

Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Chrystal Kornegay, Undersecretary

May 2, 2017

Mr. Peter Teitelbaum  
Chairman, Board of Selectmen  
Town of Wareham  
54 Marion Road  
Wareham, MA 02571

RECEIVED  
MAY - 8 2017  
TOWN OF WAREHAM  
BOARD OF SELECTMEN

Re: Chapter 40B Comprehensive Permit

Project Name: Woodland Cove Apartments  
Location: 3104 Cranberry Highway, Wareham, MA  
Number of Units: 216  
Subsidizing Agency: Department of Housing and Community Development  
Applicant: Dakota Partners, Inc.

Dear Mr. Teitelbaum:

This will serve to notify you, pursuant to 760 CMR 56.04 (3), that the above-named Applicant has applied to the above-named Subsidizing Agency under the Low Income Housing Tax Credit program for preliminary approval of the above-referenced project. The project is a rental project, with a total of 216 units, of which 174 (80.5%) are low income under 40B.

Enclosed please find a copy of the application for your review. The review period for comments ends 30 days from the date of this letter. Any comments will be considered prior to issuing a determination of Project Eligibility. Please address comments to:

Rebecca Frawley Wachtel, Director  
Low Income Housing Tax Credit Program  
DHCD  
100 Cambridge Street, 3<sup>rd</sup> Floor  
Boston, MA 02114

If and when an application is made for a comprehensive permit, assistance is available to the Zoning Board of Appeals to review the permit application. The Massachusetts Housing Partnership's (MHP) Ch. 40B Technical Assistance Program administers grants to municipalities for up to \$10,000 to engage qualified third-party consultants to work with the ZBA in reviewing the Ch. 40B proposal. For more information about MHP's technical assistance grant visit MHP's web site, [www.mhp.net](http://www.mhp.net) or e-mail [community@mhp.net](mailto:community@mhp.net).



1264 Main Street  
Waltham, MA 02451  
(781) 899-4002  
www.DakotaPartners.net

*Rec'd @ HEARING  
4/25/18*

**Transmittal**  
Transmittal No. 003

<b>Sent To</b>	
<b>Company:</b>	Town of Wareham
<b>Name:</b>	Zoning Board of Appeals
<b>Address:</b>	54 Marion Road Wareham, MA 02571
<b>Phone:</b>	508-291-3100 ext. 6500
<b>Fax:</b>	
<b>E-mail:</b>	

<b>Sent From</b>	
<b>Company:</b>	James O'Brien
<b>Name:</b>	Dakota Partners
<b>Address:</b>	1264 Main Street Waltham, MA 02451
<b>Phone:</b>	781-733-6851
<b>Fax:</b>	
<b>E-mail:</b>	jobrien@dakotapartners.net

<b>Project Information</b>	Woodland Cove
<b>Project:</b>	3102 Cranberry Highway
<b>Address:</b>	Wareham, MA 02532

<b>Sent Date:</b>		04/25/2018	
<b>Sent Via:</b>			
	<b>E-Mail</b>		<b>Fax</b>
X	<b>Hand Delivered</b>		<b>UPS</b>
	<b>USPS</b>		<b>FedEx</b>
<b>Tracking #:</b>			

<b>Subject</b>
Application for Comprehensive Permit

<b>Comments</b>
Water Department Review Fee

Item #	# of Copies	Description
1	1	Check No. 1991, Town of Wareham/Water Dept Review Fee

<b>Transmitted For:</b>			
	<b>Approval</b>		<b>Information</b>
X	<b>Your Records</b>		<b>Selection</b>
			<b>Signature</b>
			<b>Other</b>

TO VERIFY AUTHENTICITY, SEE REVERSE SIDE FOR DESCRIPTION OF THE 11 SECURITY FEATURES

MULTICHAX® # 25423DNS-08

DPI, LLC  
1264 Main Street  
Waltham, MA 02451

Rockland Trust  
288 Union Street  
Rockland, MA 02370  
53-447/113 474

CHECK NO. 1991

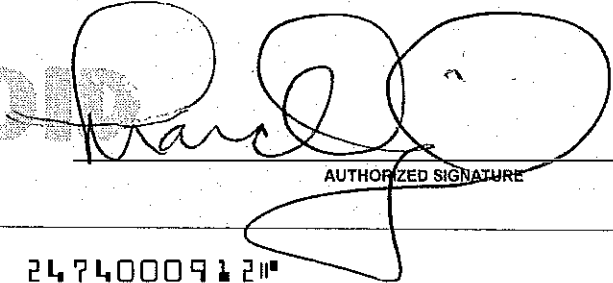
04/24/2018

\*\*12,140.00

Town of Wareham

Twelve Thousand One Hundred Forty and 00/100\*\*\*\*\*

PAY TO THE ORDER OF: Town of Wareham



AUTHORIZED SIGNATURE

Water department demand review fee

⑈001991⑈ ⑆011304478⑆ 2474000912⑈

DPI, LLC  
Town of Wareham

Date: 04/24/2018 Check #: 1991  
4/24/2018

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
4/24/2018	Bill	Water Dept. Fee	12,140.00	12,140.00		12,140.00
					Check Amount	12,140.00

912 - DPI\_DPI Invest Water department demand review fee

12,140.00

## EXHIBIT A - WAIVERS

### TOWN OF WAREHAM BYLAWS

#### Note exception and Nuisance by-laws

### TOWN OF WAREHAM ZONING BYLAWS

#### WAIVERS

#### COMPREHENSIVE PERMIT RULES OF THE WAREHAM ZONING BOARD OF APPEALS (Adopted February 8, 2006)

Section 3.01 (j). Financial information such as a pro forma is not applicable as it is in conflict with 760 CMR 56.05(6) which states that the "Board may request to review the pro forma or other financial statements for a Project only after" certain preconditions have been met. The preconditions stated therein have not been met.

GRANTED

Section 3.03 (b). Fees for services for legal counsel are not applicable as it is in conflict with 760 CMR 56.05(5) which states that "Legal fees for general representation of the Board or other Local Boards shall not be imposed on the Applicant".

GRANTED

Section 3.40. According to 760 CMR 56.05(5) a reasonable Technical Review (or Consultant Review) fee is appropriate after the Board's review of the application and determination. According to this Section, the Technical Review Fee required would be calculated at \$23,700 to be included with the application submission. The applicant seeks a waiver from this initial fee of \$23,700 to be paid at the time of submission of the application until the Boards first hearing on the matter wherein an appropriately reasonable fee can be discussed. The Applicant is submitted initial payment of \$5,000 as a reasonable initial deposit for Technical Review.

GRANTED

Section 3.5. This Section states that "no application shall be "duly submitted" in accordance with the General Laws of Massachusetts until such time as all information required in Paragraphs 1-12 below (Complete Application Packet) has been received by the Board of Appeals . . ." (emphasis added). However, no Paragraphs 1-12 below were included in the Comprehensive Permit Rules of the Wareham Zoning Board of Appeals. After inquiring to the Director of Community and Planning Department, a "Comprehensive Checklist" consisting of 16 items was provided. Applicant states the following and requests waivers to the extent necessary from the following checklist items.

8. Documentation in regard to 760 CMR 31.01. 760 CMR 31.00 is outdated reference and this regulation is no longer in effect. So it is unknown as to what is being sought with regards to "760 CMR 31.01."

Q.E.

contain any wetlands and is not located within a local historical district.

The development of the entire project is being proposed in three Phases as shown on the Comprehensive Permit Site Plans prepared by BSC Group dated January 12, 2018, revised date of July 20, 2018 (hereinafter "Site Plans") submitted herewith.

Note that pursuant to 760 CMR 56.05(7), waivers are not needed from special permit provisions of a zoning bylaw, but only from the requirements of the underlying as of right zoning provisions.

#### Article 3: Use Regulations

##### Section 311 – Permitted Uses

Applicant requests a waiver from the requirement that only those uses as allowed in Section 320 may be permitted by right in the district for which it is specified.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

##### Section 320 and 321– Table of Principal Use Regulations

Applicant requests a waiver from the requirement of conformance to the Table of Principal Use Regulations as follows:

##### Residential uses

- 5+ family dwelling in new structure not permitted as of right in the R130 Zoning District
- 5+ family dwelling in new structure not permitted as of right in the CS Zoning District

The proposed project is located in the R130 and CS Zoning District to be developed in three Phases.

Phase I – Sixty-three (63) dwelling units in two buildings on Lot 1

Phase II – Sixty-three (63) dwelling units in two buildings on Lot 2 (plus a community building)

Phase III – Twenty-four (24) dwelling units in two buildings on Lot 3

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

##### Section 354 – Table of Principal Use Regulations

Applicant requests a waiver from the requirement that in a 5 or more family dwelling unit building, each dwelling unit shall contain a minimum of 650 square feet of livable floor space, exclusive of closets and bathrooms.

Some of the one bedroom units in the development are listed as 702 gsf. Therefore some of them may be less than "650 square feet of livable floor space, exclusive of closets and bathrooms." Thus, applicant request a waiver from this requirement to the extent necessary.

GRANTED

#### Article 4: Overlay Districts

CE



Section 613 – One Principal Residential Building Per Lot

Applicant requests a waiver from the requirement that not more than one principal residential building with accessory structures having a residential use allowed in the respective district shall be erected, placed or converted on any lot.

Phase I located on Lot 1 – Sixty-three (63) dwelling units in two buildings primarily located in the CS zoning district with a small portion of the rear lot line located in the R130 zoning district.

Phase II located on Lot 2 - Sixty-three (63) dwelling units in two buildings on Lot 2, (plus a community building) located in the CS zoning district (front portion) and in the R130 zoning district (rear portion).

Phase III located on Lot 3– Twenty-four (24) dwelling units in one building on Lot 3 located in the CS zoning district.

Total Development of all three Phases: 150 dwelling units in five buildings (plus a community building) in the CS (front portion) and R130 (rear portion) zoning districts. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 615 – Lot Shape Factor

Applicant requests a waiver from the requirement that all lots created for building purposes after the effective date of the By-Law shall be shaped so that they contain within the buildable upland area a circle of a diameter, not less than the frontage requirement of the zoning district within which the lot is located.

CS for “Other Residential Use” Lot Frontage Requirement is 250 feet

R-130 for “Other Residential Use” is listed as “use not allowed” (NA)

Applicant requests a waiver from this Lot Shape requirement for:

Lot 2 / Phase II: – Lot 2 does contain a 250 foot circle of a diameter; however, this circle is located half in the CS zoning district and half in the R-130 zoning district.

Lot 3 / Phase III

GRANTED

Section 620 – Table of Dimensional Regulations

Applicant requests a waiver from the requirement of minimum and maximum lot and building dimensions shall be as specified in the following tables, specifically Section 621 Residential Districts table, zoning district R-130 and Section 623 Commercial Districts table as follows:

Section 621- Residential Districts – R-130

Note that in the RS130 zoning district, “Other Residential Use” the requirements as provided for in this Section 621 is listed as “use not allowed” (NA) except as to maximum building coverage with is listed as “no regulation” (NR). Thus, applicant seeks a waiver from this section of the bylaw to any extent necessary to provide for the waivers requested below in Section 623 – Commercial Districts – CS.

GRANTED

Section 623- Commercial Districts – CS

Applicant requests a waiver from the requirement of minimum and maximum lot and building dimensions for “Other Residential Use”, as stated below:

LE

Without limiting the generality of the foregoing, the Applicant requests a waiver from the following specific requirement of this section of the zoning bylaw.

GRANTED

Section 763 – Landscape Design Standards

Section 763.3 – Applicant requests a waiver from the requirement of planting one tree for every 10 cars within parking lot aisles which would require a total of 27 trees to be planted. Applicant is proposing a total of 11 trees in dedicated islands for the three Phases as follows:

Lot 1 / Phase I – Eleven trees required – four proposed

Lot 2 / Phase II – Twelve trees required – four proposed

Lot 3 / Phase III – Four trees required – three proposed

Total Development: Twenty-Seven required – eleven proposed

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 763.4 – Applicant requests a waiver from the requirement of a landscaped buffer zone of 15 feet to be provided along the front street line. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 764 – Architectural Design Guidelines

Applicant requests a waiver from the applicability of this section of the bylaw in its entirety to the extent necessary to construct the proposed project. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Article 8: Alternative Residential Site Development

Section 820 – Multiple Family and Apartment Dwellings

Section 822 – General Provisions

Applicant requests a waiver from the requirement that multiple family or apartment dwelling development shall comply with the provisions of this section. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 823 – Development Standards General

Applicant requests a waiver from the requirement that each dwelling unit in a multiple family or apartment dwelling shall contain a minimum of 650 square feet of livable floor area, exclusive of closets and bathrooms.


Some of the one bedroom units in the development are listed as 702 gsf. Therefore some of them may be less than “650 square feet of livable floor space, exclusive of closets and bathrooms.” Thus, applicant request a waiver from this requirement to the extent necessary.

GRANTED

Section 824 – Development Standards -MR-30 and Commercial Districts

Section 824.1

Application request a waiver from the requirement that the minimum lot area for multiple

F.E. 

II	Lot 2	45	7	29,500	35,800	appx.
III	Lot 3	16	3	11,000	1,000	appx.
Total Development				122	20	70,000 70,000 appx.

Applicant requests this waiver for each Phase individually and for the total development.  
 GRANTED

Section 826 – Application Submittals

Applicant requests a waiver from the requirement of submitting plans to the Planning Board for multifamily development. The proposed project is being permitted under a Comprehensive Permit and the Zoning Board of Appeals stands in the shoes of the Planning Board.

GRANTED

Article 9: Parking

Section 920 – Number of Parking Spaces Required

Section 921 – Table of Parking Regulations

Applicant requests a waiver from requirement of the minimum parking spaces as follows:

Phase	Lot	# of 1 bed units		# of 2 or more bed units			
		(1.5 spaces per unit)	(2 spaces per dwelling unit)	Total Required Spaces	Proposed Spaces		
I	Lot 1	11	52	121	106		
II	Lot 2	11	52	121	117		
III	Lot 3	5	19	46	41		
Total Development				27	123	287	264

Applicant requests this waiver for each Phase individually and for the total development.  
 GRANTED

Article 10: Landscaping

Section 1020 – Applicability (Section 1020 through and inclusive of Section 1070)

Applicant requests a waiver from the applicability of this section of the bylaw (Section 1020 through and inclusive of Section 1070) in its entirety to the extent necessary to construct the proposed project as shown on Overall Planting Plan, Sheets L-1.0, L-1.1, and L-1.2.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED to the extent necessary to provide landscaping as shown on the above-referenced Overall Planting Plan.

Article 11: Signs

Applicant requests a waiver from the applicability of this section of the bylaw in its entirety to allow for the construction and placement of signs as provided for in Condition



Decision on Application for Comprehensive Permit  
Dakota Partners, Inc.  
3102 Cranberry Highway, Wareham, MA  
October 24, 2018  
Page 39 of 40

GRANTED

RULES & REGULATIONS GOVERNING THE SUBDIVISION OF LAND  
TOWN OF WAREHAM, MASSACHUSETTS  
PLANNING BOARD

(March 2013, Originally Adopted March 4, 1977)

Applicant requests a waiver from the Town of Wareham's Rules & Regulations Governing the Subdivision of Land and the requirements for submitting an application for a subdivision plan to the Planning Board for approval and from the Rules and Regulations to the extent necessary to construction the proposed project. Applicant is requesting that the Zoning Board of Appeals approve and endorse the proposed subdivision through the Comprehensive Permit process.

GRANTED

BOARD OF WATER AND SEWER COMMISSIONERS,  
WATER DEPARTMENT AND SEWER DEPARTMENT

The Applicant requests that any permits or approvals required to connect to the municipal sewer system and the municipal water system be granted by the Zoning Board of Appeals as part of the Comprehensive Permit, and that any requirement to apply to the Board of Selectmen and/or Board of Sewer Commissioners and/or the Wastewater Treatment Plant Facility, the Onset Fire and Water District, or any other board or commission related to the sewer system or water system be waived.

GRANTED

Likewise, waivers are requested from any bylaws, rules or regulations related to the foregoing, other than technical engineering matters for the design and construction of the sewer lines and water system for the project.

GRANTED

BY-LAWS OF THE TOWN OF WAREHAM

(Revised: April 25, 2016)

Division IV

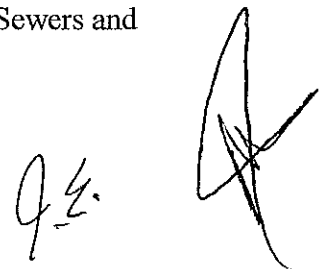
Article II – Street Regulations Governing Construction Rules and Regulations for Construction within the Streets under Jurisdiction of the Town of Wareham Permits

Applicant requests a waiver from Article II and request any permits or approvals required be granted by the Zoning Board of Appeals.

GRANTED

Division V – Rules and Regulations relating to the use of Public and Private Sewers and Drains

Article II – Use of Public Sewers Required

Handwritten initials "J.E." and a signature.

# TOWN OF WAREHAM

## Zoning Board of Appeals

54 Marion Road

Wareham, MA 02571

### DECISION ON APPLICATION FOR COMPREHENSIVE PERMIT

G.L. c. 40B, §§ 20-23

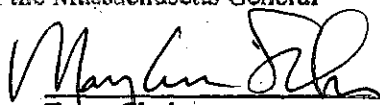
APPLICANT: DAKOTA PARTNERS, INC. ("Applicant")  
PROPERTY: 3102 Cranberry Highway, Wareham (the "Property")  
ASSESSORS' MAP: Map 131, Parcel Q1  
DEVELOPMENT NAME: Woodland Cove Apartments  
DATE: October 24, 2018

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#### I. PROCEDURAL HISTORY

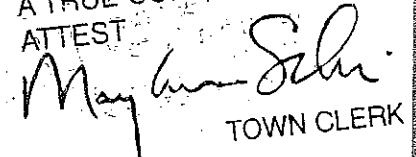
1. An application for a Comprehensive Permit was received by the Town of Wareham Zoning Board of Appeals ("Board") on or about January 31, 2018 ("Application"). The Application proposes the development of one hundred and seventy-four (174) rental apartment units within six (6) residential structures, located at 3102 Cranberry Highway, Wareham, Massachusetts ("Project").
2. The Board's public hearing on the Application was duly opened on February 28, 2018, and was continued to March 21, April 11, April 25, May 9, June 13, June 27, July 25, August 8, August 22, September 12, and September 26, all in the year 2018. The public hearing was closed on September 26, 2018.
3. The Project is located on the Property, which is located at 3102 Cranberry Highway, Wareham, Massachusetts.
4. The Property is located in the Strip Commercial (CS) and the Residence 130 (R-130) Zoning District. Nearby uses consist of mainly commercial uses along Cranberry Highway, and residential uses along Red Brook Road. The Property currently contains an existing motel, which is proposed to be demolished.
5. The Applicant provided various materials, reports, studies, and revised plans

I hereby certify that 30 days have elapsed after the decision was filed in the office of the Town Clerk of Wareham and no appeal has been filed in accordance with Section 17, Chapter 40 A of the Massachusetts General Laws.

  
Town Clerk

20 Day Has Elapsed  
MS

A TRUE COPY  
ATTEST

  
TOWN CLERK

# TOWN OF WAREHAM

## Zoning Board of Appeals

54 Marion Road

Wareham, MA 02571

### DECISION ON APPLICATION FOR COMPREHENSIVE PERMIT

G.L. c. 40B, §§ 20-23

APPLICANT: DAKOTA PARTNERS, INC. (“Applicant”)  
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ASSESSORS’ MAP: Map 131, Parcel Q1  
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5. The Applicant provided various materials, reports, studies, and revised plans throughout the course of the public hearing on the Application.

6. During the public hearing, the Applicant was assisted primarily by its counsel, Peter Freeman, of Freeman Law Group LLC, its project engineer Dominic Rinaldi, P.E., of BSC Group, its architect R.A. Schaeffer & D.M White Architects, its traffic engineer McMahon Associates, Inc., and its project manager James V. O'Brien of Dakota Partners, Inc.
7. The Board utilized the services of its review engineer Charles Rowley, P.E., to review civil engineering and stormwater issues, its traffic engineer TEC, Inc. to review traffic issues, OSD Engineering Consultants to review municipal water supply issues and GHD to review municipal sewer issues. The Board also utilized the services of Paul Haverty, Esq., of Blatman, Bobrowski & Haverty, LLC as its Chapter 40B technical consultant through a grant from the Massachusetts Housing Partnership.
8. During the public hearing, there was significant public input. The Board heard input from abutters and other interested persons throughout the hearing process.

## II. JURISDICTIONAL FINDINGS

9. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
  - a. The Applicant is a limited liability company, and has indicated in its application that it will conform to the limited dividend requirements of G. L. 40B, §§ 20-23, thus establishing it is a limited dividend entity. The Applicant has a principal address of 1264 Main Street, Waltham, MA 02451.
  - b. The Applicant has received a written determination of Project Eligibility from the Department of Housing and Community Development ("DHCD") dated January 19, 2018 under the Low Income Housing Tax Credit Program, a copy of which was provided to the Board with the original application.
  - c. The Applicant provided a copy of a Purchase and Sale Agreement dated February 21, 2017, an Amendment to Purchase and Sale Agreement dated May 11, 2017, and a deed dated December 6, 2011, recorded in the Plymouth County Registry of Deeds in Book 40771, at Page 298. Thus, the Applicant has shown evidence of site control sufficient to qualify as an applicant for a Comprehensive Permit.

- d. The Applicant has agreed to execute a Regulatory Agreement that limits its annual distributions in accordance with G. L. c. 40B and the regulations (760 CMR 56.00 et seq.) and guidelines adopted thereunder by DHCD.
10. The Town of Wareham (“Town”) does not meet the statutory minima set forth in G. L. c. 40B, § 20 or 760 CMR 56.03(3) to 56.03(7):
- a. At the time of the filing of the Application, the number of low or moderate income housing units in the Town constituted 7.7% of the total year-round housing units in the Town, based on the most recent publicly available copy of the DHCD Subsidized Housing Inventory, dated September 14, 2017. Thus, the Town does not meet the ten percent (10%) statutory minimum.
  - b. The Town does not have information that there are existing affordable housing units that are on sites that comprise more than one and one half percent (1.5%) of the total land area of the Town that is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).
  - c. The granting of this Comprehensive Permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
  - d. The Town has an approved Housing Production Plan pursuant to 760 CMR 56.03(4), but is not currently within (or eligible for) certification.
  - e. The Town has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
  - f. The Project does not constitute a Large Project pursuant to 760 CMR 56.03(6).
  - g. The Applicant’s Comprehensive Permit Application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

### III. FACTUAL FINDINGS

#### Location of Project

11. The Project is located at 3102 Cranberry Highway, Wareham, Massachusetts. The Property has frontage on both Cranberry Highway and Red Brook Road. The Property is located within the Strip Commercial (CS) and the Residence 130 (R-130) Zoning District.

