

Case #2017-04 – Habitat for Humanity of Cape Cod, Inc.

Applicant: Habitat for Humanity of Cape Cod, Inc.
Site: 93 and 97 Main Street, West Harwich
Map/Parcel: 10-w5 and 10-w3-B
Project Name: Main Street West Harwich Community Housing
Hearing Dates: March 8, 2017; March 21, 2017; March 23, 2017; April 6, 2017; April 26, 2017; June 28, 2017; and [July 26, 2017](#).

Summary: Habitat for Humanity of Cape Cod, Inc. c/o Attorney Warren H. Brodie, has made application for a Comprehensive Permit pursuant to MGL Chapter 40B Sections 20-23 and 760CMR 56.00, to create an eight lot subdivision to provide for 6 new single family affordable homes, 2 developed “market rate” lots and a cul-de-sac. The property is located at 93 and 97 Route 28, Harwich, Map# 10, Parcels #W3-B and W5 located in the R-L Zoning District.

Background

Habitat for Humanity is a non-profit organization dedicated to building simple, decent homes in partnership with families in need. Habitat builds new homes for first-time homebuyers through donated land, materials, labor and funding as well as other special financing strategies. The organization has built 108 units throughout the fifteen towns of Cape Cod.

The property is two separate parcels 93 and 97 Main Street, totaling 2.466 acres. The property is in the CH-1 and RH-1 Zoning District. The parcel to the west, 93 Main Street, has an existing ranch home that is currently configured as a duplex. The parcel to the east, 97 Main Street, has an older, historic home (the Chase home) and a barn. The Chase home is being used as three separate dwelling units and the barn contains one dwelling unit. Portions of the property are in the FEMA flood Zone AE. The site has access to town water, electric, and will be serviced by individual on-site sewage disposal systems (septic systems).

Applicant’s Request

Habitat for Humanity of Cape Cod, Inc. is seeking a Comprehensive Permit to reconfigure the property to create eight individual house lots, ranging from 8,187 square feet to 21,436 square feet, as well as a parcel containing the cul-de-sac roadway.

Habitat will build six new affordable homes on Lots 1 through 6, using the Habitat “sweat equity” program and will sell the homes affordably to income qualified, eligible households through the Department of Housing and Community Development (DHCD) Local Initiative Program.

The Habitat homes will be one-story and two-story homes, with four homes having 3-bedrooms and two homes having 2-bedrooms. They will be served by on-site septic systems, public water and, funding permitting, will have roof-top solar panels. Each Habitat home will have a shed. An on-site parking/driveway

area is provided on each lot. Habitat is proposing to offer the units for sale at a price affordable to households at or below 65% of the area median income.

Lots 7 and 8 will contain the existing dwellings and structures and will be the “market rate” lots

Procedural and Hearing Summary

On September 16, 2016 Habitat for Humanity applied to the Department of Housing & Community Development (DHCD) for a Project Eligibility letter for the 93 and 97 Main Street West Harwich project. The application was submitted under the Local Initiative Program. On February 1, 2017, DHCD issued a Project Eligibility letter.

On February 2, 2017, the Applicant filed an application to the Harwich Zoning Board of Appeals for a Comprehensive Permit to develop the 93 and 97 Main Street West Harwich project. On _____ 2017, project notification and review request letters were sent to local boards, agencies and officials in accordance with 760 CMR 760.56.05(3). The Board received comments from the _____, _____, _____.

A public hearing before the Zoning Board of Appeals was duly advertised in the Cape Cod Chronicle on February 16, 2017 and February 23, 2017 and notices were sent to all abutters in accordance with MGL Chapter 40A. The hearing was opened on March 8, 2017, continued to March 21, 2017, continued to March 23, 2017, continued to April 6, 2017, continued to April 26, 2017, continued to June 28, 2017 and continued to July 26, 2017. The public hearing closed on July 26, 2017 and the Board rendered a decision. At that meeting, the Board voted to grant the comprehensive permit subject to conditions. Board Members deciding this appeal were _____.

