. states "Buffer strips between a parking lot and sidewalk shall be at least five feet in depth and suitably landscaped." There are no buffer strips between the parking lots and sidewalks and therefore no landscaping. An exception is requested under Section 6.1.7.6 for buffer strips between the parking lots and the sidewalks and landscaping (no buffer strips and no landscaping between parking lots and sidewalks are provided where buffer strips five (5) feet in depth with suitable landscaping are required).

10. Section 6.0 General Regulations, Section 6.1. Off-street parking and loading requirements, Section 6.1.8. Location. 6.1.8.1.: Section 6.1.8.1. states "All parking lots for multifamily dwellings shall be located not less than 20 feet from the structure." The parking lots within the apartment community are located within twenty (20) feet of the multi-family dwellings. The closest parking lot to a dwelling is ten (10) feet. All parking lots are located not less than ten (10) feet from the dwellings and less than twenty (20) feet from the dwellings. An exception is requested under Section 6.1.8.1. for the distance between the parking lots and the dwellings. (Not less than ten (10) feet of distance is provided between parking lots and dwellings where not less than twenty (20) feet is required).

11. Section 6.0. General Regulations, Section 6.1. Off-street parking and loading requirements, Section 6.1.9. Restrictions, 6.1.9.3: Section 6.1.9.3 states "Parking spaces or internal driveways shall not be allowed within the required area for screening, buffers or landscaping." A minimum amount of the parking area will be located within the front yard 30 foot landscape strip on Fisher Street and a minimum amount of internal driveway will be located within the side yard 20 foot screening and buffer strip. Exceptions are requested under Section 6.1.9.3. for parking and internal driveway to be allowed within the areas for screening, buffers, and landscaping.

12. Section 6.0. General Regulations, Section 6.4. Screening, buffers and landscaping: Section 6.4.2. Applicability states "Screening, buffers and landscaping shall be required for ... all multifamily structures..." Section 6.4.4. Waiver or modification states "Screening and buffering requirements may be waived or modified by the appropriate board if a naturally dense vegetation area, suitable topography or a combination of the two exist at the time of development (and is to be maintained) within the area where screening and buffering are required. Section 6.4.5. Use requirements abutting residential states that when a multifamily dwelling abuts a residential zoning district or is located on a public way across from a residentially zoned district, the side or rear yard screening and buffer strip shall be 20 feet in width and contain a screen of plantings, and the front yard landscape strip shall be 30 feet in depth and contain a mix of plantings. Exceptions are requested under Sections 6.4.2., 6.4.4. and 6.4.5 for the screening, buffers and landscaping as filed.

13. Section 6.0. General Regulations, Section 6.4. Screening, buffers, and landscaping, Section 6.4.8. General provisions, Section 6.4.8.2.: Section 6.4.8.2. states "No...parking area...may occupy the required area for screening, buffers or landscaping. An exception is requested under Section 6.4.8.2. for parking area to be located within the area for screening, buffers, and landscaping.

14. Section 6.0. General Regulations, Section 6.5. Performance standards. Exceptions are requested under Section 6.5. for the performance standards not met and for Planning Board review.

15. Section 10.0. Administration and Procedures, Section 10.5 Site Plan Review, Section 10.5.3.: Site Plan review is required for any new building or any alteration of land greater than 1,000 square feet. The proposed apartment community will include new buildings and alterations of land greater than 1,000 square feet. An exception is requested under Section 10.5.3 for Site Plan review.

16. Section 10.0 Administration and Procedures, Section 10.1. Zoning Enforcement. The Building Commissioner is charged with the enforcement of Chapter 275 Zoning and shall not issue any permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of these bylaws. Under an approved comprehensive permit, violation of Zoning is anticipated and exceptions to these violations are required. An exception is requested under Section 10.1 for the administration and enforcement of Chapter 275 Zoning.

CODE OF THE TOWN OF FOXBOROUGH
CHAPTER 115 EARTH REMOVAL

17. Section 115.3. Procedure: Section 115.3 states “No earth shall be moved from any parcel of land within the Town to another parcel, either within or without the Town, except upon approval of a special use permit by the Board.” An exception is requested under Section 115.3 for a special use permit from the Board of Selectmen for the removal from the site of soil, loam, sand, and gravel.

CODE OF THE TOWN OF FOXBOROUGH
CHAPTER 267 WETLAND PROTECTION
FOXBOROUGH WETLAND PROTECTION REGULATIONS

18. Chapter 267 Wetland Protection, Section 267-11. Rules and regulations: Section 267-11 states “...the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw.” Foxborough Wetlands Protection Regulations Section 1. Purpose states “The purpose of these Regulations is to aid in the consistent and effective implementation of the Foxborough Wetlands Protection Bylaw”, and Section 2. Definitions states “The following definitions shall apply in the interpretation and implementation of the Bylaw and these Regulations.” Exception(s) are requested from all provisions under Chapter 267 and the Foxborough Wetlands Protection Regulations including but not limited to filing a notice of intention with and from receiving an order of conditions from the Foxborough Conservation Commission.

BOARD OF WATER & SEWER COMMISSIONERS
RULES AND REGULATIONS FOR THE
CONNECTION TO AND EXTENSION OF PUBLIC
SEWERS WITHIN FOXBOROUGH

19. Rules And Regulations For The Connection To And Extension Of Public Sewers Within Foxborough Board Of Water & Sewer Commissioners, Connection To The Existing Sewer (Page 4 of 15) requires the filing of an application with the Board of Water and Sewer Commissioners for approval to connect to or extend the public sewer to service a property. An exception is requested under the Board Of Water & Sewer Commissioners Rules And Regulations For Connection To And Extension Of Public Sewers Within Foxborough for filing an application with and obtaining approval from the Foxborough Water and Sewer Commissioner to connect to or extend the public sewer to the 248 unit apartment community.

FOXBOROUGH ZONING BOARD OF APPEALS
RULES AND REGULATIONS

20. Section 5 Comprehensive Permits, Section 5.03 Filings, Time, Limits and Notices, Letter (1): The filing fee for a 248 unit apartment community under Section 5.03(1) would be \$40,500.00. The filing fee for a site plan review with the Planning Board of the proposed apartment community would be \$11,000.00. The estimated filing fee for variances, special permits, findings, etc. with the Board of Appeals for the proposed apartment community would be approximately \$1,000.00. An exception is requested under Section 5.03 (1) for the application fee to be \$12,000.00 (where \$40,500.00 is required).

CODE OF THE TOWN OF FOXBOROUGH
CHAPTER 213 SIGNS

21. Section 213-5. General regulations D. Signs in all districts (11) allows one (1) monument sign not to exceed twelve (12) square feet in area at the entrance of a multifamily housing complex, which shall be set back at least 10 feet from the lot line and may be externally illuminated by spot lights. Exceptions are requested under Section 213-5.D.(11). to allow a monument sign of 30 square feet of sign area with a sign height of eight (8) feet and eleven (11) inches and setback at least 10 feet from the lot line.

22. Exceptions are requested under Chapter 213 Signs to allow two freestanding signs to be located along the side yard and rear yard of the property in the approximate area as indicated on Site Plan dated June 11, 2015 (Sheet Number L1.01) with a sign area of 32 feet (4' X 8') and a sign height of 12 feet where such additional signs are not allowed under Section 213 Signs.

OTHER LOCAL BYLAWS, REGULATIONS AND APPROVALS

23. Exceptions from any and all Chapters of the Code of the Town of Foxborough and any and all local By-Laws, Regulations and Approvals necessary to allow the construction and occupancy of the 248 residential rental apartment units and related improvements at Fisher Street and South High Street.