#### Civil Engineering, Site Design, and Stormwater Impact

12. The Board engaged in review of potential civil engineering, site design, and stormwater impacts of the Project.
13. The Project will connect to the Wareham municipal sewer system. The Project also proposes to connect to the Onset Fire District Water Department for connection to the municipal water system. Independent reviews, with input from both the Wareham Sewer Commissioners and the Onset Fire District Water Department were undertaken to ensure sufficient capacity exists to allow connection to the municipal systems.
14. The Applicant proposes to construct 264 parking spaces for the Project, which is not in compliance with the Wareham Zoning Bylaw, which requires 287 parking spaces.
15. On-site amenities will include an outdoor recreational area and a community building/clubhouse as shown on the Approved Plans, referenced below.
16. Approximately forty-eight percent (48%) of the site will consist of impervious surface with the remainder consisting of pervious surface. The Board finds that the total amount of impervious area is acceptable.
17. The Board finds that the landscaping proposed by the Applicant is sufficient in light of the site disturbance that the Project will entail. The landscape design objective for the proposed development will be to enhance the built environment through the creation of a sustainable landscape that blends into the site's natural surroundings. The overall design will emphasize the use of low maintenance, native plantings and strive to integrate the proposed development's needs into the site's surrounding environment. The proposed landscape is compliant/ consistent related to quantity and quality compared to other similar developments.
18. Stormwater management has been designed in compliance with the Mass Stormwater management standards in accordance with 310 CMR 10.05(6)(k)

through (q) and defined in detail in the MassDEP Stormwater Management Handbook. The system incorporates BMP's to facilitate TSS removal, infiltration and detention of stormwater flows.

19. The Project, as conditioned herein, will address the lack of affordable rental units in the Town.
20. The Board heard testimony from the Applicant and the Board's traffic consultant, including the Applicant's Traffic Impact Study prepared by McMahon Transportation Engineers and Planners, that the Project is expected to result in approximately eighty-nine (89) vehicle trips during the weekday morning peak hour and approximately one hundred and thirteen (113) vehicle trips during the weekday afternoon peak hour. These figures are based upon the original proposal for one hundred and seventy-four (174) rental units.
21. Cranberry Highway is a state owned and maintained roadway and therefore the Town / Board has no jurisdiction. It is assumed that the MassDOT will determine if roadway improvements are necessary as part of their State Highway Access permit.
22. During the course of the hearing, the Applicant submitted a plan showing a reduction in the number of rental units to one hundred and fifty (150) units. The Board has determined that the one hundred and fifty (150) unit development is more appropriate for the Property than the originally proposed one hundred and seventy-four (174) unit project.
23. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic (as defined in 760 CMR 56.02), the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
24. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting waivers may have an adverse impact on Local Concerns.
25. The Board acknowledges concerns raised by abutters and other interested parties about the Project's potential incompatibility with abutting residential uses, including concerns relating to increased traffic and parking demand. The Board has addressed these concerns by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately address these matters of local concern in a manner that outweighs the regional need for

affordable housing. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.

26. The Board finds that endorsement of the proposed subdivision plan dividing the property into four (4) lots is necessary and appropriate to facilitate the construction of this project.
27. The Board finds that approving the phasing plan proposed by the Applicant, as modified by the Board's suggestions during the hearing, is necessary and appropriate to facilitate the construction of this project.
28. The Board finds that the construction of the Project, as conditioned, will be consistent with local needs.

#### IV. CONDITIONS

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

- A.1 The holder of this Comprehensive Permit is Dakota Partners, Inc. The Property is defined as the property located at 3102 Cranberry Highway, Wareham, Massachusetts, shown on a plan entitled "Woodland Cove Comprehensive Permit" 3102 Cranberry Highway, Wareham, Massachusetts, prepared by the BSC Group, dated January 12, 2018, with revisions through August 10, 2018. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit.
- A.2 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.2, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Director of Planning and Community Development who shall have the authority to approve such changes as immaterial changes. If the Director of Planning and Community Development determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, he shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this Decision or seek modification in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following plan set from BSC Group:



“Woodland Cove Comprehensive Permit” 3102 Cranberry Highway, Wareham, Massachusetts, prepared by the BSC Group, dated January 12, 2018, with revisions through August 10, 2018, and consisting of the following sheets:

T-1.0	Title Sheet
EC -1.0	Existing Conditions Plan
SV – 1.0	Plan of Land
C – 1.0	Zoning Conformance Plan
C – 2.0 – 2.2	Layout & Materials Plan
C – 3.0 – 3.2	Grading & Drainage Plan
C – 4.0 – 4.2	Utility Plan
C – 5.0 – 5.3	Preliminary Phasing Plan
C – 6.0 – 6.6	Details
C – 7.0 – 7.2	Photometrics Plan
L – 1.0 – 1.2	Planting Plan

The Approved Plans shall also consist of the following plan set from R.A. Schaefer & D.M. White, Architects, entitled “Woodland Cove, 3102 Cranberry Highway, Wareham, MA” dated January 17, 2018, and consisting of the following sheets:

P.01a	First Floor Plan Bldg B
P.01b	First Floor Plan Bldg E
P.02	Second Floor Plan Bldgs B & E
P.03	Third Floor Plan Bldgs B & E
P.04	Fourth Floor Plan Bldgs B & E
P.05	Exterior Elevations Bldgs B & E
P.06	Exterior Elevations Bldgs B & E
P.10	First Floor Plan Bldgs A & F
P.11	Second Floor Plan Bldgs A & F
P.12	Third Floor Plan Bldgs A & F
P.13	Exterior Elevations Bldgs A & F
P.14	Exterior Elevations Bldgs A & F
P.20	First Floor Plan Bldgs C & D
P.21	Second Floor Plan Bldgs C & D
P.22	Third Floor Plan Bldgs C & D
P.23	Exterior Elevations Bldgs C & D
P.24	Exterior Elevations Bldgs C & D
PC.01	Floor Plan Clubhouse
PC.02	Exterior Elevations Clubhouse
PC.03	Exterior Elevations Clubhouse

- A.3 The Applicant shall be a Limited Dividend Entity as required by Chapter 40B and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.4 The Project shall consist of not more than one hundred and fifty (150) rental apartment units, located in five (5) residential structures, and other related residential amenities, all as shown on the Approved Plans. The Project shall consist of no more than twenty-seven (27) one-bedroom apartments, one hundred six (106) two-bedroom apartments and seventeen (17) three-bedroom apartment units for a total of two hundred ninety (290) bedrooms.
- A.5 There shall be a minimum of two hundred sixty-four (264) parking spaces (inclusive of required handicap spaces).
- 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 Wareham Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§ 20-23. No waiver of permit or inspection fees has been granted. Any subsequent revision to the Approved Plans, including but not limited to revisions in the Final Plans, referenced below, 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 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Director of Planning and Community Development or other Town Departments, the Director of Planning and Community Development or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Director of Planning and Community Development or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.
- A.8 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any conventional loan financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph.

- A.9 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The applicable limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.
- A.10 The sidewalks, driveways, roads, utilities, drainage systems, and all other on-site infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town and Onset Fire District Water Department 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, landscape maintenance, and hydrant maintenance. In this regard, the proposed site access road within the Project shall not be dedicated to or accepted by the Town.
- A.11 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

**B. Affordability**

- B.1 Except as may otherwise be allowed by the Subsidizing Agency DHCD or other Subsidizing Agency, as proposed by the Applicant, pursuant to the applicable subsidy program, a minimum of one hundred six (106) of the rental units shall be reserved for income-eligible households, meaning that they shall be rented to and occupied by households, as proposed by the Applicant, whose income (adjusted for household size) is not more than sixty percent (60%) of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and the Subsidizing Agency (the "Affordable Units"). Affordable Units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency, except for fluctuations based on changes of household eligibility income allowed by the Regulatory Agreement. The Applicant shall be responsible for maintaining records sufficient to comply with the Subsidizing Agency guidelines for the location of Affordable Units in the Project and occupancy of such Affordable Units by income-eligible households.
- B.2 All of the Project's Affordable Units shall be restricted for rental to households earning no more than the maximum allowable household income, adjusted for household size, as determined by DHCD or any substitute Subsidizing Agency. The Affordable Units shall be maintained as affordable in perpetuity, which for the purposes of this Decision shall mean for so long as the Property

does not comply to applicable zoning requirements without the benefit of this Comprehensive Permit.

- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an Affirmative Fair Housing Marketing Plan (“AFHMP”) prior to the rental of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency’s Fair Housing requirements.
- B.4 For the initial rent-up of the Project, the maximum number of Affordable Units allowed by law and the applicable subsidy program, but not more than seventy percent (70%) of the Affordable Units, shall be reserved for households that qualify under a local preference definition approved by the Subsidizing Agency. A lottery shall be established in a form approved by the Subsidizing Agency and/or the Project’s Monitoring Agent to effectuate this local preference, with an approved secondary lottery for all other Applicants. The Applicant shall assist the Town in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence. If the Board or its designee does not provide such information within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above.

**C. Submission Requirements**

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit (except as allowed by the Director of Planning and Community Development, as noted below), the Applicant shall:
- a. Deliver to the Board a check in a reasonable amount determined by the Director of Planning and Community Development to be used for staff to retain outside experts, if necessary, for technical reviews and inspections required under these conditions but at inception shall not exceed ten thousand (\$10,000) dollars unless an alternate amount has been agreed upon by the Board and the Applicant. Said funds shall be deposited by the Board in an account pursuant to G. L. c. 44, § 53G and shall only be used for technical reviews and inspections associated with this Project. Any

unspent funds shall be returned to the Applicant with accrued interest at the completion of the project. If at any time the Board reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Board in a reasonable amount as may be determined by the Board. Said funds may be used by the Board to hire civil engineering, traffic engineering, and/or other professionals that the Board deems reasonably necessary to ensure compliance with the conditions hereof.

- b. Obtain and file a copy of a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) submitted along with the NPDES filing.
- c. Submit to the Board for review and administrative approval Final Engineering Drawings and Plans (“Final Plans”), such approval to be that the plans 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. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record, the Professional (Civil) Engineer of record, and a Registered Landscape Architect. Final Architectural Plans shall be stamped by a Registered Architect. The Final Plans shall be submitted to the Board at least forty-five (45) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier (the “Final Site Plan Submission Date”).
  - i. All stormwater entering the drainage system on the Project site shall be conveyed to Infiltration System 1 prior to being discharged to the bio-retention area.
- d. Submit to the Board for its administrative approval, a landscaping plan with the Final Plans, signed and sealed by a Registered Landscape Architect, depicting the following:
  - i. Overall planting plan that includes a demarcation of clearing and the limits of work;
  - ii. Planting plans for drives showing shade trees and lighting fixture locations;

- iii. Plans of walkways in open space and recreation areas;
- iv. Prototype planting plans for each building that include shade trees (minimum caliper 3”), ornamental trees (minimum caliper 3”), shrubs, and groundcovers;
- v. Prototype screening plans for dumpsters, depicting plantings and fencing;
- vi. Planting details for coniferous and deciduous shade trees (minimum caliper 3”), ornamental trees (minimum caliper 3”), and shrubs;
- vii. Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;
- viii. Tree protection and preservation plans
- ix. Construction fencing along abutting property lines; and
- x. Construction details.

All plantings shall consist of non-invasive, drought-tolerant species. Plantings installed along drives and walkways shall also be salt-tolerant. The final landscaping plans shall preserve the existing perimeter tree cover to the greatest extent practicable. Twelve (12) months after completion of plantings, the Applicant shall remove and replace any dead or diseased plantings and trees serving as screening. The contract with the Management Company shall address ongoing maintenance of landscaping features.

- e. Submit to the Director of Planning and Community Development a construction mitigation plan including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, and like matters. Other than site work and such other work as may be authorized in writing by the Director of Planning and Community Development, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Director of Planning and Community Development and other applicable staff has approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Building Commissioner and/or Zoning Administrator concerning the Final Site Plans within forty-five (45) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- f. The Applicant must submit an application to the Town of Wareham E-911 committee for address and unit numbering through its coordinator, the Town Clerk.

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

- a. Record this Comprehensive Permit and the Subdivision Plan endorsed by the Board with the Plymouth Registry of Deeds, at the Applicant's expense, and provide proof of such recording with the Board.
- b. Submit to the Board and the Director of Planning and Community Development evidence of Final Approval from the Subsidizing Agency (DHCD), as required by the Project Eligibility letter and the Chapter 40B regulations.
- c. Submit to the Board a copy of the Regulatory Agreement and Monitoring Services Agreement (per Phase) for the Project. Execution and recording of such Regulatory Agreement with DHCD shall be complete prior to the issuance of any building permit. It is understood and agreed that Monitoring provisions may be included with the Regulatory Agreement, in lieu of a separate Monitoring Services Agreement.
- d. Submit to the Building Commissioner final Architectural Plans (per Phase) prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Commissioner may request pursuant to the State Building Code.
- e. An automatic sprinkler system conforming with NFPA 13 and a fire alarm

system conforming to NFPA 72 shall be required in all buildings. Both systems shall be monitored by a UL approved central station monitoring service.

- f. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
- g. Obtain all (per Phase) necessary building, electrical, plumbing, and associated permits required to begin construction of the Project required by state law.
- h. The Applicant will be responsible for all applicable sewer permit, capacity impacts and privilege fees, including a one-time \$5.00 per gallon for Inflow & Infiltration mitigation.
- i. The Applicant will be responsible for all applicable water system development fees as per officially promulgated fee schedules uniformly applicable to all other Town of Wareham projects.
- j. A road opening permit is required from the Wareham Municipal Maintenance Department for work within the Red Brook Road right of way. Based on this Decision, the Wareham Municipal Maintenance Department shall issue such permit, subject to Applicant's compliance with the technical requirements of said Division. However, a road opening permit may be obtained prior to a building permit if in conjunction with MassDOT roadwork.
- k. Submit to the Planning Department a revised plan to show the grading, slope treatment, paving and related details for the cul-de-sac to be constructed within Phase II of the project but that is necessary for the completion of Phase I. Submission shall be made prior to the issuance of a building permit for Phase I.
- l. Prior to the commencement of Phase II of the project the Applicant shall submit to the Planning Department appropriate surety for the full construction of the access driveway that leads to Red Brook Road. Full construction including final paving, landscaping and other related details of this driveway for the Phase II portion of the access driveway shall be completed prior to receipt of the Final Occupancy Permit for Phase II unless a filing for the construction of Phase III has been submitted and approved in which case the surety shall remain in place through the completion of Phase III and construction of the Phase III portion of the



driveway access shall then be completed as noted above prior to the receipt of the Final Occupancy Permit for Phase III. Otherwise the Phase III portion of the driveway access may be left as a binder course.

- m. In the event that construction of Phase III does not commence (3) years after issuance of the last Certificate of Occupancy Permit for Phase II the Applicant shall fully complete the Phase III portion of the driveway access. Should the Applicant not do so, the Town of Wareham shall have the authority to use the surety for the full completion of the driveway access to Red Brook Road.
- n. Prior to receiving a building permit for Phase II, the Applicant shall submit to the Planning Department a cost estimate for the portion of the driveway access to Red Brook Road on the Phase III lot including unit costs for labor and materials and the quantities necessary to complete the construction and total costs for each item of construction. This cost estimate times 1.25 shall be the amount of surety required for the construction of this portion of driveway access.
- o. The final amount of surety shall be approved by the Board of Appeals. Surety shall be provided pursuant to G. L. c. 41, § 81U, except the Applicant has agreed that a letter of credit shall not be an option for surety. The surety shall be kept in place and shall be automatically renewable until such time as construction of the aforesaid driveway and related infrastructure is completed and funds are released.

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

- D.1 Prior to issuance of a certificate of occupancy for a specific Phase/portion of the Project, the Applicant shall:
  - a. Submit engineer's interim certification of compliance with utilities plan and profiles for such Phase (as applicable) to the Building Commissioner.
  - b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Phase of the Project has been constructed in compliance with the Final Plans in all material respects.
  - c. Obtain acceptance from the Onset Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units of the Phase.

- d. Obtain a sewer connection sign-off from the Wareham Sewer Commission for the Phase.
- D.2 Prior to issuance of the certificate of occupancy for the last residential building to be constructed in each Phase, the Applicant shall:
- a. Submit to the Board, in digital file format and full size paper copies, a final as-built plan including profiles, showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
  - b. The Applicant shall provide to the Board evidence of a property management plan (if property management will be done in-house), or shall provide a copy of a contract with a Management Company if property management will be conducted by a third-party. The Applicant shall submit to the Board all information relating to the issues of building security, public access, pet policy, staffing, trash removal, and smoking policies, and other issues addressed in the conditions herein.

**E. Project Design and Construction**

- E.1 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall attend a preconstruction conference with the Onset Fire District Water Department, Director of Planning and Community Development and other Town staff and consultants as may be determined.
- E.2 The Applicant shall permit representatives of the Board to observe and inspect the Property and construction progress until such time as the Project has been completed and the final occupancy permit issued.

- 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.
- E.5 During construction, the Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan. 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.
- E.6 Appropriate signage shall be shown on the Final Plans. The Applicant has requested a waiver from the Town of Wareham Zoning Bylaws regarding signs, which shall be subject to the submittal and review of Final Plans depicting the proposed signage.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans.
- E.8 The Applicant shall use natural gas for the Project, if reasonably available at the time of the submission of Final Plans. Gas service locations shall be included on the Final Plans.
- E.9 The Applicant shall install lighting on the site that conforms to the Town of Wareham's Zoning Bylaw. Lighting shall be down-lit/shielded to prevent light spillover onto surrounding properties. Management of outdoor lighting shall be the responsibility of the Applicant.
- E.10 Utilities, including but not limited to telephone, electric, and cable, shall be located underground. The contract with the Management Company shall note that no satellite dishes shall be allowed.
- E.11 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Geotechnical Engineer to the Building Commissioner as meeting design specifications, as applicable.

- E.12 The Applicant shall test the soil during construction to confirm soil types in the areas of the infiltration system. Such testing shall be witnessed by the Board's designee. All unsuitable material, if any, discovered in excavation for the infiltration system shall be removed and disposed of in accordance with State and local regulations.
- E.13 Construction activities shall be conducted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 4:00 p.m. on Saturdays. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on the Property during construction.
- E.14 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law. During construction, the site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.15 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 loaming and seeding exposed areas.
- E.16 All dumpsters serving the Project shall be enclosed and covered (with the exception of construction dumpsters used during construction). The Board shall review the dumpster location as part of the approval of the Final Plans if different from what has been shown on the Approved Plans.
- E.17 All retaining walls visible from a public way or direct abutters, as determined by the Director of Planning and Community Development based upon the time of year when such walls would be most visible, shall be constructed in an aesthetic manner. Specifically, retaining walls shall avoid the use of exposed concrete to the greatest extent practicable.

- E.18 Snow shall be stored within the areas of the Property designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage areas, the Applicant shall truck the excess snow off-site.
- E.19 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.20 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to both the residents of the Project and emergency vehicles.
- E.21 The Applicant shall maintain all portions of any public road, whether state or local roads, used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.
- E.22 The Applicant shall comply with DPW requirements regarding curb-cut permits, and shall obtain a State Highway Access Permit, as necessary, from MassDOT.
- E.23 To the extent earth removal is necessary, the Applicant shall prepare an earth removal plan, showing all necessary cuts and fills, and describing the number of truck trips necessary for the earth removal.
- E.24 To the extent the Applicant needs to bring fill onto the Property, such fill shall be clean in nature, and the Applicant shall ensure that it has not been brought from any contaminated source. Any material brought onto the site shall not contain any construction debris, stumps, wood chips, other decomposable organic material, winter treated sand or sand/salt mixtures or parking lot sweepings. No hazardous materials shall be used as fill. No processing of material shall be done onsite.
- E. 25 The existing motel on the Project site shall be vacated and demolished as part of Phase I.

- E. 26 The Community Building shall be built in Phase II. A bond, or other surety, in a form and amount acceptable to the ZBA for construction of the Community Building, shall be submitted and approved by the ZBA before construction begins on Phase II. A driveway with three (3) handicapped parking spaces (paved with asphalt) at the building shall be constructed from the project driveway to the Community Building.
- E. 27 All catch-basins shall have oil/water separators as shown on the Approved Plans.
- E. 28 Project sidewalks and pathways/walkways shall be compliant with the requirements of the Americans With Disabilities Act (“ADA”) and the requirements of the Architectural Access Board (“AAB”). All pathways/walkways (but not sidewalks) shall be paved with stonedust.
- E. 29 This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for the issuance of Building Permits and Certificates of Occupancy by the Building Department under the State Building Code; provided, however, the Applicant shall pay all local fees for such permits or approvals as published in the departmental regulations or bylaws, including but not limited to building permits, inspections, water and sewer connections, and curb cuts.

**F. Traffic/Traffic Safety Conditions / Sidewalks**

- F.1 Access and egress to the Project shall be via Cranberry Highway and Red Brook Road, consistent with the Approved Plans.
- F.2 The Applicant shall ensure that adequate snow storage is provided at the site, and that trash bins and pick-up activity will not block on-site parking or circulation.
- F.3 The Applicant shall ensure that emergency vehicles can adequately maneuver through the site. The Onset Fire Department shall review the Final Plans to ensure compliance with this condition.
- F.4 The Applicant shall request that MassDOT approve plans showing that the planned vehicular access to and from the project site on Red Brook Road include a dedicated left turn lane to enter the site from Red Brook Road. If MassDOT does not approve this, then the Red Brook Road access shall be as shown on the Approved Plans.