Findings of Fact: Standing

Motion: The Board moves to make the following findings regarding the Applicant's standing to apply for a Comprehensive Permit under MGL Chapter 40B, in accordance with 760 CMR 56.04:

1. A Project Eligibility Letter was issued by the Department of Housing and Community Development (DHCD) on February 1, 2017. The letter confirms that the Applicant and the project meet all minimum requirements of 760 CMR 56.04 Project Eligibility. Said letter includes findings by DHCD that: the project is generally eligible under the Local Initiative Program; the site is appropriate for residential development; the conceptual plan is appropriate for the project location; the project appears financially feasible in the context of the Harwich housing market; the initial pro forma appears financially feasible and consistent with the cost examination and limitations on profits and distributions on the basis of estimated development costs.
2. The Project Eligibility Letter confirms that the project sponsor and development team meet the general eligibility standards of the Local Initiative Program. Habitat for Humanity of Cape Cod, Inc. is a non-profit organization. A letter from the Internal Revenue Service clarifies that the organization is exempt under §501(c)(3) of the tax code based on a ruling issued to Habitat for Humanity International.
3. The Applicant submitted a Purchase and Sale Agreement documenting site control.

Vote: Based upon the evidence submitted and testimony provided, the Applicant has satisfied all of the requirements for standing pursuant to MGL Chapter 40B and 760 CMR 56.04.

Findings of Fact: Consistency with Local Needs

Motion: The Board moves to make the following findings with respect to the proposed development insofar as it relates to being consistent with local needs:

1. Pursuant to Massachusetts General Law Chapter 40B, Habitat for Humanity of Cape Cod, Inc. seeks to construct six new affordable single-family dwelling units. The existing units will remain on the property on two separate market rate lots.
2. In accordance with the ZBA Rules and Regulations for Review of Comprehensive Permits, Habitat for Humanity submitted an application, preliminary site development and utility plans, a review of the conditions in the surrounding area, preliminary architectural drawings, a tabulation of proposed buildings, a preliminary plan for re-division of the land, and a list of requested waivers.
3. The property is two separate parcels 93 and 97 Main Street, totaling 2.466 acres. The property is in the CH-1 and RH-1 Zoning District. The parcel to the west, 93 Main Street, has an existing ranch home that is currently configured as a duplex. The parcel to the east, 97 Main Street, has an older, historic home (the Chase home) and a barn. The Chase home contains three separate dwelling units and the barn contains one dwelling unit. The property is located on Main Street (Route 28), a State highway.
4. The Applicant is proposing re-subdivision of the subject property. The property is proposed to be subdivided into eight lots and an area for the cul-de-sac roadway as follows:

Lot #1	8,187 7,587 sq ft
Lot #2	11,130 sq ft
Lot #3	10,668 sq ft
Lot #4	9,469 sq ft
Lot #5	9,385 sq ft
Lot #6	10,426 sq ft
Lot #7	21,436 sq ft
Lot #8	9,262 sq ft

Parcel #9	17,479 18,078 (cul-de-sac roadway)
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5. There are no wetlands on or impacting the site.
6. The Habitat homes will be four 3-bedroom homes and two 2-bedroom homes.
7. The dwellings will be served by on-site septic systems in compliance with Title V.
8. The six Habitat homes will be affordable in perpetuity for qualified individuals and households under the Department of Housing and Community Development Local Initiative Program and will be deed-restricted using the DHCD Local Initiative Program Affordable Housing Deed Rider.
9. The six Habitat homes will be available and will be marketed on a fair and open basis via Department of Housing and Community Development approved Affirmative Fair Housing Marketing. Habitat for Humanity will act as its own lottery agent. Applicant shall request Local Preference for four of the seven units.
10. The statutory requirement of MGL Chapter 40B is to provide 10% of the housing stock as affordable housing units; this goal is also reflected in Harwich's Department of Housing and Community Development Housing Production Plan. According to the Department of Housing and Community Development Subsidized Housing Inventory as of December 5, 2014, the Town of Harwich has 333 affordable units, comprising 5.4% of the total housing stock. The Town has not been granted a certification of compliance with the plan by DHCD and has not shown recent progress towards achieving its Statutory Minima. The

project is not a large project as defined by 760 CMR 56 and this application has not been previously received.