- F.5 If prior to the last Certificate of Occupancy in Phase I, the MassDOT roadway improvements on Cranberry Highway have not been completed and if the Project roadway accessing Red Brook Road is not constructed at that time, then (prior to the issuance of the last Certificate of Occupancy for Phase I) the Applicant shall construct a temporary access driveway from Phase 1 to Red Brook Road in a location to be proposed by the Applicant which must be approved by the Board. Such temporary driveway may be built of reclaimed materials and need not be paved.
- F.6 Upon the expiration of two (2) years after the last Certificate of Occupancy is issued for Phase II, the Town Planning Department and Municipal Maintenance Department may review and assess whether a crosswalk with a pedestrian signal shall be added in the location of the Project's driveway on Red Brook Road due to increased pedestrian traffic resulting from the Project. If it is determined that they should be added, then the Town will be responsible for obtaining any and all approvals required for same, including but not limited to any required by MassDOT, and the Applicant shall be required to pay for it

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

- G.1 The Applicant shall provide professional property management and maintenance personnel on the premises during normal daytime hours and an emergency contact name and number for tenants and the Wareham Police Department and Onset Fire Department.

**H. Water, Sewer and Utilities**

- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.
- H.2 All water infrastructure shall be installed in conformance with the Onset Fire District Water Department's technical requirements. The Applicant shall consult with Onset Fire District Water Department prior to the commencement of construction.
- H.3 Fire hydrants shall be placed as shown on the Approved Plans in locations approved by the Onset Fire District Fire Department. If the Onset Fire District Water Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).

- H.4 The service size for the domestic water service should be verified by the Onset Fire District Water Department and information on the fire service size and requirements should be verified by the Onset Fire District Water Department. The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Onset Fire District Water Department.
- H.5 The water and sewer utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town and Onset Fire District Water Department requirements and protocols, except as may be waived herein.
- H.6 Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit and the like.
- H.7 The Applicant shall be responsible for all trash and recycling removal from the Property. The Town of Wareham shall not have any responsibility for trash and recycling pickup at the Property.
- H.8 Prior to the commencement of construction on the Project, the Applicant shall install two (2) permanent water monitoring wells in the northeast corner of the Project site or as otherwise agreed to by the Applicant and the Onset Fire and Water District at locations agreed upon by the Onset Fire District Water Department. The Applicant shall collect and test water quality samples from both monitoring wells on a semi-annual basis prior to commencing other construction work on the Project site until the completion of Phase I construction.
- a. The Applicant shall collect and test water quality samples from both monitoring wells on an annual basis from the completion of Phase I construction until the Applicant declares in writing the final phase has been constructed.
  - b. The Onset Fire District Water Department will be responsible for collecting and testing water quality samples from both monitoring wells after the cessation of Applicant's obligation to do so as per H.8.a
  - c. All samples shall be tested per GW-1 Standard as identified in the Massachusetts Contingency Plan for groundwater tributary to drinking water for IOC, VOC, and SOC by a state certified lab.
    - i. If any samples are found to exceed allowable limits, the Applicant shall pay for the investigation and remediation of the pollutant



source, but only if the Applicant is the responsible party under applicable Massachusetts law.

- d. All water quality sample results shall be sent electronically and via mail to the Onset Fire District Water Department.
- e. The Applicant shall not be required to comply with the testing requirements contained in this section unless the Onset Fire District Water Department provides the Applicant an indemnification and hold harmless agreement from any claims, costs, damages and judgments arising from said District's entering upon the Project site in connection with this testing, except if caused by the Applicant's negligence or the negligence of its agents, employees or contractors.

- H.9 Sewer grinder pumps [model WR484 or WH484, with 7000GPD capacity] consistent with the email correspondence between Applicant's engineer Dominic R. Rinaldi, and Wareham Wastewater Pollution Control Facility ("WPCF") Superintendent Guy Camphina, on August 10 and August 13, 2018 shall be installed in each residential building. This also includes:
- a. 1200 GPD of flow shall be removed with demolition of the motel.
  - b. The Inflow & Infiltration fee of a one-time 5.00 per gallon is to be paid at the start of each phase, for whatever schedule and manner the phases are executed.
  - c. Applicant shall maintain a maintenance contract annually for the grinder pumps and shall provide the WPCF with a copy of same. The maintenance agreement shall address the frequency of cleaning, verifying pump operations by amp draws, structural integrity, control panel operation, alarm system, check valve operation and other regular maintenance items
  - d. Emergency numbers to be provided with annual submission of maintenance contract in the event the owners do not respond in a timely manner.
  - e. A call out alarm system shall be installed
  - f. User fees to be applied after the issuance of occupancy permit for each building.
  - g. There shall be an emergency power back-up generator supplied to the control panels for the grinder pumps.
  - h. Proof of an agreement with a private waste hauler to be available 24/7 in the event of a catastrophic pump failure shall be submitted before an occupancy permit is approved.
  - i. If requested by the Applicant, alternatives to all of the above specifications are acceptable if approved by WPCF Sewer Commissioners.

**I. Wetlands/Environmental Conditions**

- I.1 The Applicant does not propose work within the one hundred foot buffer zone to a bordering vegetated wetland.
- I.2 There will be no storage of any organic matter such as grass clippings, wood chips, stumps, dirt, loam, gravel, sand and/or sand and salt mixture for winter use, or any chemicals, either organic or non-organic, within the 100' Buffer Zone, if applicable.

**J. Other General Conditions**

- J.1 This Decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later, as per 760 CMR 56.05(12)(a). In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time construction authorized by the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- J.2 Construction of the development may occur in three (3) phases, in accordance with the phasing line shown on the Approved Plans and in accordance with the conditions of this permit. Phase II areas disturbed during site grading, clearing and construction of Phase I shall be mulched immediately following cessation of Phase I site work. Limits of clearing shall be no greater than 40 feet beyond phase limits, except for utility installation requirements per phase. If foundation and building permits for Phase II have not been issued within six (6) months of the issuance of the last Certificate of Occupancy in Phase I, the Applicant shall plant Phase II areas disturbed during site grading, clearing and construction of Phase I with naturalized grasses. Construction of Phase II shall commence no later than four (4) years after issuance of the last Certificate of Occupancy in Phase I. Construction of Phase III shall commence no later than three (3) years after issuance of the last Certificate of Occupancy in Phase II. "Construction" shall mean issuance of foundation and building permits. Issuance of foundation and building permits shall be followed by completion of foundation, building, landscaping, and exterior improvements, including parking lots, within twenty-four (24) months.
- J.3 The Applicant shall comply with all local regulations of the Town and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.

- J.4 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.
- J.5 This Decision prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site, except during construction.
- J.6 In the event that the Applicant (or its Management Company) fails to maintain the stormwater management system for the Project in accordance with its operation and maintenance plan, the Town may conduct emergency maintenance and/or repair, as it deems necessary, and the Applicant shall, prior to the issuance of any certificates of occupancy, convey such easement or other rights in a form mutually acceptable to the Town and the Applicant as may be reasonably necessary to complete such repair and/or maintenance. In the event the Town is required to perform such maintenance, the Applicant shall reimburse the Town within forty-five (45) days for all of its reasonable expenses related to such work.
- J.7 The Project entrance way and interior roads, and drainage systems associated therewith shall remain private, and the Town shall not have any legal responsibility for the operation and maintenance of such. The Town shall also have no obligations relating to the proposed recreational area on the Property, the construction and operation of which shall be the sole responsibility of the Applicant.
- J.8 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. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.
- J. 9 There shall be no seasonal rentals allowed.
- J. 10 Each residential building shall provide laundry facilities as shown on the Approved Plans.

- J. 11 The Community Building shall include
  - a. a Management Office,
  - b. a community meeting room,
  - c. an indoor fitness room,
  - d. tables and chairs available for use in the community room
- J. 12. The Applicant shall provide a bus shelter for school and GATRA buses as shown on the Approved Plans.
- J.13. Until the community center is constructed, one [1] unit shall be set aside for the Manager's office and deliveries.
- J.14. In each phase the area cleared shall only be for that phase plus a 40-foot overcut, except for utility installation requirements per phase.
- J.15. One dumpster shall be provided as shown on the plan and an additional dumpster station shall be placed in the northeast corner for Phase II, or as otherwise approved by the Director of Planning and Community Development..

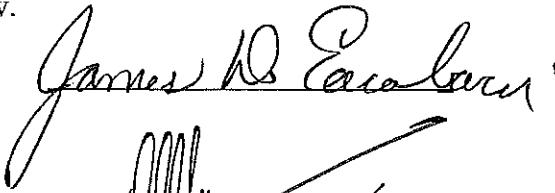
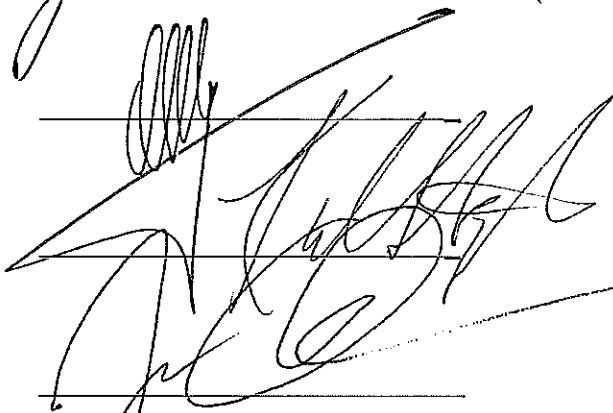

### **DECISION**

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 for the construction of one hundred and fifty (150) rental apartment units pursuant to Chapter 40B, §§ 20-23, for the development described above.

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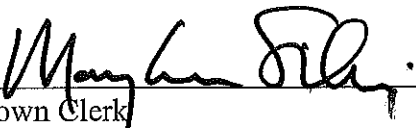
**RECORD OF VOTE**

The Board of Appeals voted 5-0-0, at its public meeting on October 24, 2018, to grant a Comprehensive Permit subject to the above-stated Conditions, with this Decision as attested by the signatures below.

  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

Dated: October 24, 2018

Filed with the Town Clerk on Oct 25, 2018.

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

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

A TRUE COPY  
ATTEST

  
TOWN CLERK

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## EXHIBIT A - WAIVERS

### TOWN OF WAREHAM BYLAWS

#### Note exception and Nuisance by-laws

### TOWN OF WAREHAM ZONING BYLAWS

#### WAIVERS

#### COMPREHENSIVE PERMIT RULES OF THE WAREHAM ZONING BOARD OF APPEALS

(Adopted February 8, 2006)

Section 3.01 (j). Financial information such as a pro forma is not applicable as it is in conflict with 760 CMR 56.05(6) which states that the “Board may request to review the pro forma or other financial statements for a Project only after” certain preconditions have been met. The preconditions stated therein have not been met.

GRANTED

Section 3.03 (b). Fees for services for legal counsel are not applicable as it is in conflict with 760 CMR 56.05(5) which states that “Legal fees for general representation of the Board or other Local Boards shall not be imposed on the Applicant”.

GRANTED

Section 3.40. According to 760 CMR 56.05(5) a reasonable Technical Review (or Consultant Review) fee is appropriate after the Board’s review of the application and determination. According to this Section, the Technical Review Fee required would be calculated at \$23,700 to be included with the application submission. The applicant seeks a waiver from this initial fee of \$23,700 to be paid at the time of submission of the application until the Boards first hearing on the matter wherein an appropriately reasonable fee can be discussed. The Applicant is submitted initial payment of \$5,000 as a reasonable initial deposit for Technical Review.

GRANTED

Section 3.5. This Section states that “no application shall be “duly submitted” in accordance with the General Laws of Massachusetts until such time as all information required in Paragraphs 1-12 below (Complete Application Packet) has been received by the Board of Appeals . . .” (emphasis added). However, no Paragraphs 1-12 below were included in the Comprehensive Permit Rules of the Wareham Zoning Board of Appeals. After inquiring to the Director of Community and Planning Department, a “Comprehensive Checklist” consisting of 16 items was provided. Applicant states the following and requests waivers to the extent necessary from the following checklist items.

8. Documentation in regard to 760 CMR 31.01. 760 CMR 31.00 is outdated reference and this regulation is no longer in effect. So it is unknown as to what is being sought with regards to “760 CMR 31.01.”

GRANTED

10. Pro Forma displaying sources and uses and income stream. As stated above in waiver request from Section 3.01(j), Financial information such as a pro forma is not applicable as it is in conflict with 760 CMR 56.05(6) which states that the “Board may request to review the pro forma or other financial statements for a Project only after” certain preconditions have been met. Those preconditions stated therein have not been met.

GRANTED

11. List of financial interest or ownership. It is unknown as to what specifically this requirement pertains to. If it refers to site control for the subject property, the applicant has submitted documentation establishing site control. If it refers to other financial interest or ownership interest of other property or assets, then as stated above in waiver request from Section 3.01(j), financial information such as a pro forma is not applicable as it is in conflict with 760 CMR 56.05(6) which states that the “Board may request to review the pro forma or other financial statements for a Project only after” certain preconditions have been met. Those preconditions stated therein have not been met.

GRANTED

14 (b). Legal counsel fee. As stated above in waiver request from Section 3.03(b), fees for services for legal counsel is not applicable as it is in conflict with 760 CMR 56.05(5) which states that “Legal fees for general representation of the Board or other Local Boards shall not be imposed on the Applicant”.

GRANTED

16. Construction Review Fee (Town Engineer). It is unknown what this “Construction Review Fee” relates to; however, as stated above in waiver request from Section 3.40, According to 760 CMR 56.05(5) a reasonable Technical Review (or Consultant Review) fee is appropriate after the Board’s review of the application and determination but such fee is for outside consultants, not Town staff. This regulations states that “If, after receiving an application, the Board determines that in order to review that application it requires technical advice in such areas as civil engineering, transportation, environmental resources, design review of buildings and site . . . , it may employ outside consultants” (emphasis added). Thus, for a municipal employee is not appropriate.

## ZONING BYLAW

### TOWN OF WAREHAM

(revised October, 2016)

Pursuant to the Town of Wareham Zoning Map, roughly three-quarters of the southern portion of the Project Site that fronts on Cranberry Highway (Route 28) and Red Brook Road is located in the Strip Commercial (CS) Zoning District and the remaining northeastern portion of the property is located in the Residence 130 (R-130) Zoning District as shown on the Town of Wareham Zoning Map dated August 14, 2017. The Project Site is located in a Groundwater Protection Overlay (Zone II) District; however the proposed project will be serviced by municipal sewer. The Project Site does not



contain any wetlands and is not located within a local historical district.

The development of the entire project is being proposed in three Phases as shown on the Comprehensive Permit Site Plans prepared by BSC Group dated January 12, 2018, revised date of July 20, 2018 (hereinafter "Site Plans") submitted herewith.

Note that pursuant to 760 CMR 56.05(7), waivers are not needed from special permit provisions of a zoning bylaw, but only from the requirements of the underlying as of right zoning provisions.

#### Article 3: Use Regulations

##### Section 311 – Permitted Uses

Applicant requests a waiver from the requirement that only those uses as allowed in Section 320 may be permitted by right in the district for which it is specified.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

##### Section 320 and 321– Table of Principal Use Regulations

Applicant requests a waiver from the requirement of conformance to the Table of Principal Use Regulations as follows:

##### Residential uses

- 5+ family dwelling in new structure not permitted as of right in the R130 Zoning District
- 5+ family dwelling in new structure not permitted as of right in the CS Zoning District

The proposed project is located in the R130 and CS Zoning District to be developed in three Phases.

Phase I – Sixty-three (63) dwelling units in two buildings on Lot 1

Phase II – Sixty-three (63) dwelling units in two buildings on Lot 2 (plus a community building)

Phase III –Twenty-four (24) dwelling units in two buildings on Lot 3

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

##### Section 354 – Table of Principal Use Regulations

Applicant requests a waiver from the requirement that in a 5 or more family dwelling unit building, each dwelling unit shall contain a minimum of 650 square feet of livable floor space, exclusive of closets and bathrooms.

Some of the one bedroom units in the development are listed as 702 gsf. Therefore some of them may be less than "650 square feet of livable floor space, exclusive of closets and bathrooms." Thus, applicant request a waiver from this requirement to the extent necessary.

GRANTED

#### Article 4: Overlay Districts

Section 440 Groundwater Protection Overlay District  
Section 442 – Permitted Uses  
Section 442.1

Applicant requests a waiver from the requirement that a permitted use in the groundwater protection overlay district is a use that is permitted in the underlying zoning district. The proposed project is located in the R130 and CS Zoning District which as stated above in waiver request from Section 320, this use is not a permitted use in the underlying zoning districts.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 442.1(B.) and 443.1

Section 442.1(B) allows any permitted use in the underlying district provided that that maximum lot coverage of the total ground area by all structures, paved areas, and other impervious surfaces does not exceed 15 percent or 2,500 square feet, whichever is greater.

Section 443.1 allows by Special Permit from the Board of Appeals any permitted use under Section 442.1, which exceeds the maximum lot coverage permitted under Section 442.1, provided that the lot coverage does not exceed the maximum permitted in the underlying district, and provided that mitigation for excess runoff is provided.

Note that the Maximum Impervious Surface for the zoning districts are:

CS – 65%

R130 – No Regulation

Applicant requests a waiver from these two sections to the extent necessary to construct the proposed project in the R130 and CS Zoning District (as stated above in waiver request from Section 320, this use is not a permitted use in the underlying zoning districts). Applicant also requests a waiver from any requirement of obtaining a Special Permit.

Applicant seeks a waiver to lot coverages as follows:

Lot 1 / Phase I – 47.8 %

Lot 2 / Phase II – 45.7 %

Lot 3 / Phase III – 54.3 %

Total Development: 48.0%

Thus, all Lots and Phases and the Total Development are proposed to be less than the 65% maximum impervious surface as allowed in the CS zoning district.

GRANTED

Article 6: Density and Dimensional Regulations

Section 611 – Lot Area, Frontage, Setback and Height Requirement

Applicant requests a waiver from the requirement that all principal and accessory buildings shall be subject to the requirements outlined in Section 620, in its entirety. See waiver request from Sections 620, 621, and 623 as listed below.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

**Section 613 – One Principal Residential Building Per Lot**

Applicant requests a waiver from the requirement that not more than one principal residential building with accessory structures having a residential use allowed in the respective district shall be erected, placed or converted on any lot.

Phase I located on Lot 1 – Sixty-three (63) dwelling units in two buildings primarily located in the CS zoning district with a small portion of the rear lot line located in the R130 zoning district.

Phase II located on Lot 2 - Sixty-three (63) dwelling units in two buildings on Lot 2, (plus a community building) located in the CS zoning district (front portion) and in the R130 zoning district (rear portion).

Phase III located on Lot 3– Twenty-four (24) dwelling units in one building on Lot 3 located in the CS zoning district.

Total Development of all three Phases: 150 dwelling units in five buildings (plus a community building) in the CS (front portion) and R130 (rear portion) zoning districts. Applicant requests this waiver for each Phase individually and for the total development.

**GRANTED**

**Section 615 – Lot Shape Factor**

Applicant requests a waiver from the requirement that all lots created for building purposes after the effective date of the By-Law shall be shaped so that they contain within the buildable upland area a circle of a diameter, not less than the frontage requirement of the zoning district within which the lot is located.

CS for “Other Residential Use” Lot Frontage Requirement is 250 feet

R-130 for “Other Residential Use” is listed as “use not allowed” (NA)

Applicant requests a waiver from this Lot Shape requirement for:

Lot 2 / Phase II: – Lot 2 does contain a 250 foot circle of a diameter; however, this circle is located half in the CS zoning district and half in the R-130 zoning district.

Lot 3 / Phase III

**GRANTED**

**Section 620 – Table of Dimensional Regulations**

Applicant requests a waiver from the requirement of minimum and maximum lot and building dimensions shall be as specified in the following tables, specifically Section 621 Residential Districts table, zoning district R-130 and Section 623 Commercial Districts table as follows:

**Section 621- Residential Districts – R-130**

Note that in the RS130 zoning district, “Other Residential Use” the requirements as provided for in this Section 621 is listed as “use not allowed” (NA) except as to maximum building coverage with is listed as “no regulation” (NR). Thus, applicant seeks a waiver from this section of the bylaw to any extent necessary to provide for the waivers requested below in Section 623 – Commercial Districts – CS.

**GRANTED**

**Section 623- Commercial Districts – CS**

Applicant requests a waiver from the requirement of minimum and maximum lot and building dimensions for “Other Residential Use”, as stated below:

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Minimum Frontage requirement of 250 feet:

Lot 1 / Phase I – 149 feet

Lot 2 / Phase II – 0\* feet

Lot 3 / Phase III – 100 feet

\*Lot 2 as shown on the Site Plan has zero frontage. However, after Phase I has been completed, Lot 2 will have access (and in essence 149 feet of frontage) from Lot 1.

GRANTED

Minimum Front Setback of 30 feet:

Lot 2/ Phase II – 25 feet\*

\*This 25 foot setback is determined from the southern lot line.

GRANTED

Minimum Side/Rear Setback of 20 feet:

Lot 1 / Phase I – 11 feet (side)

Lot 2 / Phase II – 8 feet (rear)

GRANTED

Maximum Height of 40 feet:

For a building height of up to 44 feet.

GRANTED

Distance from Residential of 40 feet:

Applicant seeks a waiver from this dimensional requirement to the extent necessary to construct the proposed project.

From the requirement as listed and from the zoning bylaw itself, it is difficult to ascertain what “distance to a residential” means; it is assumed that this requirement is a minimal distance of 40 feet from a building to an abutting residential building. However, if that is not accurate, the Applicant requests any waiver necessary from this requirement to construct the proposed development as shown on the Site Plans.

GRANTED

Section 625 – Accessory Buildings

Applicant requests a waiver from the requirement as stated in footnote A. that an Accessory Building have a minimum front setback equal to or greater than the existing principal building’s front setback in a Commercial District. The proposed project includes a Community Building in Phase II / Lot 2. The principal residential building of Phase II / Lot 2 is being Building “F” located 25.2 feet from the front lot line. The Community Building is set back 25 feet from the proposed lot line.

GRANTED

Article 7: Design Standards and Guidelines

Section 760 – Design Standards and Guidelines for Commercial Districts (Sections 760 through and inclusive of Section 765)

Applicant requests a waiver from the applicability of this section of the bylaw in its entirety (Section 760 through and inclusive of Section 765) to the extent necessary to construct the proposed project. Applicant requests this waiver for each Phase individually and for the total development.

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Without limiting the generality of the foregoing, the Applicant requests a waiver from the following specific requirement of this section of the zoning bylaw.

GRANTED

Section 763 – Landscape Design Standards

Section 763.3 – Applicant requests a waiver from the requirement of planting one tree for every 10 cars within parking lot aisles which would require a total of 27 trees to be planted. Applicant is proposing a total of 11 trees in dedicated islands for the three Phases as follows:

Lot 1 / Phase I – Eleven trees required – four proposed

Lot 2 / Phase II – Twelve trees required – four proposed

Lot 3 / Phase III – Four trees required – three proposed

Total Development: Twenty-Seven required – eleven proposed

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 763.4 – Applicant requests a waiver from the requirement of a landscaped buffer zone of 15 feet to be provided along the front street line. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 764 – Architectural Design Guidelines

Applicant requests a waiver from the applicability of this section of the bylaw in its entirety to the extent necessary to construct the proposed project. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Article 8: Alternative Residential Site Development

Section 820 – Multiple Family and Apartment Dwellings

Section 822 – General Provisions

Applicant requests a waiver from the requirement that multiple family or apartment dwelling development shall comply with the provisions of this section. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 823 – Development Standards General

Applicant requests a waiver from the requirement that each dwelling unit in a multiple family or apartment dwelling shall contain a minimum of 650 square feet of livable floor area, exclusive of closets and bathrooms.

Some of the one bedroom units in the development are listed as 702 gsf. Therefore some of them may be less than “650 square feet of livable floor space, exclusive of closets and bathrooms.” Thus, applicant request a waiver from this requirement to the extent necessary.

GRANTED

Section 824 – Development Standards -MR-30 and Commercial Districts

Section 824.1

Application request a waiver from the requirement that the minimum lot area for multiple

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family dwellings or apartments shall be five acres as follows:

Phase	Lot	Acreage
Phase I	Lot 1	136,460 sq. ft.
Phase II	Lot 2	151,374 sq. ft.
Phase III	Lot 3	57,094 sq. ft.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 824.3

Application request a waiver from the requirement that the number of dwellings or apartments shall not exceed the number of dwellings that would be allowed for a conventional single-family residential development.

Phase	Lot	Zoning	District	Single-family Minimum Lot Area	Proposed Lot Area sq. ft.	No. of Units Proposed
Phase I	Lot 1	CS	30,000	136,460	63	
Phase II	Lot 2	CS & R130	30,000	2 & 130,000	151,374	63
Phase III	Lot 3	CS	30,000	57,094	24	
Total Development					344,928	150

1 Lot 1 is mostly in CS zoning district but a small rear portion of land area is located in the R130 zoning district. Both Buildings (A & B) are located in the CS zoning district.  
 2 Building E is located in the R130 zoning district and Building F is located ½ in the R130 zoning district and ½ in the CS zoning district.

GRANTED

Section 824.5

Application request a waiver from the requirement of screening and buffers between the development and adjacent properties per the dimensional requirements as set forth in this section. Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 824.6

Application request a waiver from the requirement that the total number of apartment dwelling units to be developed at one time or in any successive stages exceeds 12 dwelling units, the development shall include an outdoor recreation area with at least 500 square feet per unit for each two bedroom unit plus 1,000 square feet per unit for each unit of three or more bedrooms. Applicant requests waiver as follows.

Phase	Lot	# of 2 bed units (500 s.f. per unit)	# of 3 bed units (1,000 s.f. per unit)	Required Outdoor Recreation Area	Proposed Outdoor Recreation Area
I	Lot 1	45	7	29,500	33,200 appx.

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II	Lot 2	45	7	29,500	35,800	appx.
III	Lot 3	16	3	11,000	1,000	appx.
Total Development				122	20	70,000 70,000 appx.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Section 826 – Application Submittals

Applicant requests a waiver from the requirement of submitting plans to the Planning Board for multifamily development. The proposed project is being permitted under a Comprehensive Permit and the Zoning Board of Appeals stands in the shoes of the Planning Board.

GRANTED

Article 9: Parking

Section 920 – Number of Parking Spaces Required

Section 921 – Table of Parking Regulations

Applicant requests a waiver from requirement of the minimum parking spaces as follows:

Phase	Lot	# of 1 bed units (1.5 spaces per unit)			# of 2 or more bed units (2 spaces per dwelling unit)	
		11	52	121	Total Required Spaces	Proposed Spaces
I	Lot 1	11	52	121	106	
II	Lot 2	11	52	121	117	
III	Lot 3	5	19	46	41	
Total Development				27	123	287 264

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

Article 10: Landscaping

Section 1020 – Applicability (Section 1020 through and inclusive of Section 1070)

Applicant requests a waiver from the applicability of this section of the bylaw (Section 1020 through and inclusive of Section 1070) in its entirety to the extent necessary to construct the proposed project as shown on Overall Planting Plan, Sheets L-1.0, L-1.1, and L-1.2.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED to the extent necessary to provide landscaping as shown on the above-referenced Overall Planting Plan.

Article 11: Signs

Applicant requests a waiver from the applicability of this section of the bylaw in its entirety to allow for the construction and placement of signs as provided for in Condition

E.6 to be determined and approved by the Zoning Board of Appeals. Appropriate signage shall be shown on the Final Plans. The Applicant has requested a waiver from the Town of Wareham Zoning Bylaws regarding signs, which shall be subject to the submittal and review of Final Plans depicting the proposed signage.

GRANTED subject to the review and approval by the Board of the signage shown on the Final Plans

#### Article 12: Performance Standards

##### Section 1201 – Land Clearing and Grading

##### Section 1204 – Applicability

Applicant requests a waiver from the applicability of this Section of the bylaw to the requirement that no person shall under take clearing or grading activities of an area greater than 50,000 square feet, without first obtaining a Site Alteration Special Permit from the Planning Board.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

##### Section 1230 – Analysis of Development Impact: Impacts on Traffic and Circulation

Applicant requests a waiver from applicability of all Sections of this bylaw in its entirety (Section 1230 through and including 1234) and to the requirement that the construction of the project parking spaces shall conform to the Levels of Service and Mitigation standards contained in said sections.

A Traffic Impact Study has been prepared by McMahon Transportation Engineers & Planners dated November 2017 and has been submitted to the Zoning Board of Appeals and peer reviewed by TEC The Engineering Group dated June 6, 2018. Responses to the peer review were submitted by McMahon Transportation Engineers & Planners dated June 25, 2018 and by BSC Group dated July 23, 2018.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED

##### Section 1240 – Analysis of Development Impact: Lighting

Applicant requests a waiver from the applicability of this Section of the bylaw in its entirety (Section 1240 through and including 1254).

Lighting Plan is shown on the Overall Photometrics Plan, Sheets C-7.0, C-7.1, and C-7.2.

Applicant requests this waiver for each Phase individually and for the total development.

GRANTED to allow lighting as shown on the above Lighting Plan

#### Article 15: Site Plan Review

##### Section 1520 – Applicability

Applicant requests a waiver from the applicability of Site Plan Review. Under Chapter 40B, the Zoning Board of Appeals sits in lieu of all other local boards and departments, and all such boards and departments in any event shall have the opportunity to provide comments and suggestions to the Zoning Board of Appeals.

Applicant requests this waiver for each Phase individually and for the total development.



Decision on Application for Comprehensive Permit  
Dakota Partners, Inc.  
3102 Cranberry Highway, Wareham, MA  
October 24, 2018  
Page 39 of 40

GRANTED

RULES & REGULATIONS GOVERNING THE SUBDIVISION OF LAND  
TOWN OF WAREHAM, MASSACHUSETTS  
PLANNING BOARD

(March 2013, Originally Adopted March 4, 1977)

Applicant requests a waiver from the Town of Wareham's Rules & Regulations Governing the Subdivision of Land and the requirements for submitting an application for a subdivision plan to the Planning Board for approval and from the Rules and Regulations to the extent necessary to construction the proposed project. Applicant is requesting that the Zoning Board of Appeals approve and endorse the proposed subdivision through the Comprehensive Permit process.

GRANTED

BOARD OF WATER AND SEWER COMMISSIONERS,  
WATER DEPARTMENT AND SEWER DEPARTMENT

The Applicant requests that any permits or approvals required to connect to the municipal sewer system and the municipal water system be granted by the Zoning Board of Appeals as part of the Comprehensive Permit, and that any requirement to apply to the Board of Selectmen and/or Board of Sewer Commissioners and/or the Wastewater Treatment Plant Facility, the Onset Fire District Water Department, or any other board or commission related to the sewer system or water system be waived.

GRANTED

Likewise, waivers are requested from any bylaws, rules or regulations related to the foregoing, other than technical engineering matters for the design and construction of the sewer lines and water system for the project.

GRANTED

BY-LAWS OF THE TOWN OF WAREHAM  
(Revised: April 25, 2016)

Division IV

Article II – Street Regulations Governing Construction Rules and Regulations for Construction within the Streets under Jurisdiction of the Town of Wareham Permits

Applicant requests a waiver from Article II and request any permits or approvals required be granted by the Zoning Board of Appeals.

GRANTED

Division V – Rules and Regulations relating to the use of Public and Private Sewers and Drains

Article II – Use of Public Sewers Required

Decision on Application for Comprehensive Permit  
Dakota Partners, Inc.  
3102 Cranberry Highway, Wareham, MA  
October 24, 2018  
Page 40 of 40

Section 2. Sewer Construction in New Developments:

3. Applicant requests a waiver from the requirement that the design of any proposed sewer construction must be approved by the Commissioners prior to issuance of a permit.

GRANTED

Article III – Building Sewers and Connections

Section 1. Applicant requests a waiver from the requirement of obtaining a written permit from the Commissioners for any connections with or opening into, use, alteration or disturbance of any public sewer or appurtenance.

Section 2. Applicant requests a waiver from the requirement of submitting an application for a residential service to the Commissioners.

GRANTED

Regarding the above requested waivers from Division V Articles, the applicant is simply requesting a waiver from the necessity of applying to the Commissions for the approval of construction and maintenance of the sewer design. Please note that the Applicant will comply with all technical requirements related to the municipal sewer system.

CURB CUTS

To the extent that a curb cut may be required under some Town of Wareham bylaw or regulation from the Board of Selectmen or some other town board, commission or department, the applicant request a waiver and request that the Zoning Board of Appeals issue such curb cut.

GRANTED

TOWN OF WAREHAM

ABUTTERS LIST

3102 CRAN HWY

MAP 131 LOT Q1

abutters_id_field	abutters_owner1	abutters_owner2	abutters_address	abutters_address2	abutters_town	abutters_abutters_zip	abutters_bookpage	abutters_location
131-PC	NUOVO FRANK J	ANGUS DONALD H TRUSTEE	C/O NANCY ANGUS	PO BOX 270	BUZZARDS BAY	MA 02532	354/ 154	3092 CRAN HWY
131-1032	NUOVO FRANK J	ANGUS DONALD H TRUSTEE	C/O NANCY ANGUS	PO BOX 270	BUZZARDS BAY	MA 02532	6014/ 334	3100 CRAN HWY
131-1031	ONSET FIRE DISTRICT		PO BOX 44		ONSET	MA 02558	2927/ 233	0 CRAN HWY
10-1004	GOULD WAREHAM LLC		60 CUTTER MILL RD	SUITE 303	GREAT NECK	NY 11021	34378/ 183	3105C CRAN HWY
131-1035	HADLEY MICHAEL ALAN		PO BOX 282		SAGAMORE	MA 02561	12139/ 255	3104 CRAN HWY
131-1034	HADLEY MICHAEL ALAN		PO BOX 282		SAGAMORE	MA 02561	12139/ 255	3104 CRAN HWY
8-1012	DEXTER LINDA R TRUSTEE	OF DEXTER REALTY TRUST	PO BOX 1723		ONSET	MA 02558	10815/ 173	3105B CRAN HWY
8-1013/A	DEXTER LINDA R TRUSTEE	OF DEXTER REALTY TRUST	PO BOX 1723		ONSET	MA 02558	10815/ 173	3105B CRAN HWY
8-1013/B	LEGER MELISSA A		PO BOX 677		E WAREHAM	MA 02538	44258/ 305	3107 CRAN HWY
8-1014	MARINO GUY TRUSTEE OF	LPZ REALTY TRUST	44 CANTERBURY DR		PLYMOUTH	MA 02360	43176/ 28	3109 CRAN HWY
8-1000	CHRISTY'S REALTY LIMITED PTSH	CO TAX DEPT #92564	PO BOX 711		DALLAS	TX 75221-0711	16106/ 16	3106 CRAN HWY
131-138	ONSET FIRE DISTRICT		PO BOX 44		ONSET	MA 02558	10311/ 302	8 SEMINOLE LN
131-LC8	ONSET FIRE DISTRICT		PO BOX 44		ONSET	MA 02558	4454/ 285	16 SHAWNEE DR
131-LC1	COLETTI PETER A	COLETTI KIRSTEN U	699 PLYMOUTH ST		MIDDLEBORO	MA 02346	41892/ 132	6 SEQUEIRA LN
131-134	COLETTI PETER A	COLETTI KIRSTEN U	699 PLYMOUTH ST		MIDDLEBORO	MA 02346	41892/ 132	10 RED BROOK RD
131-F6	MOORE PATRICIA A		PO BOX 613		BUZZARDS BAY	MA 02532	4869/ 43	12 SHAWNEE DR
131-LC2	COLETTI PETER A	COLETTI KIRSTEN U	669 PLYMOUTH ST		MIDDLEBORO	MA 02346	41892/ 132	12 RED BROOK RD
131-F5/B	ONSET FIRE DISTRICT		PO BOX 44		ONSET	MA 02558	4518/ 380	0 SHAWNEE DR

CERTIFIED LIST OF ABUTTERS AS

THEY APPEAR ON OUR TAX ROLLS

AS OF 12-15-17



ASSESSORS OFFICE



President  
*Soni Gupta*

March 29, 2018

Vice President  
*Charleen Regan*

Wareham Zoning Board of Appeals  
Memorial Town Hall

Vice President  
*Amy Schectman*

54 Marion Road, 2<sup>nd</sup> Floor  
Wareham, MA 02571

Treasurer  
*Joseph Flatley*

Dear Chairperson:

Clerk  
*Naomi Sweitzer*

As you may be aware, Citizens' Housing and Planning Association (CHAPA) is the monitoring agent for six Chapter 40B developments in Wareham: 68 Fearing Hill Road, Carleton Place, Cedar Farm Estates, Cromesett Landing, Hunter Estates, and Swan Landing. CHAPA is a statewide non-profit organization based in Boston. We were designated by the Zoning Board of Appeals and MassHousing to serve in this capacity.

Chief Executive Officer  
*Rachel Heller*

The purpose of this letter is to provide the Zoning Board of Appeals with an annual update on the status of the Town's Chapter 40B developments.

As the monitoring agent, CHAPA will review refinance requests from affordable unit owners and coordinates any resales of affordable units. We coordinated three resales of affordable homes in Wareham in 2017, two at Carleton Place and one at 68 Fearing Hill Road. We did not receive any refinancing requests for CHAPA monitored affordable homes in Wareham in 2017

If you have any questions regarding our role as a monitoring agent please contact Carol Marine at CHAPA at 617-742-0820 x114 or at [cmarine@chapa.org](mailto:cmarine@chapa.org).

Sincerely,

Karen Wiener  
Chief Operating Officer

Cc: Greg Watson, MassHousing

**OSD LLC**  
*Environmental Consultants*

March 19, 2018

Mr. Kevin Sampson  
Water Superintendent  
Onset Fire District  
15 Sand Pond Road  
Onset, Mass. 02558

Re: Proposal to Conduct Review of the Proposed Woodland Cove Development  
off of Cranberry Highway

Dear Mr. Sampson:

OSD LLC, dba OSD Engineering Consultants in MA, welcomes the opportunity to work with you and the Onset Fire District (OFD) water department staff to review the impacts of the proposed Woodland Cove development on the Onset Fire District's water supply and distribution system.

The review work will include review of preliminary plans and reports, review and development of demand estimates (as required), and evaluation of proposed system demands on the water distribution and supply systems. If the proposed new development significantly impacts the town's ability to deliver adequate water pressure, quality and quantity to its customers, we will recommend modifications to the proposed drainage system and upgrades to the existing water distribution system to mitigate these impacts.

To do this work, we request that the developer provide the following information regarding the new development:

1. Average day demand
2. Maximum day demand
3. Fire flow demand
4. Fire flow test reports
5. Location of any underground storage tanks
6. Location of all drainage system assets in Onset's Zone II
7. Location of all potential hazardous material and fuel storage areas in Onset's Zone II
8. Location of all infiltration BMPs, estimated TSS removal efficacy and proposed pretreatment to removes TSS
9. Rationale for classifying or not classifying infiltration BMPs as Underground Injection Control (UIC) wells
10. Determination of whether or not proposed infiltration BMPs will allow the movement of fluid containing any contaminants into underground sources of water, and whether or not those contaminants may cause a violation of any

238 Bedford St  
Suite 9  
Lexington, MA 02420

Phone: 781-538-4636  
Fax: 781-538-4637  
[www.osd-ec.com](http://www.osd-ec.com)

Submitted values are:

==What does this comment regard?==

Choose One: Community planning

Please include any questions or comments: To the Zoneing board in regard to your meeting tonight. ( please forward this if you are not the correct party)

I am unable to attend to night due to the flu. But I would like to still voice my strenuous objections to 1 the project as a whole. 2 the amount of units being forced on the town 3 the terrible burden this will place on all our infrastructure at a time, we are inundated with too many expenditures and no way to pay for them 4 the location which is too bust and not a practical location for this type of housing project. 5 the school system inability to keep a school open due to lack of funds 6 the school buildings in serious need of repair or replacement. This is a ridicules notion that is going to be a Hugh drain on our town and resources all because a so called outside builder wants to make money off us. I pray if you can't stop this then you find a way to not make it worth their while to continue this folly.

==Please provide the following information:==

Your Name: Dorothy Turner

Your E-mail Address: [ddturner56@comcast.net](mailto:ddturner56@comcast.net)

Phone Number:

Organization:

==Address==

Street: 172 Pineview Ter

City: West Wareham

State: Massachusetts

Zipcode: 02576

The results of this submission may be viewed at:

<http://www.wareham.ma.us/node/31/submission/1873>



# Town of Wareham Planning and Community Development

54 Marion Road  
Wareham, MA 02571-1428

Phone: (508) 291-3100 x6501  
Fax: (508) 291-3116  
Email: kbuckland@wareham.ma.us

Kenneth Buckland, AICP, Director  
Jasmin Campos, Dept. Assistant

## INFORMATION

February 28, 2018

RE: Basic Town Data / Woodland Cove Apartments c.40B Affordable Housing Project

## PROJECT

Applicant: Dakota Partners

Location: 3102 Cranberry Highway

Proposal: Six, 3- and 4-Story Buildings  
174 Rental Units, Total  
106 Units, for renters at 60% Area Median Income

## TOWN

Status on Subsidized Housing Inventory: [as of 9/114/2017]

Total Housing Units	9,880
# of Subsidized Units:	764
% Subsidized:	7.7%
% Subsidized with Project:	9.5%

Wareham Population: 22,601 people [2016]

People/household, Average: 2.29

Median Household Income: \$59,662

Area Median Income: [Limits of 60% AMI for Tax Credit Subsidy]

1-person	2-persons	3-persons
\$43,440	\$49,680	\$55,860

Housing Production Plan: State approved 8/13/13; expires 8/12/18



## WAREHAM WATER POLLUTION CONTROL FACILITY

6 Tony's Lane  
Wareham, MA 02571  
Telephone (508) 295-6144  
Fax (508) 291-0155  
TTY 1-800-439-2370

Guy Campinha, Director

February 26, 2018

Wareham Zoning Board of Appeals  
54 Marion Road  
Wareham, MA 02571

Re: Woodland Cove, 3102 Cranberry Hwy.

Attention: Nazih Elkallassi, Chairman

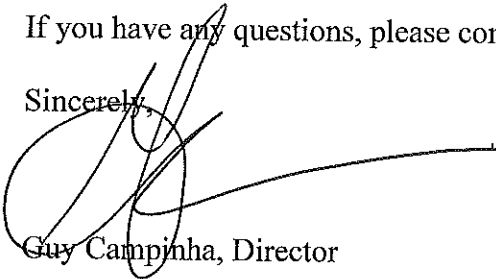
Dear Mr. Elkallassi:

At the Board of Sewer Commissioners meeting on February 22, 2018, the Board voted unanimously to support the recommendation of the Sewer Superintendent in regards to the Woodland Cove proposed 40B project. The recommendations are:

- A need analysis of the sewer pipes, manholes, pump stations (wetwells) at Depot Street and Dick's Pond pump stations;
- The cost for peer review by our engineers be borne by proponents of the project;
- Mitigation of grease and rags potentially entering into the sewer system, and
- Any other mitigations that the Zoning Board determines are warranted.

If you have any questions, please contact our office.

Sincerely,



Guy Campinha, Director

GC/rbf

cc: Board of Sewer Commissioners

BETA  
Engineering





Town of Wareham  
54 Marion Road  
Wareham, MA 02571

SELECTMEN'S OFFICE  
Phone: 508.291.3100  
Fax: 508.291.3116  
E-mail: [selectmen@wareham.ma.us](mailto:selectmen@wareham.ma.us)

Peter W. Teitelbaum, Esq., Chairman  
Alan H. Slavin, Clerk  
Patrick G. Tropeano  
Anthony R. Scarsciotti, Jr.

February 26, 2018

*Request(s)  
for Studies*

Chairman Nazih Elkallassi,  
Wareham Zoning Board of Appeals  
Wareham Town Hall  
54 Marion Road  
Wareham, MA 02571

Re: Proposed Woodland Cove 40B Housing Project

Dear Chairman Elkallassi -

On behalf of the Wareham Board of Selectmen, I write regarding the above-referenced 40B project, to express our concerns about the potential impacts of the project.

The project, as presently proposed, calls for 174 units to be built, the majority of which would be multi-bedroom apartments. If an average of four people per unit is realized, that would mean the project would house 700 people, the majority of whom would not be current residents.

It should go without saying that a project of this unprecedented size with an anticipated influx of several hundred new residents who would increase our population by two or three percent within our small town will have enormous impacts upon public services and infrastructure. Accordingly, the purpose of this correspondence is to formally request that the Zoning Board of Appeals require the developer to pay for studies of the various impacts to public services and infrastructure, as well as peer review, in order to learn the extent and nature of such impacts so that the Zoning Board of Appeals can formulate the appropriate mitigation requirements, should this project go forward.