11. The Applicant has requested waivers from the Code of the Town of Harwich. In review of the relief requested and the proposed plan for the development, the Board finds that the certain requested waivers may be granted without adversely affecting the public health and safety of occupants in the development, the surrounding neighborhood, and the residents of the Town of Harwich, provided the conditions hereafter to be imposed in this permit are strictly followed.

Vote: Based upon the evidence submitted and testimony provided, the Board moves to approve these findings with respect to the project's consistency with local needs.

Decision

Motion: Based upon the findings of fact, the Board moves to grant a Comprehensive Permit in Case #2017-14 in accordance with MGL Chapter 40B, §§20-23 for the development proposed by Habitat for Humanity of Cape Cod, Inc., subject to strict conformance to the following conditions, terms, and restrictions:

I. CONDITIONS

A. General

- A.1 The holder of this Comprehensive Permit is defined as a non-profit entity, Habitat for Humanity of Cape Cod, Inc. The site is defined as that property containing approximately 2.466 acres of land constituting 93 and 97 Main Street, West Harwich, Massachusetts. 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"). ~~Changes to the location of the structures shown on the Site Plans which do not increase dimensional waivers by more than five percent (5%) of the required dimensional requirement (e.g. a waiver from the forty foot (40') front setback that does not increase the required waiver by more than two feet (2')), shall be considered insubstantial changes pursuant to 760 CMR 56.05(11), and shall be allowed upon submittal of as-built plans depicting the revised location. Additional revisions of locations of structures which do not require additional waivers shall also be allowed as insubstantial changes pursuant to 760 CMR 56.05(11). If the Inspector of Buildings determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, he shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this decision or seek modification in accordance with 760 CMR 56.05(11).~~ The Approved Plans consist of the following:
- i. Site Plan titled "Site Plan of #93 & #97 Main Street West Harwich, MA" prepared for Habitat for Humanity of Cape Cod, Inc. by down cape engineering, inc. dated 01/31/2017 and revised through _____ (3 sheets).

ii. Elevations and floor plans by Brown, Lindquist, Fenuccio & Raber Architects, Inc. dated June 13, 2017 entitled

- a. “3-BR CAPE FOR HABITAT FOR HUMANITY OF CAPE COD LOT #1 ON 93 & 97 MAIN STREET, HARWICH”, consisting of 13 numbered drawings
- b. “3-BR RANCH FOR HABITAT FOR HUMANITY OF CAPE COD LOT #2 ON 93 & 97 MAIN STREET, HARWICH”, consisting of 12 numbered drawings
- c. “2-BR RANCH FOR HABITAT FOR HUMANITY OF CAPE COD LOT #3 ON 93 & 97 MAIN STREET, HARWICH”, consisting of 13 numbered drawings
- d. “2-BR RANCH FOR HABITAT FOR HUMANITY OF CAPE COD LOT #4 ON 93 & 97 MAIN STREET, HARWICH”, consisting of 13 numbered drawings
- e. “3-BR RANCH FOR HABITAT FOR HUMANITY OF CAPE COD LOT #5 ON 93 & 97 MAIN STREET, HARWICH”, consisting of 12 numbered drawings
- f. “3-BR CAPE FOR HABITAT FOR HUMANITY OF CAPE COD LOT #6 ON 93 & 97 MAIN STREET, HARWICH”, consisting of 13 numbered drawings

iii. Landscaping Plans included as part of Site Plan.