Among the public services that will be substantially impacted are:

- a) the Wareham Public Schools;
- b) the Wareham Police Department;
- c) the Wareham Emergency Medical Service;
- d) the Wareham Health Department;
- e) the Wareham Sewer Department;
- f) the Wareham Department of Natural Resources (Animal Control Division);
- g) the Onset Fire Department;
- h) the Wareham Fire Department;
- i) the Onset Water Department; and
- j) the Massachusetts Department of Transportation (which maintains Cranberry Highway);

cc: Board of Selectmen  
Derek Sullivan, Town Administrator  
Kimberly Shaver-Hood, Superintendent of Schools  
Guy Campinha, Director of Water Pollution Control Facility  
Garry Buckminster, Director of Natural Resources/Harbormaster  
Kevin Walsh, Chief of Police  
David Evans, EMS Director  
Conservation Commission  
Planning Board  
Board of Health  
Wareham Fire District  
Onset Fire District  
Onset Water Commissioners  
Carrie Lavallee, MassDOT  
Pamela Haznar, Mass DOT



1264 Main Street  
 Waltham, MA 02451  
 (781) 899-4002  
 www.DakotaPartners.net

# Transmittal

Transmittal No. 001

<b>Sent To</b>	
<b>Company:</b>	Town of Wareham
<b>Name:</b>	Zoning Board of Appeals
<b>Address:</b>	54 Marion Road Wareham, MA 02571
<b>Phone:</b>	508-291-3100 ext. 6500
<b>Fax:</b>	
<b>E-mail:</b>	

<b>Sent From</b>	
<b>Company:</b>	James O'Brien
<b>Name:</b>	Dakota Partners
<b>Address:</b>	1264 Main Street Waltham, MA 02451
<b>Phone:</b>	781-733-6851
<b>Fax:</b>	
<b>E-mail:</b>	jobrien@dakotapartners.net

<b>Project Information</b>	Woodland Cove
<b>Project:</b>	3102 Cranberry Highway
<b>Address:</b>	Wareham, MA 02532

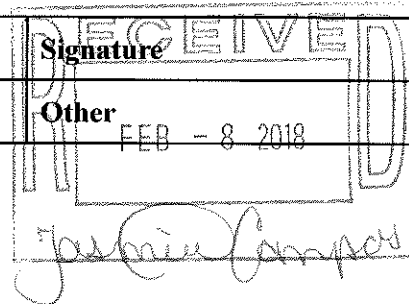
<b>Sent Date:</b>		02/08/2018	
<b>Sent Via:</b>			
	<b>E-Mail</b>		<b>Fax</b>
X	<b>Hand Delivered</b>		<b>UPS</b>
	<b>USPS</b>		<b>FedEx</b>
<b>Tracking #:</b>			

<b>Subject</b>
Application for Comprehensive Permit

<b>Comments</b>

Item #	# of Copies	Description
1	5	Comprehensive Permit Application Additional Copies
2	2	Dakota Partners, Inc. Executed W-9
3	1	Check No. 1952, Wareham Week/Legal Advertisement
4	1	Check No. 1951, Town of Wareham/Abutter Notification Mailing Fee

<b>Transmitted For:</b>			
X	<b>Approval</b>		<b>Information</b>
	<b>Your Records</b>		<b>Selection</b>



# *Charles L. Rowley, PE, PLS*

*Consulting Engineer and Land Surveyor*

5 Carver Road  
PO Box 9  
West Wareham, MA 02576

Tel: 508-295-1881  
Cell: 508-295-0545  
E-mail: [csr63@verizon.net](mailto:csr63@verizon.net)

February 7, 2018

Town of Wareham Board of Appeals  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

Re: Peer Review Estimate for  
Comprehensive Permit Application  
Woodland Cove Apartments  
3102 Cranberry Highway

Attention: Nazih Elkallassi, Chairman

Dear Chairman Elkallassi:

I am in receipt of the application package for the above referenced project as prepared for Dakota Partners, Inc. Included in the package are the application, traffic study, drainage report and project plans. The following is a summary of the work to be done to provide the Board of Appeals with technical review information and recommendations for consideration.

1. Review of Wareham Zoning By-Law, Board of Appeals Comprehensive Permit Rules and Regulations and Wareham Subdivision Rules and Regulations with respect to application content,
2. Review of Comprehensive Permit Application document,
3. Review of Traffic Study,
4. Review of Drainage Study,
5. Review of 760 CMR 56 for information relative to the project requirements,
6. Review of Project Plans for content and for relevant engineering design,
7. Attend Public Hearings,
8. Prepare and submit reports to Board of Appeals of the various reviews completed with comments and recommendations for Board consideration,
9. Prepare and submit responses to the applicant's consultants after the initial review summary has been submitted,
10. Attend staff meetings as appropriate and as necessary during the permitting process.

The cost of this work as outlined above is \$6300.00. Work will commence on the review after receipt of notice from the Planning Office that a 53G account has been established and that the review has been authorized.



Date: 2/1/2018

## Ch. 40B Technical Review Assistance Application

Please speak to Community Assistance staff to discuss your project before requesting an application.

Laura Shufelt: 857.317.8582 or lshufelt@mhp.net

### CONTACT INFORMATION

Municipal Contact for Application	Kenneth Buckland	ZBA Chair	Nazih Elkallassi	Chief Elected Official	Peter Teitelbaum
Address	Town Hall 54 Marion Road	Address	Town Hall 54 Marion Road	Address	Town Hall 54 Marion Road
City/Town/Zip	Wareham 02571	City/Town/Zip	Wareham 02571	City/Town/Zip	Wareham 02571
Phone	508.291.3100 x6501	Phone	508.294.5103	Phone	617.974.2868
Email	kbuckland@wareham.ma.us	Email	massliving@aol.com	Email	pteitelbaum@wareham.ma.us

### PROJECT INFORMATION

Project Name: Woodland Cove Apartments	Developer: Dakota Partners
Principals: Steven Kaminski	Attorney: Peter Freeman, Freeman Group
Consultants: BSC Group	Engineer: BSC Group
Project Address: 3102 Cranberry Highway	

### DEVELOPMENT SITE & ZBA MEETINGS

Number of Units Proposed: Total 174 Affordable 106

Project Type: Rental  Homeownership

Size of Site: 8.63 acres

Age-restricted? Yes  No

Date Permit Application Filed with ZBA: 1/31/18

First Hearing Date? 2/28/18

Is 1st Hearing within 30 days of application? Yes  No

Day/Time ZBA meets? 6:30pm

Have hearings been held already for this project? Yes  No

If Yes, dates? \_\_\_\_\_

**SITE APPROVAL/ELIGIBILITY LETTER:**

What is the source of the project eligibility letter? DHCD

Date of Project Eligibility Letter 1/19/18

*Please provide a copy of the letter with this application.*

Did the municipality submit comments to the Subsidizing Agency? Yes  No

*Please provide a copy of the comment letter with this application.*

What specific review issues would you like assistance?

pre-hearing training, design, impacts on services, negotiations

What are the main municipal concerns with the project?

Density and management

Does municipal staff or ZBA members have prior experience reviewing comprehensive permits ?

Yes  No  If yes, how much? \_\_\_\_\_

Does the municipality have a Housing Production Plan that addresses affordable housing?

Yes  No

If yes, is the plan approved by DHCD? Yes  No  Certified? Yes  No

Has the municipality adopted Comprehensive Permit review rules? Yes  No

*If yes, please include a copy of the rules with this application.*

Who is the counsel/attorney for the ZBA on this project?

Rich Bowen, Town Counsel

Please list the Comprehensive Permit applications submitted to the municipality in the last 5 years .

NAME OF PROJECT	FUNDING SOURCE	APPROVED/DENIED	DATE

Which consultant does the ZBA prefer?

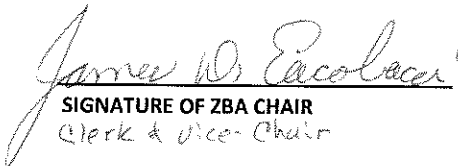
1. \_\_\_\_\_

2. \_\_\_\_\_

  
SIGNATURE OF CHIEF ELECTED OFFICER

2-16-18  
DATE

PETER TEITELBAUM  
PRINT NAME AND TITLE

  
SIGNATURE OF ZBA CHAIR  
Clerk & Vice-Chair

2-7-2018  
DATE

James D. Eacobacci  
PRINT NAME



## MASSACHUSETTS HOUSING PARTNERSHIP

# CHAPTER 40B TECHNICAL ASSISTANCE PROGRAM GUIDELINES 2018

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### OVERVIEW

The Massachusetts Housing Partnership (MHP) provides technical assistance to local Zoning Boards of Appeal (ZBA) in the review of permit applications for Comprehensive Permits pursuant to Chapter 40B of the Massachusetts General Laws (“Chapter 40B”) and the regulations promulgated there under at 760 C.M.R. 56.00 (the “Regulations”).

The purpose of the MHP Chapter 40B Technical Assistance Program is to assist the Zoning Board of Appeals, and other relevant municipal boards, in the review of specific Chapter 40B development proposals. MHP provides awards of up to \$15,000 to municipalities to pay for third-party consultants to work with the ZBA to increase local capacity and to assist in the review and permitting process for Chapter 40B Comprehensive Permit projects. Communities that have achieved 10% on the Subsidized Housing Inventory or that have been certified by DHCD to have an affordable housing inventory that is at or above 10% or exceeds 1.5% of the land zoned for residential, commercial or industrial use are not eligible for the 40B TA Program.

Since the inception of this program in 1999, most communities receiving technical assistance from MHP have successfully negotiated comprehensive permits on terms mutually agreeable to the municipality and the developer. In a small number of cases MHP’s technical assistance has resulted in the withdrawal of inappropriate Chapter 40B proposals or the denial of the permit by the community.

### PROCEDURES

#### Application Process

- The applicant contacts the MHP Chapter 40B technical assistance staff at any time to discuss a Chapter 40B development that has been filed or is likely to be filed with the ZBA.
- Applications are accepted by MHP after an initial phone intake.
- An application for technical assistance will only be accepted and reviewed by MHP after the comprehensive permit application has been filed with the ZBA,
- Applicants can request a pre-hearing training on 40B for the Zoning Board and other town staff, boards and committees.
- The MHP application must include:
  - a copy of the Project Eligibility Letter from the subsidizing agency,
  - the comment letter the municipality sent to the Subsidizing Agency, and
  - any Local Rules for Comprehensive Permits the ZBA may have adopted
- The application must be signed by both the ZBA Chair and the Chief Elected Official.
- MHP strongly recommends interested communities contact MHP early in the process to facilitate the engagement of a qualified consultant *prior* to the start of the first public hearing. MHP reserves the right to reject an application for assistance after the hearing has opened.

- MHP typically completes a review within 10 days of the receipt of a complete of the application and, if approved, sends an award letter to the applicant community.

#### **Consultant Services**

- Prior to receiving an award a community must select a consultant from MHP's list of Program Consultants.
- Program Consultants are responsible for
  - providing technical assistance to the municipality in understanding the Chapter 40B permitting and review process;
  - assisting in identifying areas needing additional study or technical information; and
  - facilitating constructive discussions between the developer and the ZBA.
- The Program Consultant's role in providing comprehensive Chapter 40B technical assistance does not replace the role of the municipality's legal counsel. However, in accepting the technical assistance award, the municipality agrees that the consultant will be the lead consultant for the project and will assist in assessing the need for additional technical assistance including peer review consultants.
- Program Consultants are limited to contracting with a maximum of 3 communities at one time. Exceptions may be made for consultants who have previously contracted with communities under the Program.

#### **Uses of Technical Assistance Funds**

- MHP Program staff will work with the applicant community to determine the amount of the technical assistance award. A maximum of \$15,000 is available for the first award to a given community with a typical award amount of up to \$10,000 for subsequent requests.
- For communities with multiple simultaneous 40B projects, MHP reserves the right to limit the total amount of funds awarded at any given time to a community.
- An award under the Program does not fund or take the place of services that are typically the financial responsibility of the developer, such as peer review for engineering, traffic, architecture and other technical issues eligible for funding under M.G.L. c. 44 Sec. 53G.
- Legal costs for municipal counsel and mediation services are not within the scope of this Program.

#### **Contracting and Payment**

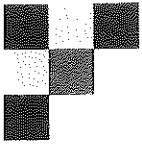
- MHP will contract with the Program Consultant selected by the applicant, who will be an independent contractor of MHP and will render the contracted services directly to the community. The Program Consultant shall perform the services in a professional, independent, impartial manner in accordance with Chapter 40B, the Regulations, DHCD's Guidelines for Ch. 40B Comprehensive Permit Projects, and the 40B Consultant Program Guidelines
- MHP will furnish a copy of the signed contract to the municipality, which will contain a scope of work.
- The Program Consultant shall submit invoices directly to MHP for payment. MHP will request authorization for payment from the municipality prior to making a payment to the Program Consultant. However, if no response by the municipality is received within 5 business days, approval will be assumed.

#### **Reporting and Evaluation**

- MHP requests that the municipality notify MHP if the Chapter 40B permit application is withdrawn by the developer or if for any reason the technical assistance award funds are no longer needed.
- MHP requires that a copy of the final ZBA decision be sent to MHP at the time the decision is issued and filed with the Clerk's office.
- MHP requires the completion and submission of the *MHP Chapter 40B Program Evaluation Form* which is used to evaluate consultant assistance and the effectiveness of the program.

To speak to MHP staff about your Chapter 40B project and to request an application for technical assistance contact Laura Shufelt at 857.317.8582or [lshufelt@mhp.net](mailto:lshufelt@mhp.net) .





**FREEMAN LAW GROUP LLC**  
*Attorneys at Law*

**Peter L. Freeman**  
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**Kevin T. Smith, Of Counsel**  
ksmith@freemanlawgroup.com  
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Mobile (978) 549-3399

**Renie Hamman, Paralegal, CP, ACP**  
rhamman@freemanlawgroup.com  
Tel. (508) 362-4700

**January 30, 2018**

***Via Hand Delivery***

**Nazih Elkallassi, Chair**  
**Town of Wareham Zoning Board of Appeals**  
54 Marion Road  
Wareham, MA 02571

**Re: Dakota Partners, Inc.**  
3102 Cranberry Highway, MA, MA  
Application for Comprehensive Permit – M.G.L. Ch. 40B, §§20-23  
“Woodland Cove Apartments”

**Dear Mr. Elkallassi:**

On behalf of my client, Dakota Partners, Inc., please find enclosed herewith the following:

1. An original and twelve (12) copies of an Application for Comprehensive Permit including attachments;
2. Four (4) copies each of full size Site Plans and Architectural Plans;
3. Two (2) copies of a Traffic Impact Study dated November 2017
4. Two (2) copies of the Stormwater Report;
5. Abutters list certified by the Town of Wareham Assessor's office;
6. Check for filing fee in the amount of \$1,000.00; and
7. Check for technical review fee in the amount of \$5,000.00.

We would be happy to provide additional copies of any of the submittal items as needed. An electronic copy of the Application for Comprehensive Permit with all the attachments along with an electronic copy of the Traffic Impact Study and the Stormwater Report will be submitted via email of a sharefile to Kenneth Buckland, Director of Planning and Community Development.

Pursuant to the Comprehensive Permit statute, please schedule a hearing within thirty (30) days of your receipt of this application; and to assist in scheduling a mutually convenient date, please contact me prior to scheduling. Thank you.

Very truly yours,

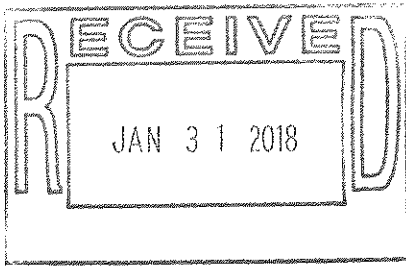
**Peter L. Freeman**


*cc: Dakota Partners, Inc.*

Cc: Town Clerk  
Accepted by the Town Clerk on behalf of the  
Wareham Zoning Board of Appeals:

  
Town Clerk

Date: 1-31-18



RECEIVED  
4:45 PM  
  
JAN 31 2018  
TOWN OF WAREHAM  
TOWN CLERK

[print this list](#)

**Abutters List**

Date: January 16, 2018

Subject Property Address: 3102 CRAN HWY Wareham, MA  
Subject Property ID: 131-Q1

Search Distance: 300 Feet

-----  
Prop ID: 10-1004  
Prop Location: 3105C CRAN HWY Wareham, MA  
Owner: GOULD WAREHAM LLC  
Mailing Address:

60 CUTTER MILL RD  
SUITE 303  
GREAT NECK, NY 11021  
-----

-----  
Prop ID: 131-1017  
Prop Location: 15 SAND POND RD Wareham, MA  
Owner: ONSET FIRE DISTRICT  
Mailing Address:  
PO BOX 44  
ONSET, MA 02558  
-----

-----  
Prop ID: 131-1031  
Prop Location: 0 CRAN HWY Wareham, MA  
Owner: ONSET FIRE DISTRICT  
Mailing Address:  
PO BOX 44  
ONSET, MA 02558  
-----

-----  
Prop ID: 131-1032  
Prop Location: 3100 CRAN HWY Wareham, MA  
Owner: NUOVO FRANK J  
Co-Owner: ANGUS DONALD H TRUSTEES  
Mailing Address:  
C/O NANCY ANGUS  
PO BOX 270  
BUZZARDS BAY, MA 02532  
-----

---

Prop ID: 131-1034  
Prop Location: 3104 CRAN HWY Wareham, MA  
Owner: HADLEY MICHAEL ALAN  
Mailing Address:  
PO BOX 282  
SAGAMORE, MA 02561

---

---

Prop ID: 131-1035  
Prop Location: 3104 CRAN HWY Wareham, MA  
Owner: HADLEY MICHAEL ALAN  
Mailing Address:  
PO BOX 282  
SAGAMORE, MA 02561

---

---

Prop ID: 131-134  
Prop Location: 10 RED BROOK RD Wareham, MA  
Owner: COLETTI PETER A  
Co-Owner: COLETTI KIRSTEN U  
Mailing Address:  
699 PLYMOUTH ST  
MIDDLEBORO, MA 02346

---

---

Prop ID: 131-138  
Prop Location: 8 SEMINOLE LN Wareham, MA  
Owner: ONSET FIRE DISTRICT  
Mailing Address:  
PO BOX 44  
ONSET, MA 02558

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Prop ID: 131-F5/B  
Prop Location: 0 SHAWNEE DR Wareham, MA  
Owner: ONSET FIRE DISTRICT  
Mailing Address:  
PO BOX 44  
ONSET, MA 02558

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Prop ID: 131-F6  
Prop Location: 12 SHAWNEE DR Wareham, MA

Owner: MOORE PATRICIA A  
Mailing Address:  
PO BOX 613  
BUZZARDS BAY, MA 02532

---

---

Prop ID: 131-LC1  
Prop Location: 6 SEQUEIRA LN Wareham, MA  
Owner: COLETTI PETER A  
Co-Owner: COLETTI KIRSTEN U  
Mailing Address:  
699 PLYMOUTH ST  
MIDDLEBORO, MA 02346

---

---

Prop ID: 131-LC2  
Prop Location: 12 RED BROOK RD Wareham, MA  
Owner: COLETTI PETER A  
Co-Owner: COLETTI KIRSTEN U  
Mailing Address:  
669 PLYMOUTH ST  
MIDDLEBORO, MA 02346

---

---

Prop ID: 131-LC8  
Prop Location: 16 SHAWNEE DR Wareham, MA  
Owner: ONSET FIRE DISTRICT  
Mailing Address:  
PO BOX 44  
ONSET, MA 02558

---

---

Prop ID: 131-PC  
Prop Location: 3092 CRAN HWY Wareham, MA  
Owner: NUOVO FRANK J  
Co-Owner: ANGUS DONALD H TRUSTEE  
Mailing Address:  
C/O NANCY ANGUS  
PO BOX 270  
BUZZARDS BAY, MA 02532

---

---

Prop ID: 8-1000  
Prop Location: 3106 CRAN HWY Wareham, MA

Owner: CHRISTY'S REALTY LIMITED PTSH  
Co-Owner: CO TAX DEPT #32564  
Mailing Address:  
PO BOX 711  
DALLAS, TX 75221-0711

---

Prop ID: 8-1012  
Prop Location: 3105B CRAN HWY Wareham, MA  
Owner: DEXTER LINDA R TRUSTEE  
Co-Owner: OF DEXTER REALTY TRUST  
Mailing Address:  
PO BOX 1723  
ONSET, MA 02558

---

Prop ID: 8-1013/A  
Prop Location: 3105A CRAN HWY Wareham, MA  
Owner: DEXTER LINDA R TRUSTEE  
Co-Owner: OF DEXTER REALTY TRUST  
Mailing Address:  
PO BOX 1723  
ONSET, MA 02558

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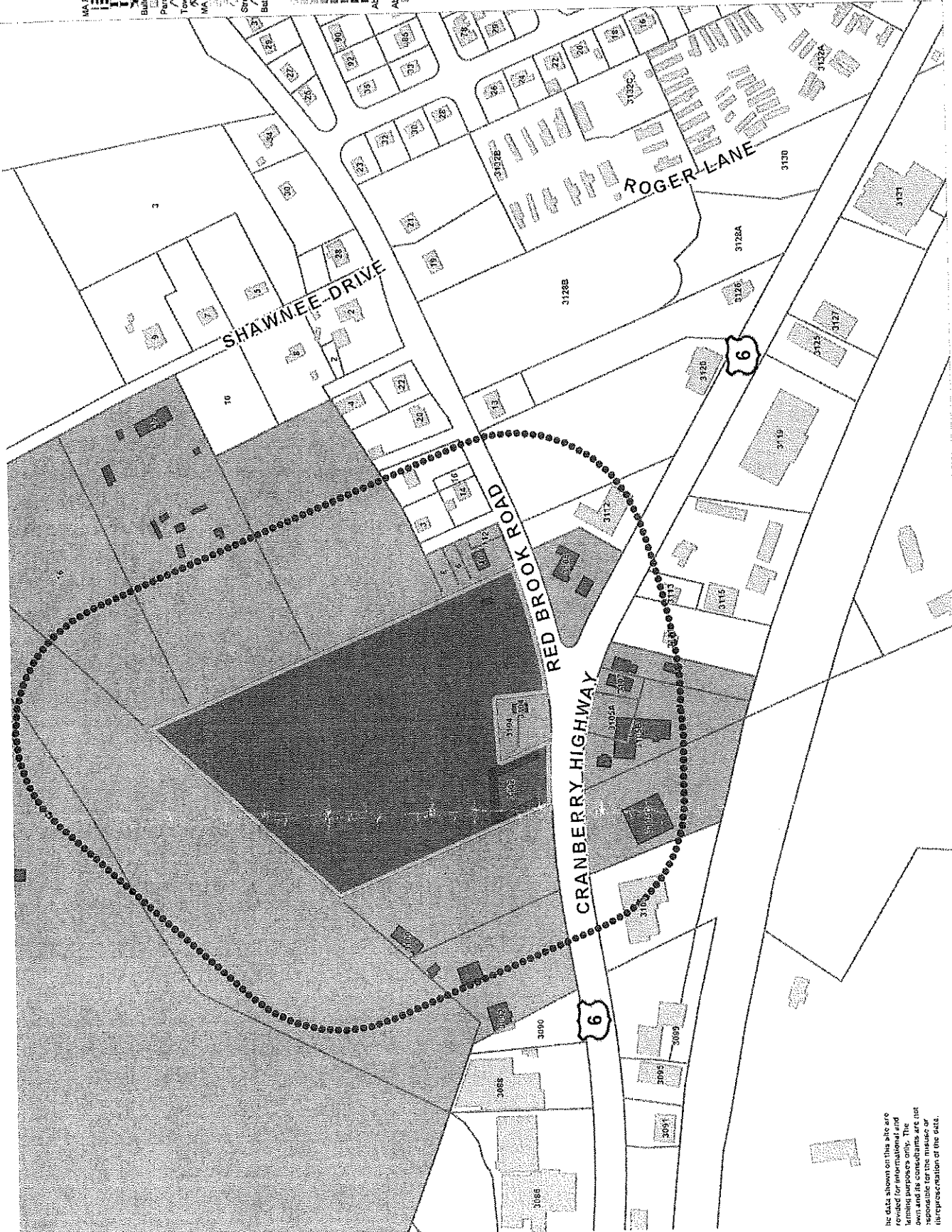
Prop ID: 8-1013/B  
Prop Location: 3107 CRAN HWY Wareham, MA  
Owner: LEGER MELISSA A  
Mailing Address:  
PO BOX 677  
E WAREHAM, MA 02538

---

Prop ID: 8-1014  
Prop Location: 3109 CRAN HWY Wareham, MA  
Owner: MARINO GUY TRUSTEE OF  
Co-Owner: LPZ REALTY TRUST  
Mailing Address:  
44 CANTERBURY DR  
PLYMOUTH, MA 02360

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- MA Places
  - Fire Station
  - Police Station
  - Post Office
  - Public Library
  - School
- Buildings
- Parcels
- Town Boundary
- MA Highways
  - Interstate
  - US Highway
  - Numbered Routes
- Streets
- Bathymetry
  - 0-10 ft
  - 10-15 ft
  - 15-20 ft
  - 20-30 ft
  - 30-40 ft
  - 40-50 ft
  - 50-60 ft
  - 60-70 ft
  - 70-80 ft
  - 80-90 ft
  - 90-100 ft
- Address Term Labels
- Abutting Towns



The data shown on this site are provided for informational and planning purposes only. The user and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 01/16/2018 at 03:19 PM

MapsOnline by PeopleGIS

**GAY & GAY, P.C.**  
73 Washington Street  
P.O. Box 988  
Taunton, Massachusetts 02780

David T. Gay  
Thomas P. Gay  
John L. Holgerson  
Matthew J. Costa  
Leo M. Spano  
Thomas P. Gay, Jr.

Peter B. Gay  
1915-2010  
Tel. (508-822-2071  
Fax (508-880-2602

March 21, 2018

*via email [kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us) & Regular Mail*

Wareham Zoning Board of Appeals  
Ken Buckland, Town Planner  
54 Marion Road  
Wareham, MA 02571

**Re: *Application for Comprehensive Permit Under M.G.L. c. 40B of Dakota Partners, Inc.  
Property at 3102 Cranberry Highway, Wareham, MA/Our file 3536.14***

Dear Chairman Elkallassi, Members of the Zoning Board of Appeals, and Town Planner Buckland:

This office represents the Board of Water Commissioners of the Onset Fire District regarding the above referenced matter. On behalf our client we provide this input as to the Board's position regarding the relief requested in the petitioner's Comprehensive Permit Application.

As you are aware, the Onset Fire District is a completely separate entity from the Town of Wareham. It is not controlled in any respect by the Wareham Board of Selectmen or Wareham Town Meeting. The Water Department of the Onset Fire District exists for the purpose of providing a water supply within the geographic boundaries of the District. The District is financially self sufficient. The District Water Department has no role with respect to issuing permits or approvals relating to such matters as building height, site plans, development size or shape, or building materials. The role of the District Water Department is limited to providing a public water supply. The source of the District's water are wells which are owned by the District and located on District land. We provide this background information because the Comprehensive Permit application does not clearly refer to the Onset Water Department as being the Water Department of the Onset Fire District, a separate entity from the Town of Wareham.

The concerns of the Board fall into two categories: (1) those arising as a result of the request for waivers under the Ground Water Protection Overlay District requirements of the Wareham Zoning Bylaws; and (2) those arising as a result of the request for waivers from the District's rules, regulations, and fees, and for the grant of a water connection by the Board of Appeals under the Comprehensive Permit. The concerns related to each of those areas are addressed separately below.



**1. The Request for Waivers as to the Ground Water Protection Overlay District Requirements of the Zoning Bylaw**

The Applicant has requested waivers relating to the limitation of impervious lot coverage to 15% or 2,500 square feet of the project area, whichever is greater, under Zoning Bylaw Section 442.1(B), and/or requiring mitigation for excess runoff in the event a special permit is granted for a project that exceeds the impervious lot coverage requirements, pursuant to Bylaw Section 443.1.

The purpose of the groundwater protection overlay district is to protect the aquifer which supplies water to the District's wells. The Board of Water Commissioners is very concerned that protection of the aquifer is of utmost importance. Therefore, the Board requests that the applicant demonstrate conclusively that this project (a) will not have an adverse impact on the aquifer or ground water recharge area and (b) that the project will not adversely affect the District's water supply. See Zoning Bylaw Section 445.3 and 445.4.

The Board of Water Commissioners submits that applicant's plans must be peer reviewed in order to ensure that the aquifer is protected to the greatest extent possible. The Comprehensive Permit should not be granted unless the aquifer providing water to the District's wells is fully protected.

In the event that the Comprehensive Permit does not adequately protect the aquifer, the Board reserves the right to seek judicial review as a person aggrieved of the decision.<sup>1</sup>

**2. The Request for a Grant of a Water Connection and for Waivers from the District's Rules, Regulations, and Fees.**

The Board of Water Commissioners is opposed to the request for a grant of a water connection permit by the ZBA and for waivers from the District Water Department's rules, regulations, and fees.

In order to connect to the water system, that the Water Department must be satisfied that there is adequate pressure and quantity in the system to serve this new development and the overall needs of the District. Enclosed is a letter from OSD, LLC, Environmental Consultants outlining the information that will be needed from the applicant in order to consider the impact of this project on the District's water distribution and supply systems. The Board will require that the applicant provide the necessary information as outlined in the enclosed letter in order to determine whether the existing water system will be able to meet the needs of this project while continuing to safely provide adequate supply of water to the District as a whole.

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<sup>1</sup> See Jebson v. Zoning Board of Appeals of Ipswich, 450 Mass. 81 (2007) (indicating that a Municipal Housing Authority would be deemed a "person" with potential standing to appeal a Chapter 40B decision if it could show that its legal interests were impacted by the issuance of a comprehensive permit).

Additionally, the District must comply with its Massachusetts DEP permit requirements regarding withdrawal volumes from the aquifer before a water connection will be allowed. The District will not be permitted to allow a connection in the event that such connection will cause a violation of the District's permitted withdrawal volumes.

The fundamental concern about the requested waivers from the rules, regulations, and fees of the District is that the District is a separate entity from the Town. The Board of Water Commissioners denies that it, or the District Water Department, is a "local board" for purposes of M.G.L. c. 40B. "Local board" is defined to include "any town or city board of survey, board of health, board of subdivision control appeals, planning board, building inspector, or the officer or board having supervision of the construction of buildings or the power of enforcing municipal building laws, or city council, or board of selectmen." It must be recognized that the District/Board of Water Commissioners is not a municipal board of the Town of Wareham and does not have similar permitting authority as any of the local boards that are provided as examples in M.G.L. c. 40B, §20. Furthermore, the Supreme Judicial Court of Massachusetts has made clear that the definition of "local board" must be read in the context of the types of "permits and approvals" that the Zoning Board of Appeals has the power to affect under M.G.L. c. 40B, §21, namely those with respect to height, site plan, size or shape, or building materials."<sup>2</sup> The Supreme Judicial Court has made clear that the purpose of Chapter 40B was directed at exclusionary zoning requirements, and should be understood with respect to that purpose.

The leading case on whether an entity separate from a Town may be deemed a "local board" under M.G.L. c. 40B is Dennis Housing Corp. v. Zoning Board of Appeals of Dennis, 439 Mass. 71 (2003). In that case the Supreme Judicial Court concluded that the Old King's Highway Historic District Committee was a local board because of such factors as: members of the committee being appointed by the Board of Selectmen; other members being elected at the Town's annual election; vacancies during a term being filled by the Board of Selectmen; the Selectmen having the power to remove members; the involvement of the committee in the building permit approval process and its power to regulate building design; and the fact that the Town Building Inspector was the enforcement official for the committee. In applying a functional analysis for deciding whether a board is a "local board" the Supreme Judicial Court relied heavily on the linkage between the committee and its authority over the building design and building permit process, as well as the extensive control by the Town itself over the committee.

See Dennis Housing Corp v. Zoning Board of Appeals of Dennis, 439 Mass. 71 (2003); 135 Wells Avenue, LLC v. Housing Appeals Committee, 478 Mass. 346 (2017) (explain that the meaning of "permit or approval" is tied closely with zoning type concerns such as height, site plan, size, shape, building materials); Zoning Board of Appeals of Amesbury v. Housing Appeals Committee, 457 Mass. 748 (2010) (meaning of "permit or approval" tied to land use/zoning, building construction, zoning and subdivision control, applying to such matters as height, site plan, size or shape, building materials."); Zoning Board of Appeals of Sunderland v. Sugarbush Meadow, 464 Mass. 166 (2013) (necessary sign off of fire chief on building permit could be overridden under Chapter 40B with respect to building height because the fire chief sign off was part of the building permit process and building height was a matter explicitly subject to Chapter 40B).

In contrast to the Old King's Highway Historic District Committee which was at issue in the Dennis Housing Corp. case, the Onset Fire District operates independently from the Town; has no role in regulating building design; does not provide a function similar to any of the agencies referenced in Chapter 40B, §20; and does not issue the type of permit or approval referenced in Chapter 40B, §21. The analysis utilized by the Supreme Judicial Court the Dennis Housing Corp. case leads us to conclude that the Onset Fire District should not be deemed a local board within the meaning of Chapter 40B. Cases decided by the Appeals Court and the Housing Appeals Committee have similarly relied on element of control by the municipality in determining whether an entity is a "local board", and that element is lacking with respect to the Onset Fire District.<sup>3</sup>

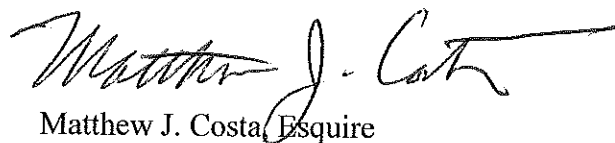
In sum, the Board's position is that the Water Department of the Onset Fire District is not an entity qualifying as a local board under M.G.L. c. 40, §20, and its water connection permit should not be deemed a "permit or approval" within the meaning of M.G.L. c. 40B, §21.

Based on these considerations, the District urges the Zoning Board of Appeals not to grant any purported waivers from the District's rules, regulations or fee requirements and further urges the ZBA to deny the request for an approval of a water connection. In the event that the Comprehensive Permit does purport to grant such waivers or to grant a water connection, the Board of Water Commissioners denies that the District will be bound by those aspects of the Comprehensive permit.

Thank you for your attention and consideration in this matter.

Very truly yours,

**GAY & GAY, P.C.**



Matthew J. Costa, Esquire

MJC/bd  
Enclosure

cc: Onset Fire District/Board of Water Commissioners  
*Benjamin Hughes, Chairman via email*  
*Kenneth Fontes, Clerk via email*  
*Francis Kowzic, Member via email*

See e.g. Cohasset Water Commission v. Cohasset Zoning Board of Appeals, 68 Mass. App. Ct. 1103 (2007) (holding that town water commission was a "town board" under c. 40B because "the town retains a significant level of control over the commission"); Lever Development LLC v. W. Boyleston Zoning Board of Appeals, HAC # 04-10 at p. 20 (12/10/2007) (ruling that West Boyleston Water District was a local board but resting said conclusion on belief that "because the District ultimately is controlled by town meeting vote, it is a local board within the meaning of Chapter 40B"). Although 760 CMR 56.02 itemizes "water . . . commission or district" as being a "local board" the CMR also indicates in section 56.01 that the purpose of the regulations is to codify "issues that have been decided by judicial or administrative decisions" and under the case law the control of an entity by the municipality and the extent of the entity's involvement in the municipality's supervision of the building approval process are key factors in determining whether it is a "local board"; those factors are lacking in this case.

**OSD LLC**  
Environmental Consultants

March 14, 2018

Mr. Kevin Sampson  
Water Superintendent  
Onset Fire District  
15 Sand Pond Road  
Onset, Mass. 02558

Re: Proposal to Conduct Review of the Proposed Woodland Cove Development  
off of Cranberry Highway

Dear Mr. Sampson:

OSD LLC, dba OSD Engineering Consultants in MA, welcomes the opportunity to work with you and the Onset Fire District (OFD) water department staff to review the impacts of the proposed Woodland Cove development on the Onset Fire District's water supply and distribution system.

The review work will include review of preliminary plans, demand estimates (as required), and evaluation of proposed system demands on the water distribution and supply systems. If the proposed new development significantly impacts the town's ability to deliver adequate water pressure and quantity to its customers, we will recommend system upgrades to mitigate these impacts.

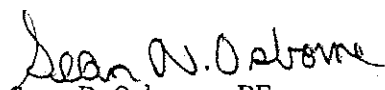
To do this work, we request that the developer provide the following information regarding the new development:

1. Average day demand
2. Maximum day demand
3. Fire flow demand
4. Fire flow test reports
5. Preliminary plans, including connection to OFD and construction details

The estimated cost for the professional services work is \$9,500. OFD would be billed according to OSD's standard hourly rates. Printing and subcontractors, if required, shall be billed with a 5% surcharge.

If you have any questions, please call me or e-mail me at [sosborne@osd-ec.com](mailto:sosborne@osd-ec.com).

Regards,

  
Sean D. Osborne, PE  
Principal

238 Bedford St  
Suite 9  
Lexington, MA 02420

Phone: 781-538-4636  
Fax: 781-538-4637  
[www.osd-ec.com](http://www.osd-ec.com)

# *Charles L. Rowley, PE, PLS*

*Consulting Engineer and Land Surveyor*

5 Carver Road  
PO Box 9  
West Wareham, MA 02576

Tel: 508-295-1881  
Cell: 508-295-0545  
E-mail: [crsr63@verizon.net](mailto:crsr63@verizon.net)

March 23, 2018

Town of Wareham Zoning Board of Appeals  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

Re: Peer Review for Woodland Cove  
Comprehensive Permit  
3102 Cranberry Highway

Attention: Nazih Elkallassi, Chairman

Dear Chairman Elkallassi:

I am in receipt of a set of site plans by BSC Group dated January 12, 2018 together with Stormwater Report by the same firm dated January, 2018, the Application for Comprehensive Permit by Dakota Partners, Inc., Applicant, and a Traffic Impact Report by McMahon Associates, Inc. dated November, 2017.

The following is a review of the documents provided as they relate to the Wareham Zoning By-Law, the Wareham Planning Board Rules and Regulations and the presentation made by the Applicant with respect to the project as a Comprehensive Permit for 40B housing.

## General Comments

1. The project is composed of three lots, one of which has no frontage. A fourth lot is shown on the plans but is not within the project area. The narrative indicates it will be retained by the land owner as a future commercial lot.
2. The Purchase and Sale Agreement paragraph 7.03 stipulates that the agreement is for three phases, each of which would have 72 units. This amounts to 216 units and this number does not appear to have been modified through the number of P & S extensions that have been agreed to between buyer and seller.
3. Paragraph 7.03 also states that the Seller's rights will not be impaired to convey the property in the event that the Purchaser is unable or unwilling to develop all three phases of the project. This is of significant concern for Lot 3 as shown on the project plans as it has no frontage.
4. Paragraph 10.01 (ix) is confusing in that it appears to give the Seller the right to do things that would bind the Purchaser without his consent and may be a mistake in working. It should be clarified by the Applicant.
5. The Narrative Description provided by the applicant states that consideration should be given to the project when it is consistent with local needs and "the need to protect the health of safety of the occupants of the proposed housing...promote better site and building design in relation to the surroundings, or to preserve open space if they outweigh the need for affordable housing".

It is recommended that the Board and Applicant have a discussion as to how the project complies with these aspects of the regulations that apply to projects such as this.

the Cranberry Highway is constructed, the frontage will be severely impacted by the changes.

Re: Peer Review for Woodland Cove  
Comprehensive Permit  
3102 Cranberry Highway  
Page three

8. Three bio-retention rain gardens are proposed as immediate receptors for parking lot drainage and possibly roof drainage. One large subsurface infiltration and four lesser subsurface infiltration areas are shown for stormwater management. Two of the bio-retention rain gardens are located in the common area within the project and the third one is located immediately adjacent to the Onset Fire District property line on the north side. This latter facility is at the base of a slope that will be created by filling the lower part of the landscape to accommodate one building and adjacent parking area.
9. The project should include the potential commercial space that is left out of the Comprehensive Permit. Traffic considerations, the type of business that might utilize the site and what impact it may have on the project as a whole should be discussed.
10. There has been no evidence provided that shows what the impact might be on the Town or the immediate areas surrounding the project. No information has been as given as to why the site is appropriate for high density given the lack of amenities that future residents may need. Stores that provide food staples, fresh fruits and vegetables, other everyday needs are not located within easy walking distance of the project. No sidewalks are provided along Cranberry Highway at this time and even though they may be part of a future upgrade to Cranberry Highway. They will be dangerously close to heavy traffic flow with little or no separation from travel lanes.
11. No information has been given as to the impact the project may have on the Onset Fire District well field and the Zone 2 that is immediately adjacent the site. The well field that is on that site is the sole provider of water for the District.
12. No topography has been provided beyond the northly property boundary. The plans show an existing unpaved access road immediately adjacent to the site with no indication as to what impacts there may be due to stormwater impacts. The hydraulic gradient in the vicinity of Sand Pond and the well field should be provided.
13. No information has been provided that would afford the protection of the Onset wellfield due to the proximity of the buildings to the lot lines. The natural inclination may be to expand the use of the site by encroachment and/or occupation.
14. Consideration should be given to redesign of the project that would provide for better traffic circulation that would result from a reduction in density.
15. Is there a proposal to provide an area set aside for mail boxes or a kiosk for postal deliveries?

#### Project Waivers

1. The proponent is requesting 36 waivers to the Wareham Zoning By-Law and the Subdivision Rules and Regulations for the project. Some of these waivers may be granted but many may not be, depending on the way they are written. In many instances waivers are requested in their entirety and "to the extent necessary" to do the project. No evidence has been presented for any of the

7. The Report specifies provisions for the maintenance of lawns, gardens and landscaped areas. A significant amount of effort is put into maintenance including the use of fertilizers and herbicides to promote healthy plant growth. By itself this may seem like an appropriate thing to do but given the proximity of the OFD well field it may be a concern

Re: Peer Review for Woodland Cove  
Comprehensive Permit  
3102 Cranberry Highway  
Page five

- 7.(continued) Two things are apparent:
  - a. Given the detailed description of landscape, grass and plant maintenance that has been set forth by the project engineer, it does not appear that a waiver from Article 10 (Landscaping) of the Zoning By-Law is warranted. This does not include the types of plantings or the plant count which is covered elsewhere in this report.
  - b. No discussion is included that would address the proximity of the OFD well field and the impacts that fertilizer and/or herbicides might have on ground water quality. A baseline analysis of the current ground water conditions on the site as well as northerly of the site would be appropriate to have. It is recommended that monitoring wells be installed north of and adjacent to the project site to collect and measure water samples for water quality both before and after construction commences. Testing should be done on a regular basis and for the life of the project. Test results should be forwarded to the Onset Fire District Water Department with copies to the Town of Wareham Planning Office. Frequency of testing should be agreed upon with the Onset Water Department.
8. Snow Removal
  - a. The Stormwater Report mentions snow removal but there are no convenient places for the stockpiling or plowing of snow during winter months.
  - b. Winter salting of parking areas and sidewalks is discouraged unless a suitable product is used that does not impact the ground water. The type of material used should be approved by the Onset Water Department.
9. Watershed Plan
  - a. The stormwater calculations show that all of the proposed development area impervious surfaces ultimately discharge to a single bio-retention area and spillway at the northerly property boundary. Only minor amounts run over the surface toward Red Brook Road or Cranberry Highway.
  - b. Calculations for the 10-year storm show that the bio-retention area at the northerly boundary is nearly topped but falls slightly short of running over the spillway. A 25-year storm is not presented but given the close numbers for the 10-year event it is likely that the 25-year storm would do so. The 100-year storm does overtop the spillway and is discharged onto Onset Fire District land in the direction of Sand Pond.
  - c. The Site plan contours are noted as being on an Assumed Vertical Datum. The elevations shown are not related to the contours shown on the USGS Topographic Quadrangle that accompanies the report. Based on the contours of the USGS Quad, the site topography is approximately 40 feet higher than it should be. This gives a false impression that the depth to groundwater as noted in the test pit logs is much greater than it actually is. It is recommended that the contours be placed on the National Geodetic

Of the total number of parking spaces provided, 41 are shown for compact cars. 23 of these spaces are shown for Phase II with the remainder in the northwest corner of the site between Buildings E and D and to the northeast corner of the site just east of Building D. No compact car spaces are shown for Phase I.

Re: Peer Review for Woodland Cove  
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To meet the Zoning requirement for parking using the current parking layout for Building A along, all of the spaces in front of Building A and half of the spaces in front of Building B would be required. For Building B, the remaining 22 spaces in front of Building B and 46 spaces in front of Building D (Phase III) would be required. Similar conditions would exist for the other buildings in the project.