- A.3 The Applicant shall be a Non-Profit Entity as required by Chapter 40B and it and its successors and assigns, shall comply with all applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.4 The Project shall consist of not more than eight (8) house lots. Lots 1 through 6 will be the affordable units and will contain single family houses and other related residential amenities, all as shown on the Approved Plans. Lots 7 and 8 are the market rate lots.
- A.5 (A) Any building to be constructed on the market rate lots and (B) any renovation of an existing building on a market rate lot except for that noted in (D) below, will be on the same footprint as the currently existing structure and will not exceed the current configuration of such structure. The current use each of the 3 existing structures is as follows:
- one building of 1794 sq ft, with a maximum of 2 units, with a total of 5 bedrooms and 3 baths;
 - one building of 2,610 sq ft, with a maximum of 3 units, with a total of 6 bedrooms and 3.5 baths;
 - one building of 732 sq ft, with a maximum of 1 unit, with a total of 2 bedrooms and 1 bath;
- and (C) the architectural style and building materials of any such new construction or renovation shall be generally consistent with the existing such styles and materials.
- (D) The ranch home, formerly numbered as 93 Main Street and shown as Lot 8 on the subdivision plan, will need to be partially demolished to create enough area for the new cul-

de-sac roadway. Demolition will be the approximately 555 square feet that is a one bedroom/one bathroom unit. This same square footage may be re-built to the south of the existing home, as noted on the Site Plan. Floor plans and elevations shall be submitted to the Board's file prior to issuance of the building permit.

- A.6 The Applicant will reasonably work with the Cape Cod Commission and/or the Massachusetts Historical Commission to develop a preservation restriction for the facade of Judah Chase House and barn. Such a preservation restriction shall be recorded at the Barnstable Registry of Deeds, and at any other appropriate governmental registry required to give it full effect.
- A.7 This Comprehensive Permit is granted for the use of Lots 7 and 8 (the market rate lots) for residential purposes only.
- A.8 In order to prepare for any connection to a future sewer system, a sewer line will exit each affordable unit on the street side of the unit.
- A.9 Each affordable and market rate unit will be serviced by Town of Harwich water.
- A.10 All residential units approved under this Comprehensive Permit shall be residential units, subject to a Declaration of Protective Covenants and Restrictions. These Protective Covenants and Restrictions shall, among other items, prohibit garbage disposals, prohibit irrigation and drinking water wells, require the owners to reasonably maintain their properties and grounds, and require the owners to reasonably cooperate with the Town and the State on the location of any future sidewalks along Route 28. Prior to the conveyance of any of Lots 1 through 6, Applicant will record a Trust establishing a Homeowners Association that will, among other items, address the road, drainage and utilities, including snow removal, maintenance, repair and replacement and requiring the Association promptly remove any snow windrows along the project site frontage on Route 28 within the sight triangle areas of the project, where such accumulations would exceed 2.5 feet in height and prohibiting installing or planting anything within 10 feet of the edge of the paved roadway other than grass or low bushes less than 2.5 feet in height not affecting sight lines or emergency access
- A.11 Pursuant to the Waiver List voted upon by the Board at the _____ hearing, the Applicant has requested, and the Board has granted, waivers from the Harwich Zoning Bylaw and other local by-laws and regulations as specified in Exhibit A hereto. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23. Any subsequent revision to the Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations ~~(except as discussed above in A.2), must be approved by the Board in accordance with 760 CMR 56.05(11). To the extent that additional waivers are subsequently determined to be required with respect to improvements that are otherwise shown on the Approved Plans, such waivers shall be deemed an insubstantial change to the Comprehensive Permit under 760 CMR 56.05(11), and can be granted administratively by the Board.~~
- A.12 The Applicant shall comply with all local regulations of the Town of Harwich and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.