The project contains 22% less parking that would be required under non-Comprehensive Permit conditions. No explanation has been given as to why this much less parking is preferable for a site that does not have amenities close at hand that would allow for walking to shops and stores. The site is not similar to a city or urban area that has mass transit readily available.

#### Handicap Parking

If the normal number of parking spaces were to be used to calculate the number of handicap spaces needed, a total of 16 spaces would be required as calculated using the ADA Parking Code; 3 spaces each for Buildings, A, B, E and F with 2 spaces each for Buildings C and D. The plan shows one handicap space for each of Buildings A, B, E and F with presumably one space dedicated to the proposed Community Building in Phase II. The plans show a total of 7 handicap spaces, less than 50% of the normal requirement.

#### Sheet C-2.0

1. This sheet shows the basic materials to be used in the site construction for surface features. It is reviewed in conjunction with the various details shown on Sheets C-6.0 et seq.
2. The plan is such that the location of all traffic and pedestrian signs for the project could be shown. It is recommended that they be placed on this sheet for reference as to type and location.

Sheets C-2.1 and C-2.2 are enlargements of Sheet C-2.0 and need no further comment.

#### Sheet C-3.0, Grading Plan

1. The area behind Building E has a 5' change in elevation due to an adjacent hill with little or no level area near the building. A retaining wall in this area would offer some level area for walking or other light activities.
2. The secondary entrance to Building D is 2-1/2" lower than the top of curb which is only 25 feet away. This may result in surface runoff entering the doorway.
3. Secondary entrances in some cases have 3.3% to 3.4% slopes. This should be checked against ADA access requirements.



2. For Buildings C and D, the sewer inverts may be such that sufficient clearance may not occur between the finish floor grade and the top of the longest pipe at the opposite end of the building. They should be checked.
3. The Applicant should contact the Onset Fire Department to discuss fire flow requirements for each building. Confirmation that the 8" water main proposed is sufficient for the required flow and that the two hydrants on the site are adequate for fire protection.

#### Sheet C-4.2

1. Where are the nearest fire hydrants on Cranberry Highway and Red Brook Road? Are they close enough for convenient use in case of fire?

Re: Peer Review for Woodland Cove  
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2. Where will the existing monitoring well be relocated to that is currently on the edge of Red Brook Road at the location of the entrance?

#### Sheet C-5.0

1. This sheet is the Phasing plan for the project. It shows a 90-foot diameter circle within Phase III that is assumed to be the edge of pavement for the cul-de-sac indicated for Phase I.
2. It should be noted that the cul-de-sac would be on Phase III land at the time of its construction and that Phase III land would not have been purchased by the Applicant at that time. There is no specific language in the Purchase and Sale Agreement or its Amendments that make mention of this as a requirement for Phase I.
3. According to the Purchase and Sale Agreement, should the Applicant opt out of completing any or all of Phase III, this land would then be available to the seller for his own uses. However, it should be noted that this lot would be landlocked with no frontage on a street such that it could be considered as a separate buildable lot.

It would also not be compliant with the requirement of the R-130 zoning district that requires 3 acres for a buildable lot. Total land area for Lot 3 is 2.45 acres, less than the minimum and approximately  $\frac{1}{4}$  acre of the total is located in the Strip Commercial (CS) district.

4. If the project should fall short of full completion and the land reverts back to the current or subsequent owner(s) it should not be presumed that any allowance under a Special Permit would carry over to a use that is outside the 40B parameters without proper frontage and lot area.
5. The proposed commercially zoned Lot 4 shown on the site plan is located well within the limits of the proposed signalized intersection of Cranberry Highway and Red Brook Road. No presumption should be made that access to this lot would be approved by Mass DOT or the Town of Wareham given its location and the complications that could result from vehicle turning movements into the lot.

#### Sheet C-5.1

1. A note regarding the proposed infiltration system for Phase 1 suggests that it might be made smaller than what is shown. No supporting calculations have been included to show what that might entail. Later adjustments in the system might be difficult to do if the full system is not completed as part of the initial stormwater system.
2. A similar note is indicated for Phase III. The land of Phase III will be encumbered by the drainage system and cul-de-sac for Phase I. No

strips that are full width and with the ramps set away from the return curb at intersections. The detail needs to be confirmed that it is ADA compliant.

#### Sheet C-6.2

##### Detail Sheet

1. Stone Dust Walk: Why is stone dust being used? A paved walk would be more durable and would require less maintenance to prevent rutting or displacement that could become a danger to pedestrians. It also would be easier to keep neat.
2. Area Drain: It is recommended that the riser pipe be set on a minimum of 6" of 1-1/2" crushed stone at the base only. Other backfill may be as noted.
3. Flared End Section:
  - a. Stone should be angular and not rounded.
  - b. Stone should be placed at least 2 feet under the flared end unit.
4. Precast Concrete DMH: The frame is to be set in a ring of concrete that encompasses the frame flanges and riser 12" deep by 12" around the

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casting. If located in a paved area the concrete should be brought level with the binder course of mix. Stone size at the base should be noted.

5. Waste and Recycling Receptacles: Where and how many are there? Show on the project plans for location.
6. Precast Concrete Catch Basin Detail:
  - a. Show the same cement concrete collar around the casting as noted above for the Precast Concrete DMH.
  - b. The oil/gas separator should extend 12" below the flow line of the connecting pipe and should have a 2" diameter anti-siphon hole cut in the top surface.
  - c. Stone size for the base should be noted.

#### Sheet C-6.3

1. Detail for Infiltration System: Dimension the actual spacing between unit rows and the width of stone along the perimeter of the system. Is there an observation port for each system? Note the location of each.
2. Bio-Retention Area Detail: What is the infiltration rate for the designed soil mix? Would it be the same as sand or loamy sand noted in the test pit logs? If it is different, it should be used in the calculation of the infiltration of stormwater to determine water levels in each area.
3. Outlet Control Structure and Sanitary Manhole Details:
  - a. Place the same note regarding a cement concrete ring around each frame and riser.
  - b. Specify the stone size at the base.
  - c. Pipes should be mortared inside and outside each structure.

#### Sheet C-6.4

1. Pipe Trench Section: Trenches in streets may require flowable fill by the Onset Water Department or the Town of Wareham Municipal Maintenance Dept. Backfill should not contain stones greater than 3". Gravel backfill should be specified as to type and the pavement should be saw cut a minimum of 18" back of the trench line for resurfacing.
2. Fire Hydrant and Valve Detail: The hydrant should be oriented with the steamer cap pointed to the adjacent street or driveway.
3. Water Mains: Should comply with the requirements of the Onset Water Department for materials and size.

4. There is no mention of the potential for the increase in turning movements from the commercial lot that is left out of the project. Leaving it out does not reduce the cause for concern about the amount of traffic that would eventually make turns onto Red Brook Road, the project itself or the commercial lot, no matter what commercial uses might be considered. Although not part of the project itself it does warrant a concern over potential future traffic movements in the area.
5. The actual traffic movements due to the project and the impacts on local roads is minimal due to the amount of daily traffic that is generated along Cranberry Highway. Presumably the improvements proposed by Mass DOT will alleviate some concerns about public safety for vehicles.

It should be noted however, that even with improvements to turning movements along Cranberry Highway that include a sidewalk, there is little room to keep the sidewalk a safe distance away from adjacent traffic lanes and the many curb cuts that exist. Pedestrian safety remains a concern along this busy roadway. The study makes no mention of pedestrian traffic and the safety concerns related to it.

Re: Peer Review for Woodland Cove  
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This concludes the initial review of the project documents. I am prepared to discuss the detail issues with BSC Group that are related to the engineering component of the design.

Comments made that are outside the scope of strict engineering details are intended to assist the Board in making an informed decision regarding the merits of the project and the various impacts it may have on the neighborhood in particular and the Town in general.

Please feel free to contact me if you have any questions.

Very truly yours,

*Charles L. Rowley*

Charles L. Rowley  
Engineering Consultant to Wareham Board of Appeals

Cc Rich Bowen, Town Counsel  
Ken Buckland, Wareham Town Planner  
George Barrett, Chairman, Wareham Planning Board

**GAY & GAY, P.C.**  
73 Washington Street  
P.O. Box 988  
Taunton, Massachusetts 02780

David T. Gay  
Thomas P. Gay  
John L. Holgerson  
Matthew J. Costa  
Leo M. Spano  
Thomas P. Gay, Jr.

Peter B. Gay  
1915-2010  
Tel. (508-822-2071  
Fax (508-880-2602

March 26, 2018

*via email [kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us) & regular mail*

Town of Wareham  
Zoning Board of Appeals  
*Attn: Ken Buckland, Town Planner*  
54 Marion Road  
Wareham, MA 02571

**Re: *Application for Comprehensive Permit Under M.G.L. c. 40B of Dakota Partners, Inc.  
Property at 3102 Cranberry Highway, Wareham, MA/Our file 3536.14***

Dear Members of the Zoning Board of Appeals and Town Planner Buckland:

To supplement this office's letter of March 21, 2018, enclosed please find a revised letter of OSD, LLC Environmental Consultants dated March 19, 2018. The enclosed letter supersedes the prior letter of OSD, LLC regarding the information that will be needed to adequately assess the project with respect to potential impacts on the District's ability to deliver adequate water pressure, quality and quantity to its customers as well as potential impacts on the District's wells.

Please contact me with any questions or concerns. Thank you again for your attention and consideration in this matter.

Very truly yours,

**GAY & GAY, P.C.**

  
Matthew J. Costa, Esquire

MJC/bd  
Enclosure

cc: Onset Fire District/Board of Water Commissioners  
*Benjamin Hughes, Chairman via email*  
*Kenneth Fontes, Clerk via email*  
*Francis Kowzic, Member via email*



March 19, 2018

Mr. Kevin Sampson  
Water Superintendent  
Onset Fire District  
15 Sand Pond Road  
Onset, Mass. 02558

Re: Proposal to Conduct Review of the Proposed Woodland Cove Development  
off of Cranberry Highway

Dear Mr. Sampson:

OSD LLC, dba OSD Engineering Consultants in MA, welcomes the opportunity to work with you and the Onset Fire District (OFD) water department staff to review the impacts of the proposed Woodland Cove development on the Onset Fire District's water supply and distribution system.

The review work will include review of preliminary plans and reports, review and development of demand estimates (as required), and evaluation of proposed system demands on the water distribution and supply systems. If the proposed new development significantly impacts the town's ability to deliver adequate water pressure, quality and quantity to its customers, we will recommend modifications to the proposed drainage system and upgrades to the existing water distribution system to mitigate these impacts.

To do this work, we request that the developer provide the following information regarding the new development:

1. Average day demand
2. Maximum day demand
3. Fire flow demand
4. Fire flow test reports
5. Location of any underground storage tanks
6. Location of all drainage system assets in Onset's Zone II
7. Location of all potential hazardous material and fuel storage areas in Onset's Zone II
8. Location of all infiltration BMPs, estimated TSS removal efficacy and proposed pretreatment to removes TSS
9. Rationale for classifying or not classifying infiltration BMPs as Underground Injection Control (UIC) wells
10. Determination of whether or not proposed infiltration BMPs will allow the movement of fluid containing any contaminants into underground sources of water, and whether or not those contaminants may cause a violation of any

238 Bedford St  
Suite 9  
Lexington, MA 02420

Phone: 781-538-4636  
Fax: 781-538-4637  
[www.osd-ec.com](http://www.osd-ec.com)

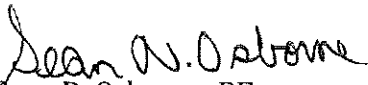
primary drinking water regulations or adversely affect the health of water consumers.

11. Proposed illicit discharge, detection and elimination program, including public education
12. Preliminary plans, including connection to OFD and construction details

The estimated cost for the professional services work is \$12,140. OFD would be billed according to OSD's standard hourly rates. Printing and subcontractors, if required, shall be billed with a 5% surcharge.

If you have any questions, please call me or e-mail me at [sosborne@osd-ec.com](mailto:sosborne@osd-ec.com).

Regards,

  
Sean D. Osborne, PE  
Principal

This is **EXHIBIT A**, consisting of three pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated March 2018.

## **ENGINEER's Services**

---

ENGINEER shall provide Basic and Additional Services as set forth below to review the proposed site development at the former Starlight Motel property. The intent of the review is to determine through the development of a SewerCAD model if proposed development flows will impact the existing Wareham sewer infrastructure downstream of the connection point.

### **PART 1 – BASIC SERVICES**

- A. **Record Drawing Collection.** Collect and scan available record drawings of the sewer collection system downstream of the proposed development. Original drawings shall be borrowed and returned after scanning to a PDF file. Original and PDF files of all drawings will be packaged and submitted to the Town of Wareham after scanning.
- B. **Build Base Model.** Develop a base sewer model (for the sewer infrastructure downstream of the former Starlight Motel, including Dick's Pond and East Wareham Pump Stations, gravity and pressure mains leading to and from each and the Wareham WPCF) using existing record drawing information. Model will include gravity mains 8-inches and larger, manhole locations, pressure force mains, and pump stations. Attribute information will include manhole rim and invert elevation, pipe material, size, slope and invert information, pump station flow and head, and pressure main diameter and material. Data will include areas where record drawings are available. For areas that have no record drawings, ENGINEER shall review with OWNER recommended method to fill data gap. Flows will be modeled to the nearest model node (manhole).
- C. **Incorporate Flows.** Incorporate available water use information provided into sewer flows per parcel in the model. Baseline inflow and infiltration estimates will be determined using the best existing information such as pump station run times and flow rates, flow information from the WPCF, and other factors such as age of pipe and proximity to groundwater.
- D. **Build Final Model.** Develop a finished "steady state" model that represents the existing collection system based on peak hour flow loading. Run the model with the flows to determine potential existing capacity and flow issues under steady state conditions. Run existing flows under peak hour conditions to determine any potential capacity issues.
- E. **Review Proposed Site Plan.** Review the engineered site plan of the proposed development in accordance with best engineering practices and TR-55 guidelines. Review the comment on the proposed connection details, collection system (if applicable) and other proposed sewer related infrastructure.
- F. **Draft Memorandum and Findings.** Develop a draft report of the existing collection system including model results and notify OWNER of existing capacity, flow, or other issues as identified by the steady state model and site plan review.
- G. **Progress Meeting.** Hold a progress meeting with the OWNER to review the Draft Memorandum and findings.

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#### **Exhibit A – ENGINEER's Services**

**EJCDC® E-500, Agreement Between OWNER and ENGINEER for Professional Services.**

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**Page 1**

*This document has been modified from its original form as an EJCDC document and the user did not highlight the modifications.*

*You are encouraged to read the document carefully and consult Legal Counsel prior to its execution.*

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D. ENGINEER shall submit invoices on a monthly basis.

**PART 5 - PERIOD OF SERVICE**

A. The compensation amount stipulated above is conditioned on a period of service not to extend beyond 90 calendar days after authorization by OWNER. If such period of service is extended, the compensation amount for ENGINEER's services shall be appropriately adjusted.

DRAFT

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**Exhibit A – ENGINEER's Services**

**EJCDC® E-500, Agreement Between OWNER and ENGINEER for Professional Services.**

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and American Society of Civil Engineers. All rights reserved.**

**Page 3**

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Review Scope of Services Rev1.docx

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RECD @ HEARING  
4/25/18

INTRODUCTION

Good Evening. My name is Bill Lockwood. I am here in my capacity as Vice-Chair of WHA. The ZBA has asked the WHA to provide our input to this discussion.

The WHA, by definition, stands in favor of affordable housing. It is our essential purpose. The Authority.....

• Directly manages 104 1 bedroom units at our 2 developments (Agawam & Redwood Village) housing 111 residents, paying an average, needs based, rent of about \$400.....

- Of those..... 25-30% are disabled, 20% are veterans, 20% are minorities \
- Most are elderly

WHA also provides administrative assistance to 62 privately owned units under the MRVP voucher program

.....  
The **Need** for affordable housing in Wareham is immediate and real.

Currently the WHA has <sup>A SERIES OF</sup> on file 850 applications. Our waiting list is....

-3 years... for veterans

-10 years for elderly

0+ years for Handicapped and non-elderly

0+ years for Section 8

Perhaps the most misunderstood piece is "What is affordable?" The 40B regulation was designed to help **working** residents remain in their communities. It requires that 25% of the units be provided at 80% (or less) than the fair market value as determined by HUD. It is not subsidy housing.

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4/25/2018

Fw: Information for Woodland Cove Review - Jasmin Campos

# Fw: Information for Woodland Cove Review

Kenneth Buckland

Wed 4/25/2018 3:54 PM

To: paul@bbhlaw.net <paul@bbhlaw.net>;

Cc: Jasmin Campos <JCampos@wareham.ma.us>;

Information request to complete the water study.

Kenneth Buckland

Director of Planning and Community Development

Town of Wareham

508.291.3100 x 6501

---

**From:** Benjamin Hughes <bhughes7911@gmail.com>

**Sent:** Wednesday, April 25, 2018 12:30 PM

**To:** Kenneth Buckland

**Cc:** Sean Osborne; Kevin Sampson; KF; Frank Kowzic; Treasurer

**Subject:** Fwd: Information for Woodland Cove Review

Ken,  
Here is the response from our engineer regarding what he still needs for a full analysis.  
Sincerely,  
Ben

----- Forwarded message -----

**From:** Sean Osborne <[sosborne@osd-ec.com](mailto:sosborne@osd-ec.com)>

**Date:** Wed, Apr 25, 2018, 12:15 PM

**Subject:** Information for Woodland Cove Review

**To:** <[ksampson@onsetwater.com](mailto:ksampson@onsetwater.com)>, Benjamin Hughes <[bhughes7911@gmail.com](mailto:bhughes7911@gmail.com)>

Kevin and Ben,

We have reviewed the information supplied by BSC Group regarding the proposed Woodland Cove Development.

The following information is missing and is required to conduct that analysis

1. Average Day Demand for the development
2. Maximum Day Demand for the development
3. Fire Flow Demand for the development

<https://west.exch082.serverdata.net/owa/#viewmodel=ReadMessageItem&ItemID=AAMkAGNjNTIyY2UwLWZjZDYtNDdmNy05M2I4LWY2MzQyZTMzOWI0ZABG>

# Fw: Woodland Cove 40B Water and Sewer Studies

Kenneth Buckland

Tue 4/24/2018 12:05 PM

To: Benjamin Hughes <bhughes7911@gmail.com>; Kevin Sampson <ksampson@onsetwater.com>; Guy Campinha <gcampinha@wareham.ma.us>;

Cc: Peter Freeman <pfreeman@freemanlawgroup.com>; paul@bbhlaw.net <paul@bbhlaw.net>; Nazih Elkallassi <massliving@aol.com>; Jasmin Campos <JCampos@wareham.ma.us>;

 3 attachments

2018-03-19.WC.WATER LETTER 2 FROM OSD FROM GAY AND GAY LETTER .pdf; 2018-04-19 BSC-Response Info for Onset Fire Peer Review.pdf; 2018-03.WC.SEWER Review Scope Proposal-From Town Counsel.pdf;

All

Below is an email that from the Woodland Cove attorney that changes a previous position of the applicant on who will be analyzing the utility systems. I trust the Onset Water District and the Wareham Water Pollution Control department can respond in a reasonable amount of time.

Ben and Kevin,

Please see below request to proceed with review and analysis of the water supply for Woodland Cove. Please inform me when the applicant has arranged the funding, when your consultant has started on the analysis, and when the results will be presented.

Guy,

The below requests modification of the scope of work you previously submitted. If you would please modify or present why the scope is pertinent, it would be appreciated.

Thank you for your prompt response.

Ken

Kenneth Buckland  
Director of Planning and Community Development  
Town of Wareham  
508.291.3100 x 6501

---

**From:** Peter Freeman <pfreeman@freemanlawgroup.com>

**Sent:** Monday, April 23, 2018 12:18 PM

**To:** Kenneth Buckland

**Cc:** Derek Sullivan; Paul Haverty; Jasmin Campos; crsr63@verizon.net; Nazih Elkallassi; Rinaldi, Dominic R.; Jim


# Woodland Cove 40B Water and Sewer Studies

Peter Freeman <pfreeman@freemanlawgroup.com>

Mon 4/23/2018 12:18 PM

To: Kenneth Buckland <kbuckland@wareham.ma.us>;

Cc: Derek Sullivan <dsullivan@wareham.ma.us>; Paul Haverty <paul@bbhlaw.net>; Jasmin Campos <JCampos@wareham.ma.us>; ccsr63@verizon.net <ccsr63@verizon.net>; Nazih Elkallasi <massliving@aol.com>; Rinaldi, Dominic R. <drinaldi@bscgroup.com>; Jim O'Brien <jobrien@dakotapartners.net>; Renie Hamman <rhamman@freemanlawgroup.com>;

 3 attachments

2018-03-19.WC.WATER LETTER 2 FROM OSD FROM GAY AND GAY LETTER .pdf; 2018-04-19 BSC-Response Info for Onset Fire Peer Review.pdf; 2018-03.WC.SEWER Review Scope Proposal-From Town Counsel.pdf;

Ken – with regard to the proposed review of this project and the Onset Fire District water system, my client agrees with the scope of review and *estimated* cost of \$12,140.00 (we hope it can be done for less) as contained in the “Proposal to Conduct Review of the Proposed Woodland Cove Development off of Cranberry Highway” dated March 19, 2018 from OSD LLC to Mr. Kevin Sampson, Water Superintendent of the Onset Fire District (the “OSD Proposal”). A copy of that proposal is attached for convenience. Also attached is a Memorandum from BSC Group to James. V. O’Brien of Dakota Partners, Inc. which provides certain information responsive to the request for information contained in the OSD Proposal, including a chart on Sewer and Water Demand and a letter dated November 22, 17 from Zade Associates, LLC to R.A. Schaefer & D.M. White, Architects with hydrant test results. My client will submit a check for \$12,140.00 payable to the Town of Wareham to be held in a 53G Escrow Account.

With regard to the proposed review of this project as to the municipal sewer system, my client does *not* agree with the scope of review or the cost of \$31,500.00 as contained in an undated document entitled “Engineer’s Services” with a notation at the top identifying it as “Exhibit A” to an Agreement between Owner and Engineer for Professional Services dated March 2018 (see copy attached). We do not believe that the Applicant should be required to create a base sewer model as outlined. That is the responsibility of the Town. A 40B applicant should only be responsible for review and analysis of how the proposed project impacts the existing municipal system. The only sections of the “Exhibit A” that we agree with are Sections E through H in Part 1 – Basic Services (although providing the information requested in Part 3 which is available to the applicant is acceptable; please note that some of the requested information must come from the Town of Wareham).