- A.13 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. All required state permits and approvals, including, but not limited to, Title V wastewater disposal permits shall be submitted to the Board's file prior to issuance of a building permit.
- A.14 Prior to issuance of building permits or any construction, all plans shall be reviewed and approved for consistency with this decision by appropriate Town agencies and departments. The Building Inspector or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. Inspections necessary to ensure completion of the road-work to applicable standards shall be set by the Town Engineering Department.
- A.15 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any conventional loan construction financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph.
- A.16 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.
- A.17 The sidewalks, driveways, roads, utilities, drainage systems, and all other infrastructure shown on the Approved Plans as serving the Project shall remain private until such time, if ever, the Project roadways are accepted by the Town of Harwich as public ways, and the Town of Harwich shall not have, so long as the roadway remains private, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and landscape maintenance. Nothing stated above shall prevent the Applicant, its successors and assigns from petitioning the Town of Harwich to accept the roadway in the future.
- A.18 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.
- B. *Affordability Requirements*
- B.1 Six (6) Habitat houses in the Project shall be low- or moderate-income units, meaning they shall be sold to households whose income is no more than eighty percent (80%) of the area median income, as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD. [Upon sale to eligible households, Applicant shall record the DHCD "Local Initiative Program Affordable Housing Deed Rider For Projects in Which Affordability Restrictions Survive Foreclosure".](#)

- B.2 Upon completion of the Project and in perpetuity, the six (6) Habitat houses shall meet the criteria for inclusion in DHCD's "Subsidized Housing Inventory" (SHI).
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an affirmative fair housing marketing plan prior to the sale of any units, and shall ensure that the Project complies with the Subsidizing Agency's fair housing requirements. A copy of this plan will be provided to the Board prior to issuance of building permits.
- B.4 At the approval of the applicable subsidy program, the maximum number of affordable units allowed by law and applicable subsidy program, but no more than seventy (70%) percent of the units, shall be reserved for current residents of the Town of Harwich, municipal employees of the town of Harwich, employees of businesses located in the Town of Harwich and households with children attending Harwich's schools. 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.
- C. *Submission Requirements*
 - C.1 Prior to any construction on the Site, whether or not pursuant to a building permit, the Applicant shall:
 - a. Obtain a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA). The Board shall also be provided a copy of the SWPPP submitted along with the NPDES filing.
 - b. Provide the Board with evidence of compliance with pre-blasting activities requirements, if necessary.
 - c. Submit to the Board for review and administrative approval Final Engineering Drawings and Plans ("Final Plans") that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall signed and sealed by the Professional Land Surveyor, the Registered (Civil) Engineer of record. 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").

At a minimum, the Final Plans shall consist of a Definitive Subdivision Plan containing all of the required information from the Harwich Subdivision Rules and Regulations, except as waived herein.
 - d. Obtain from the Harwich Board of Health a Disposal Works Permit pursuant to 310 CMR 15.00 (Title V) for each individual septic system.

e. Obtain all required approvals from the Town Conservation Commission.

f. Applicant proposes to establish homeowner's associations for Lots 1 through 6 to maintain and repair the project roadway and associated infrastructure, including the stormwater management system. Such documents shall set forth the obligations of the homeowner's association for the operation and maintenance of all such common areas and improvements. Prior to the issuance of any building permits, the Applicant shall provide draft documents establishing of such homeowner's association to the Board for approval as to form and for verification that such documents are in conformance with this decision. The homeowner's association shall adopt rules and regulations and copies shall be provided to the Board.

g. Applicant proposes to establish neighborhood covenants. Applicant shall record the Declaration of Protective Covenants and Restrictions at the Barnstable County Registry of Deeds and provide proof of recording to the Board.

f.

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

- a. Record this Comprehensive Permit with the Barnstable County Registry of Deeds, at the Applicant's expense, and provide proof of the same to the Building Inspector.
- b. Submit to the Board and the Building Inspector 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 and the Building Inspector a copy of the Regulatory Agreement for the Project. Execution and recording of such Regulatory Agreement shall be complete prior to the issuance of any building permit.
- d. Submit to the Building Inspector final Architectural Plans prepared and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Inspector may request.
- e. The Board's engineer shall approve the maintenance schedule for the stormwater system.
- f. Obtain and file with the Building Inspector a copy of all federal, state, and local permits and approvals required for the Project.
- g. Submit evidence of a disposal works permit from the Harwich Board of Health pursuant to 310 CMR 15.00 (Title V), for construction of the septic systems for any lot for which a building permit is sought.

~~h. Applicant proposes to establish a homeowner's association to maintain and repair all common areas and to maintain and repair the stormwater management system, open space areas and roadways serving the affordable lots. Such documents shall set forth~~

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~~the obligations of the homeowner's association for the operation and maintenance of all such common areas and improvements. Prior to the issuance of any certificate of occupancy, the Applicant shall provide documents establishing such homeowner's association to the Board for approval by legal counsel as to form and for verification that such documents are in conformance with this decision. The homeowner's association shall adopt rules and regulations and copies shall be provided to the Board.~~

D. *Construction Completion; Certificate of Occupancy*

D.1 Prior to issuance of a certificate of occupancy for any affordable lot in the Project, the Applicant shall:

- a. Submit interim engineer's certification of compliance with utilities plan and profiles to the Department of Public Works.
- b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Project has been constructed in compliance with the Final Plans.
- c. Obtain acceptance from the Building Department and/or Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units
- d. Prior to issuance of a Certificate of Occupancy for any of the affordable units, the Applicant shall landscape the property using drought-tolerant plants and a minimum of 5" of loam on any disturbed areas of the site, which shall then be seeded with grass, of a type suitable for the location it is being applied to. All landscaping shall be done in accordance with a landscape plan approved by the Board.

D.2 Prior to the issuance of a Certificate of Occupancy for the barn on lot 7, Applicant shall have recorded the Historic Preservation Restriction on the façade of the Judah Chase house and barn.

D.2.D.3 Prior to issuance of the final certificate of occupancy, the Applicant shall:

- a. Submit to the Building Department, in digital file format, a final as-built plan showing rim and invert elevations, roadway, and associated construction. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
- b. Submit to the Board and Building Inspector as-built plans for all buildings in the Project.

D.3 Once the six affordable housing Certificates of Occupancy have been issued, there shall be no dumpsters or other similar outdoor receptacles for collective storage of trash, rubbish or

garbage for the six affordable housing lots. All outdoor receptacles for trash, rubbish or garbage on these lots shall be for the sole use of that individual lot owner, and all receptacles must be covered.

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E. *Project Design and Construction*

- E.1 The Applicant and the site general contractor shall attend a preconstruction conference with the Building Inspector and other Town Department heads as may be determined.
- E.2 The Applicant shall comply with the blasting guidelines required by applicable Massachusetts state law, rules, and regulations. The Applicant shall permit representatives of the Board to observe and inspect the Site and construction progress until such time as the Project has been completed.
- E.3 The proposed construction shall be in accordance with applicable federal and state laws, rules and regulations, and all local Town of Harwich bylaws, rules and regulations, including but not limited to those pertaining to Building, Fire, Safety and Health, unless specifically waived in this Decision.
- E.4 Placement of propane tanks, if any, shall adhere to all applicable town and state regulations, including 527 CMR 6.00.
- E.5 The Applicant shall request and obtain permits and approvals from the Harwich Fire Department for any fire hydrant locations.
- E.6 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- E.7 During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan.
- E.8 Appropriate signage shall be shown on the Final Plans.
- E.9 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. The location of features shown on the approved design including but not limited to fill pipes, vents, bollards, connections between tanks (if applicable) etc., shall be shown on the Final Plans.
- E.10 If natural gas is proposed, gas service locations shall be included on the Final Plans.
- E.11 Soil material used as backfill for access drives shall be certified by the Project Engineer to the Building Inspector as meeting design specifications, as applicable.