Therefore, we respectfully request that the Town Engineer revise the sewer study proposal to reflect what I stated, above. If necessary, we certainly look forward to discussing this with the Zoning Board at the hearing this Wednesday. Thanks, Peter

Peter L. Freeman

# *Charles L. Rowley, PE, PLS*

*Consulting Engineer and Land Surveyor*

5 Carver Road  
PO Box 9  
West Wareham, MA 02576

Tel: 508-295-1881  
Cell: 508-295-0545  
E-mail: [cscr63@verizon.net](mailto:cscr63@verizon.net)

April 23, 2018

Town of Wareham Board of Appeals  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

Re: Reply to Peer Review  
Response for Woodland Cove Project  
BSC Engineering Letter  
Green Seal Environmental Letter  
McMahon Traffic Report Letter

Attention: Nazih Elkallassi, Chairman

Dear Chairman Elkallassi:

I have reviewed three documents recently provided by the Applicant's professional teams including

1. Letter from McMahon Transportation Engineers and Planners dated April 11, 2018
2. Letter from Green Seal Environmental dated November 17, 2017
3. Letter from BSC Group dated April 10, 2018.

The following comments are with respect to each of the above submitted documents.

## Traffic (McMahon Traffic Response)

The McMahon response does not reflect the impact on Route 6 (Cranberry Highway) traffic that is the result of seasonal increases from the two major highways, namely Route 195 and Route 25. Impacts from both highways should be addressed because it is mixed to include traffic from both Route 195 and Route 495 by the time it gets to the Onset/East Wareham exit on Route 25.

It is this traffic that cannot be assumed to be the equivalent of a simple 25% increase across the board. The normal peak times of morning and afternoon would not seem to apply to this local condition as a measure of the traffic flows for the project area.

A traffic study should also include the impacts within the site itself given the fact that substantial changes in the Cranberry Highway construction by Mass DOT. The new construction will result in right in/right out only movements to and from the site for Phase II.

There is no indication as to whether U-turns are anticipated at the reconfigured intersection of Cranberry Highway and Red Brook Road. Impacts will be felt at both the intersection and the project as traffic makes the adjustments accordingly. There should be some discussion as to what the results will be.

## Environmental Site Assessment (Green Seal Environmental)

The Green Seal letter indicates that additional site inspection and reporting was done subsequent to the initial Phase I assessment of June, 2017. The November 2017 letter does not include any of the data collected but does indicate that eight test boring sites were done and that two of the borings include ground water monitoring.

This data would be helpful in establishing a baseline for future monitoring of the site and would also be helpful in establishing ground water elevations for the project.

Two-foot contours have an error potential of half the contour interval. Without sufficient detail significant adjustments may be needed at the time of construction. It should be noted in any decision the Board may make that significant changes to the site plan may require review and approval with possible modifications to the Special Permit.

3. As noted in the Item 8 response, Mass. DOT will require approval of the final grading for the Phase II entrance. However, Red Brook Road is a municipal street and falls under the jurisdiction of the Wareham Municipal Maintenance Department. The entrance on Red Brook Road should have sufficient spot grades at reasonable intervals for appropriate review of existing and proposed conditions.
4. It was noted under Utilities that there is a concern for proper elevation of sewer lines in those buildings that require long runs of pipe from one end of the building to another. It should not be left up to a final interior design to find out that the invert elevations at sewer manholes may need adjustment. The Engineer should be able to apply sufficient elevation depth at each manhole to where this will not be a concern. A reply indicating that this has been reviewed would be helpful.
5. Sidewalk pavers that are shown on the plan should be contained and details of how they will be detained should be shown on the plan. A suitable detail is required.
6. The use of reclaimed base material for walkways in the open space area is not recommended. It will be more difficult to maintain and subject to wear than a paved asphalt walkway would be. The initial expense will more than outweigh the cost of continual raking and grading to keep it in good condition and suitable for use.
7. Hot Mix Asphalt Curb is not recommended due to its very limited durability. As noted previously it is subject to easy displacement and damage from plowing. It becomes unsightly if not kept in good repair. A durable extruded cement concrete curb that has internal fiber reinforcement is a suitable substitute that is easily repaired.

#### Temporary Construction (Cul-de-sac and driveway)

1. The plans need to show details of how the cul-de-sac and temporary connecting driveway for Phase II over Lot 3 will be constructed. It must be assumed that both of these features could become permanent. Sufficient information for appropriate grading and storm water management needs to be provided.

#### Storm Water Management

1. The response as to what the infiltration rate is for the bio-retention area is not sufficient. What is the basis for indicating that it is similar to the existing soils found on site. Infiltration tests on the product to be used should be provided. If different than that of the existing soils found on site, the storm water calculations should be adjusted accordingly.

#### Detail Sheets

1. Specific details requested for Sheets 6.0 – 6.5 have been satisfactorily addressed with the exception of those items noted above.

**To:** James V. O'Brien  
Dakota Partners, Inc.

**Date:** April 19, 2018

**From:** Dominic Rinaldi, P.E., LEED AP BD+C

**Proj. No.** 8-3669.00

**Re:** Information for OSD LLC Review  
Woodland Cove, Wareham, MA

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We are in receipt of a "Proposal to Conduct Review of the Proposed Woodland Cove Development off of Cranberry Highway" from OSD LLC to the Onset Fire District, dated March 19, 2018. This proposal requested 12 items in order to perform their review. The following lists the information or where it is located on the previously submitted plans and reports (numbers correspond to the numbers in the proposal):

1. Water demand estimate calculations are attached.
2. Water demand estimate calculations are attached.
3. A fire hydrant test was conducted on November 19, 2017. A letter from Zade Associates, LLC, dated November 22, 2017 with the results is attached. This letter also discusses fire flow demand.
4. A fire hydrant test was conducted on November 19, 2017. A letter from Zade Associates, LLC, dated November 22, 2017 with the results is attached.
5. A 1,000-gallon heating oil tank was removed from the motel property in August 2001 as detailed in the previously submitted ASTM Phase I Environmental Site Assessment by Green Environmental, Inc. There are no other known underground tanks on the property. Please see Green Environmental's Phase I Site Assessment for additional details.
6. The drainage system elements are shown on the previously submitted Site Plans – specifically Sheets C-3.0 through C-3.2 with details shown on Sheets C-6.0 through C-6.5. As the entire project site is within the Zone II, all drainage elements are within the Zone II.
7. The project is a multi-family residential development and, as such, there will not be any hazardous materials or fuel storage on site.
8. The drainage system elements are shown on the previously submitted Site Plans – specifically Sheets C-3.0 through C-3.2 with details shown on Sheets C-6.0 through C-6.5. TSS removal is detailed in Section 2 and 6 of the previously submitted Stormwater Report.
9. A determination on whether or not the project's infiltration BMP's qualify as underground injection control (UIC) wells has not yet been made. If the BMP's qualify as UIC wells, the required registrations will be submitted.
10. The stormwater management systems, including infiltration BMP's, have been designed in accordance with the Massachusetts Department of Environmental Protection's (DEP's) Stormwater Standards for discharges within a Zone II. Details of this design and compliance with DEP's Stormwater Standards are provided in the previously submitted Stormwater Report.
11. A Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan and a Long-Term Pollution Prevention & Operations and Maintenance Plan are included in the previously submitted Stormwater Report.
12. Details of the water system on site are shown on the previously submitted Site Plans – specifically Sheets C-4.0 through C-4.2 with details shown on Sheets C-6.0 through C-6.5.

We believe that this covers all the requested information for the review. Feel free to reach out to me with any additional needs.

**cc:** P. Freeman



## Town of Wareham Planning and Community Development

54 Marion Road  
Wareham, MA 02571-1428

Phone: (508) 291-3100 x6501  
Email: kbuckland@wareham.ma.us

Kenneth Buckland, Director of Planning  
Jasmin Campos, Dept. Assistant

April 11, 2018

TO: Zoning Board of Appeals

FROM: Planning Board

RE: Comments on 'Woodland Cove' Comprehensive Permit for Dakota Partners at 3102 Cranberry Highway

The Planning Board reviewed the plans and documents for the above referenced 40B project and discussed the proposed design concepts shown in the plans prepared by BSC Group dated January 12, 2018 together with Stormwater Report and Traffic Impact Report, and the Application for Comprehensive Permit by Dakota Partners, Inc. In addition the Planning Board read and heard the comments

The Board finds there are several issues that must be addressed:

1. Impacts to the water and sewer infrastructure have not yet been identified and mitigated;
2. The ability to properly manage the three divided and phased projects is extremely difficult and could result in unacceptable conditions in development;
3. The design concept does not provide quality living conditions expected for lower income residents.

The Onset Water District and the Wareham Sewer Department have both provided scopes of analysis to determine the capability of these infrastructure systems to support the development. These analyses should be completed and peer reviewed.

The Planning Board notes the project is short by 132 parking spaces from meeting the required number of parking spaces by zoning (Table on sheet C-1.0). This is a 40% reduction in typical parking. To ensure there will be no conflicts, we should be provided with certified parking studies that show the success of this significant reduction of parking at similar facilities in similar communities and context.

The impacts to the groundwater are of higher importance because of the proximity of the Onset district water supply. Accuracy in assessment of impacts is of higher concern to determine proper level of mitigation. We reinforce consulting engineer Charles Rowley's comments in his letter of March 23.

The Planning Board does not support the proposed subdivision of the project in that 2 of the 3 lots have inadequate or no frontage and the common area does not convey with all the lots. In addition, with separate ownership of each lot, the management of the project becomes more complex. Management issues have plagued other housing projects in Wareham and do not need to be repeated.



The character and context of the development is not fully represented in the submitted architectural renderings. The proponent should provide cross sections through the site and into the adjoining properties showing the relationship of the buildings to each other, site features and the adjacent development. The proponent should also explain how the building style relates to the character of the town and neighborhood.

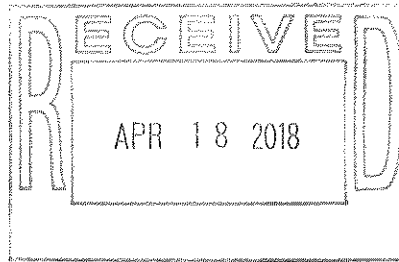
Prepared by:  
Kenneth J. Buckland



McMAHON ASSOCIATES  
350 Myles Standish Boulevard, Suite 103  
Taunton, MA 02780  
p 508-823-2245 | f 508-823-2246

April 11, 2018

Steve Kominski  
Vice President Acquisitions & Development  
Dakota Partners, Inc.  
1264 Main Street  
Waltham, MA 02451



PRINCIPALS  
Joseph W. McMahon, P.E.  
Joseph J. DeSantis, P.E., PTOE  
John S. DePalma  
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Casey A. Moore, P.E.  
Gary R. McNaughton, P.E., PTOE  
ASSOCIATES  
John J. Mitchell, P.E.  
Christopher J. Williams, P.E.  
R. Trent Ebersole, P.E.  
Matthew M. Kozsuch, P.E.  
Maureen Chlebek, P.E., PTOE  
Dean A. Carr, P.E.

RE: Traffic Engineering Peer Review  
Response to Comments  
Proposed Residential Development – Wareham, MA

Dear Mr. Kominski,

McMahon Associates is in receipt of the review letter prepared by Charles L. Rowley, P.E., PLS, dated March 23, 2018 in regards to the proposed residential development project at 3102 Cranberry Highway in Wareham, MA. We have prepared responses to the traffic related comments as identified in the letter. A copy of their comments and our responses are listed below.

**Comment 1:** The traffic study was done at time that is not indicative of the unusual high traffic volumes that are routinely experienced each summer. To arbitrarily assign a percentage increase in summer traffic to make up for the time when the study was done is not sufficient in this case.

**Response 1:** It is standard acceptable practice in accordance with the MassDOT Traffic and Safety Engineering 25% Design Submission Guidelines to seasonally adjust traffic volumes to an average month based on relevant permanent count station data. The study traffic volumes collected in January were seasonally adjusted to the average month using MassDOT continuous count data from I-195 in Wareham, which also experiences a seasonal increase in traffic volumes during the summer months. While the count station is not specific to Route 6 traffic, it is an indicator of how traffic increases by season regionally. January traffic volumes were adjusted upwards by approximately 24% to reflect an average month. Despite differences in traffic volumes, the conclusions that the proposed project is not expected to have a significant impact on the study area roadway is not expected to change as the project results in minor increases in delay.

**Comment 2:** The study bases its conclusions partially on a SRPEDD study of historical data for projected growth. However, much of the significant increase in traffic on Cranberry Highway is due to an increase in flow from traffic leaving Route 25 in East Wareham during summer months. How much of the increase in traffic there may be due to the diversion from Route 25 is not noted.

**Response 2:** Future traffic conditions were projected based on information provided by SRPEDD. While it is understood that there is some diversion in traffic volumes from Route 25 to Route 6 during the peak summer months, this condition is not reflective of typical traffic conditions on Route 6 during the weekday morning and weekday afternoon peak periods analyzed. The 1% per year background growth rate over a seven year horizon follows standard engineering methodology for the development of future traffic volume projections during average conditions.

**Comment 3:** Congestion at the Bourne Bridge and Rotary has caused travelers to try and find alternative ways of getting there from the Wareham area. It has resulted in significant backup on Red Brook Road, an increase in turning movements at the intersection with Cranberry Highway and an overall increase in traffic attempting to reach the Buzzards Bay area via Cranberry Highway. Signalizing the Red Brook Road/Cranberry Highway intersection will not do away with this congestion or improve it.

**Response 3:** The intersection of Route 6 and Red Brook Road is proposed to be signalized as part of the MassDOT design project to reconstruct Route 6, which is expected to improve operations and safety throughout the corridor and at the Red Brook Road intersection. The congestion at the Bourne Bridge is related to the summer peak period (weekend) travel periods and is an existing issue that is not caused or exasperated by this project.

**Comment 4:** There is no mention of the potential for the increase in turning movements from the commercial lot that is left out of the project. Leaving it out does not reduce the cause for concern about the amount of traffic that would eventually make turns onto Red Brook Road, the project itself or the commercial lot, no matter what commercial uses might be considered. Although not part of the project itself it does warrant a concern over potential future traffic movements in the area.

**Response 4:** Comment noted. The commercial lot is not proposed to be developed at this time and thus was not included in the traffic study. The impacts of the commercial lot would need to be reviewed should a project be proposed at that location.

**Comment 5:** The actual traffic movements due to the project and the impacts on local roads is minimal due to the amount of daily traffic that is generated along Cranberry Highway. Presumably the improvements proposed by MassDOT will alleviate some concerns about public safety for vehicles. It should be noted however, that even with improvements to turning movements along Cranberry Highway that include a sidewalk, there is little room to keep the sidewalk a safe distance away from adjacent traffic lanes and the many curb cuts that exist. Pedestrian safety remains a concern along this busy roadway. The study makes no mention of pedestrian traffic and the safety concerns related to it.

**Response 5:** While it is expected that there would be some pedestrian travel to and from the proposed site, the study focuses on the vehicular traffic impacts associated with the proposed development to present a conservative traffic analysis on the adjacent roadway system. While there are currently no existing pedestrian facilities adjacent to Red Brook Road, the proposed MassDOT project would

provide significant multi-modal improvements along Route 6 in accordance with MassDOT's Complete Streets Policy and include the following:

- Five-foot wide sidewalks on both sides of Cranberry Highway compliant with ADA/AAB standards for accessibility including wheelchair ramps with detectible warning panels. The sidewalks would be offset by a five-foot wide bicycle tolerant shoulder and not directly adjacent to a travel lane.
- Installation of crosswalks and pedestrian push buttons at four (4) signalized intersections on Cranberry Highway, including Red Brook Road, Main Avenue, Cinema Drive and Cranberry Plaza Drive which provide connections to shopping areas.
- Installation of five-foot wide shoulders consistent with MassDOT's Healthy Transportation Policy to provide bicycle accommodations.

The MassDOT project is estimated to commence construction in Spring 2019 and would improve safety for all roadway users. In addition, the proposed site is located on a GATRA bus route which provides connections for residents to the shopping plazas of Cranberry Plaza, Wareham Crossing and the new Walmart.

If you should have any further questions or require further information, please feel free to contact us.

Very truly yours,

*Colleen Medeiros*

Colleen Medeiros, P.E.  
Project Manager



# Town of Wareham

54 Marion Road  
Wareham, MA 02571  
www.wareham.ma.us

November 15, 2017

VIA CERTIFIED AND FIRST-CLASS MAIL

Ken

Mr. Stephen Kaminski  
Dakota Partners, Inc.  
1264 Main Street  
Waltham, MA 02451

RE: Woodland Cove Apartments 40B Housing Project Proposal

Dear Mr. Kaminski:

I write as the Chief Executive Officer of the Town of Wareham as that term is defined in state law and particularly in Massachusetts Department of Housing and Community Development (hereinafter "DHCD") regulations at 760 Code of Massachusetts Regulations 56.00 et seq., regarding the above-referenced matter (hereinafter "your 40B project").

I recently received a Project Eligibility Letter relating to your 40B project addressed to you from DHCD, dated September 27, 2017. The letter states that "...the project consists of 174 units, 174 of which will be affordable (80.5%)..."

The Project Eligibility Letter also states that you applied for a physical address of 3104 Cranberry Highway.

As you know, you appeared before the Wareham Board of Selectmen on June 6, 2017 to introduce your 40B project to the Town. During this appearance, you stated that your 40B project would be 40% workforce housing and 60% affordable housing, and that there would be 174 units.

Based upon these and other representations of fact you made during your appearance before the Board of Selectmen, following lengthy consultation with my fellow Selectmen and the public at large, I submitted a letter to DHCD that outlined the Town's concerns with your 40B project, consistent with our right to do so pursuant to 760 Code of Massachusetts Regulations 56.04(3), which states in relevant part that

Review and Comment Process. Upon receipt of the application, the Subsidizing Agency shall provide written notice to the Chief Executive Officer of the municipality where the Project is located, initiating a 30-day review period of the Project. During the course of the review period the Subsidizing Agency shall conduct a site visit, which Local Boards may attend, and it shall accept written comments from Local Boards and other interested parties. The Subsidizing Agency shall consider any such comments prior to issuing a determination of Project Eligibility. No determination of Project Eligibility shall be issued for a Project before the end of the 30-day review period.

Since that time, we have learned that you are seeking a revised Project Eligibility Letter from DHCD, apparently based upon significant material alterations to your original proposal, including an address change to 3102 Cranberry Highway. While you may have presented these significant

material alterations to DHCD, they have never been formally presented to me as the Chief Executive Officer of the Town of Wareham, as required by the above-cited regulation.

I have also seen email correspondence from your Project Manager, requesting information from a Town department head relating to infrastructure requirements for 120 one bedroom and 120 two bedroom apartments, notwithstanding that you have never notified us that you are now seeking 66 units more than you originally stated to us.

760 Code of Massachusetts Regulation 56.04(2) states in relevant part that

(2) Elements of Application. The Applicant shall submit an application for Project Eligibility to the Subsidizing Agency, with a copy to the Chief Executive Officer of the municipality and written notice to the Department, which shall include:

- (a) the name and address of the Applicant;
- (b) the address of the site and site description;
- (c) a locus map identifying the site within a plan of the neighborhood, accompanied of the surrounding buildings and features that provide an understanding of the physical context of the site;
- (d) a tabulation of proposed buildings with the approximate number, size (number of bedrooms, floor area), and type (ownership or rental) of housing units proposed;
- (e) the name of the housing program under which Project Eligibility is sought;
- (f) relevant details of the particular Project if not mandated by the housing program (including percentage of units for low or moderate income households, income eligibility standards, the duration of restrictions requiring Low or Moderate Income Housing, and the limited dividend status of the Applicant);
- (g) conceptual design drawings of the site plan and exterior elevations of the proposed buildings, along with a summary showing the approximate percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas, the approximate number of parking spaces, and the ratio of parking spaces to housing units;
- (h) a narrative description of the approach to building massing, the relationships to adjacent properties, and the proposed exterior building materials;
- (i) a tabular analysis comparing existing zoning requirements to the Waivers requested for the Project; and
- (j) evidence of control of the site.

In the case of a Local Initiative Project (LIP), the application shall be submitted by the Chief Executive Officer of the Municipality.

To repeat, I have never been notified by you of the significant material changes to your 40B project. Accordingly, at this point in time, it is clear that in unilaterally seeking significant material changes to your 40B project to DHCD without formally notifying me, you have not complied either the notice requirements of 760 Code of Massachusetts Regulations 56.03, or the required application elements of 760 Code of Massachusetts Regulations 56.02 in several areas, including the following subsections:

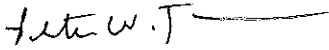
- (b) address of the site
- (d) tabulation relating to the number of units and size (number of bedrooms, floor area);
- (f) details relating to the affordable percentages;

- (g) conceptual site plan drawings; and
- (h) narrative description of the buildings.

This week, I had this matter brought to the attention of the Director of DHCD's Division of Housing Development, Rebecca Frawley Wachtel, who was informed of the Town's concerns that you were seeking a new Project Eligibility Letter without presenting the Town any opportunity to re-hear your proposal, in non-conformance with the regulatory requirements cited above. I was informed that Ms. Wachtel agreed with the Town's concerns and that the process should commence afresh.

Accordingly, you are hereby notified that the Town's position is that because you have not properly complied with the requirements of 760 CMR 56.00 et seq., you must re-submit your 40B project proposal to the Town, at a future Board of Selectmen's meeting. I strongly urge you to contact my office at the number above to arrange a date for same.

I anticipate your compliance in this matter.



Peter W. Teitelbaum, Esq.  
Chairman, Wareham Board of Selectmen

cc: Director Rebecca Frawley Wachtel, DHCD Div. of Housing Development  
Ass't Director Catherine Racer, DHCD Div. of Housing Development  
Secretary Jay Ash, Housing and Economic Development  
Senator Marc R. Pacheco  
Representative Susan Williams Gifford  
Project Development Engineer Pamela Haznar, MassDOT District 5  
Wareham Board of Selectmen  
Chairman Nazih Elkallassi, Wareham Zoning Board of Appeals  
Wareham Town Administrator Derek Sullivan  
Wareham Planning and Community Development Director Kenneth Buckland  
Chief Ray Goodwin, Onset Fire Dept.  
Chief Robert McDuffy, Wareham Fire Dept.