- E.12 Exterior construction activities shall be conducted between the hours of 7 a.m. and 7p.m., Monday through Saturday. For purposes of this condition, exterior construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Department of Public Works and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on site during construction.
- E.13 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. 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.14 No building areas shall be left in an open, unstabilized condition. If construction ceases for a period of more than sixty 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.15 All retaining walls shall be constructed in an aesthetic manner, specifically, retaining walls shall avoid the use of exposed concrete to the greatest extent practicable.
- E.16 Snow removal shall be the obligation of the Applicant and its successor Homeowner's Association, until such time, if ever, that the Town agrees to accept responsibility for snow removal.
- F. *Traffic Safety Conditions*
 - F.1 Vehicles exiting the project site shall be placed under STOP-sign control with a marked STOP-line provided.
 - F.2 All signs and pavement markings to be installed within the project site shall conform to the applicable standards of the Manual on Uniform Traffic Control Devices (MUTCD).
 - F.3 Signs and landscape features to be installed along project site roadways, internal to the project site and within the site triangle of the project site roadway intersection with Route 28, shall be designed and maintained so as not to restrict lines of sight.
- G. *Police, Fire, and Emergency Medical Conditions*
 - G.1 Appropriate sight distance shall be maintained at the intersection of the Project Driveway and Main Street.
 - G.2 Parking in the cul-de-sac area shall be prohibited.

H. *Water, Septic, and Utilities*

- H.1 The water, septic, and drainage utilities servicing the houses in the Project shall be installed and tested in accordance with applicable Town of Harwich requirements and protocols, except as may be waived herein.
- H.2 Utilities shall be installed in accordance with the requirements of the utility companies and state and town requirements. Utilities shall be installed 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.

I. *Other General Conditions*

- I.1 The proposed structures shall be constructed in accordance with the approved Site Plans and Architectural Plans. Any changes to the structures prior to initial occupancy (beyond what is permitted pursuant to Condition A.2) must comply with the procedures set forth in 760 CMR 56.05(11).
- I.2 This decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later. In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- I.3 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; (b) have access to, and inspect, examine and make copies of all of the books and records of the Applicant pertaining to the project; or (c) 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.

Vote: The Board votes to approve the Comprehensive Permit with conditions:

Request for Waivers and Variances

Motion: *With respect to the Applicant's request for relief from local rules and regulations, the Board finds that certain requested waivers may be granted without adversely affecting the public health and safety of occupants in the development, the surrounding neighborhood, and the residents of the Town of Harwich,*

provided the conditions imposed in this permit are strictly followed. Therefore, the following waivers are granted to Habitat for Humanity for the development of the Oak Street Community Housing project.

Code of the Town of Harwich, Massachusetts, Chapter 325: Zoning

Waivers granted from the following provisions:

XXXXX

Code of the Town of Harwich, Massachusetts, Chapter 400: Subdivision of Land and Site Plan Special Permits

XXXXXX

Vote: The Board votes to grant the requested waivers:

Ordered

Comprehensive Permit in Case #2017-14 has been granted with conditions. This decision must be recorded at the Barnstable Registry of Deeds for it to be in effect. The relief authorized by this decision must be exercised within three years. Appeals of this decision, if any, shall be made to the Barnstable Superior Court pursuant to M.G.L. Chapter 40A, Section 17, within twenty days after the date of the filing of this decision in the office of the Town Clerk. The Applicant has the right to appeal this decision as outlined in M.G.L. Chapter 40B, Section 22.

David Ryer, Chair

Date Signed

I, Anita Doucette, Clerk of the Town of Harwich, Barnstable County, Massachusetts, hereby certify that twenty (20) days have elapsed since the Zoning Board of Appeals filed this decision and that no appeal of the decision has been filed in the office of the Town Clerk.

Signed and sealed this _____ day of _____, 2017 under the pains and penalties of perjury.

Anita Doucette, Town Clerk