

March 23, 2023

Mr. Robert Moriarty, Chair  
Town of Topsfield Zoning Board of Appeals  
c/o Ms. Lynne Bermudez  
Town of Topsfield  
Town Hall  
8 West Common Street  
Topsfield, MA 01983

Via: Email to [lbermudez@topsfield-ma.gov](mailto:lbermudez@topsfield-ma.gov)

Reference: Second Independent Supplemental Peer Review for *Emerson Homes*  
Chapter 40B Comprehensive Permit Application  
10 High Street  
Topsfield, Massachusetts  
B+T Project No. 3425.00

Dear Chair Moriarty and Members of the Board:

Beals and Thomas, Inc. (B+T) is pleased to assist the Town of Topsfield Zoning Board of Appeals (the Board) with the second independent Supplemental Peer Review of the Chapter 40B Comprehensive Permit Application Filing for “Emerson Homes” at 10 High Street in Topsfield, Massachusetts (the Site). We understand that Emerson Homes, LP (the Applicant), proposes to develop a Chapter 40B housing project consisting of 44 apartment units (43 designated as affordable and one market-rate), with associated site improvements (the Project).

B+T issued a letter to the Board dated February 3, 2023, which presented the results of our site visit and our initial review of the original documentation submitted by the Applicant. As a result of our initial comments, the Applicant submitted supplemental documentation. B+T issued a letter to the Board dated February 27, 2023, which presented the results of our supplemental review of the revised documents submitted by the Applicant. B+T appeared at the February 28<sup>th</sup> virtual public hearing to review our comments of February 27<sup>th</sup>. We also had the opportunity to participate in a virtual working session on March 14, 2023 with representatives of Town staff and the Applicant to review outstanding comments from our February 27<sup>th</sup> letter. In response to our supplemental comments and discussion on March 14<sup>th</sup>, the Applicant has submitted the following additional supplemental documentation as listed herein. Specifically, B+T received the following documentation on March 15, 2023, which served as the basis for our current supplemental review:

- *Emerson Homes, LP (Chapter 40B Comprehensive Permit Application) 10 High Street, Topsfield, MA, Update to peer review comments received, dated March 15, 2023, prepared by DeVellis Zrein Inc. (20 pages)*
- *Drainage Report and Stormwater Management Plan – Emerson Homes Comprehensive Permit, 10 High Street, Topsfield, Massachusetts, dated September 16, 2022, revised through March 15, 2023, prepared by DeVellis Zrein Inc. (122 pages)*
- *Site Development Plans – Comprehensive Permit Application, Emerson Homes, 10 High Street, Topsfield, Massachusetts, dated September 16, 2022, revised through March 15, 2023, prepared by DeVellis Zrein Inc. (11 sheets)*

We have reviewed the documentation submitted by the Applicant with respect to the requirements of the Town of Topsfield General By-Laws and Zoning By-Laws; the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Regulations and Handbook (the Handbook); and, particularly with respect to our supplemental review comments dated February 27, 2023.

#### **Review Format**

In an effort to establish clarity for the Administrative Record, we have presented comments and responses as follows:

- B+T original comments dated February 3, 2023 - standard font
- Applicant previous response – italicized font
- B+T previous response dated February 27, 2023 – standard font
- Applicant current response – italicized font
- B+T current response – **bold font**

### **By-Law Waiver Requests**

1. B+T performed a review of the Applicant's List of Requested Waivers prepared by Regnante Sterio LLP in the context of the Site Development Plans and the findings of our January 12, 2023, site visit. Our evaluation and associated commentary are provided in the following table:

<b><u>By-Law or Regulations Section</u></b>	<b><u>Requirement</u></b>	<b><u>Explanation</u></b>
Topsfield Zoning Bylaw Section 3.01 Applicability of Use Regulations	<i>Except as provided in the Zoning Act or in this By-Law, no building, structure, or land shall be used except for the purposes permitted in the district and as described in the section. Any use not listed shall be construed as prohibited.</i>	A waiver is sought for this section to authorize the principal use of the Property for multifamily residential use (44 units) with associated parking, signage, building/site management, and other development as shown on Project plans.
B+T Comment: A multifamily development in the Central Residential (CR) zoning district is not permissible pursuant to the referenced By-Law; therefore, a waiver from this section would be required for the Project to proceed. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Topsfield Zoning Bylaw Sections 3.01 & 3.04 Applicability of Use Regulations & Table of Use Regulations	<i>Establishing permitted by right, special permit, forbidden, and “not applicable” uses.</i>  <i>Multi-family dwelling = Not Permitted Use in the CR zoning district</i>	A waiver is sought for this section to authorize the principal use of the Property for multifamily residential use (44 units) with associated parking, signage, building/site management, and other development as shown on Project plans.
B+T Comment: A multifamily development in the CR zoning district is not permissible pursuant to referenced By-Law; therefore, a waiver from this section would be required for the Project to proceed. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant’s Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Topsfield Zoning Bylaw Section 3.13 Parking of Automobiles	<i>Regulations applicable to off-street parking requirements.</i>	A waiver is sought for this section in its entirety. Instead, the project, including the approval of all parking design, number of spaces, dimensions, locations, setbacks, screening/landscaping, topography, lighting, and layout as shown on the attached site plans, will be permitted pursuant to the Chapter 40B Comprehensive Permit for this Project.
<p>B+T Comment: Parking of more than 20 automobiles on a single lot at any time requires a Special Permit from the Zoning Board of Appeals (ZBA). As noted herein, the Project as proposed includes 48 parking spaces in compliance with the number of parking spaces required per the underlying zoning for its residents and not as an auxiliary use. It is unclear why this waiver is being sought by the Applicant. We request that the Applicant clarify the need for the waiver to be granted.</p>		
<p><i>Applicant's Response: This provision of the Zoning Bylaw would appear to require that the Project secure a special permit to authorize the parking of more than 20 vehicles. Pursuant to M.G.L. c. 40B, § 21, the Comprehensive Permit for the Project shall include and encompass all local approvals required for all aspects of the Project. As such, approval of the parking of more than 20 vehicles is requested under this Section.</i></p>		
<p><b>B+T Response: B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b></p>		

Topsfield Zoning Bylaw Sections 4.01 & 4.02 Applicability of Dimensional and Density Regulations & Table of Dimensional and Density Regulations	<i>These sections impose the following requirements in the C-R zoning district for any permitted use:</i>		Dimensional metrics of the Project are as specified below.	
	<u>Dimension</u>	<u>Requirement</u>	<u>Dimension</u>	<u>Provided<sup>‡</sup></u>
	Lot Area	20,000 sq. ft.	Lot Area	543,663 sq. ft.
	Frontage	100'	Frontage	106.4'
	Lot Depth	120'	Lot Depth	802+/-
	Front Yard Setback	20'	Front Yard Setback	430.9'
	Side Yard Setbacks	10'	Side Yard Setbacks	48.6' (or greater)
	Rear Yard Setback	30'	Rear Yard Setback	127.6'
	Height	35'	Height	32.0'
	Stories	2.5	Stories	2
	Max. Bldg. Area	40%	Bldg. Area:	3.8%
	Min. Open Area	40%	Open Area	88.6%
	‡ NB: Setbacks and coverage/area calculations refer to the proposed building, but this waiver encompasses all construction deemed to constitute a "building" or "structure".			
B+T Comment: The Project appears to adhere to the requirements of the underlying zoning. Therefore, it is unclear why this waiver is being sought by the Applicant. We request that the Applicant clarify the need for the waiver to be granted. We further note for the Administrative Record that the frontage depicted within the plans is 100-ft and not the 106.4-ft reported herein by the Applicant. The 100-ft dimension does however comply with the underlying zoning.				
Applicant's Response: The inclusion of this information was for informational purposes only. The Applicant concurs that the Project complies with the dimensional requirements of these Sections. This Section will be removed in the final version of the Waiver List.				
B+T Response: This comment has been adequately addressed by the Applicant pending the submission of the referenced final Waiver List.				

Topsfield Zoning Bylaw Section 4.12 Parking	<i>Regulations applicable to off-street parking requirements.</i>	A waiver is sought for this section in its entirety. Instead, the approval of all parking design, number of spaces, dimensions, locations, setbacks, screening/landscaping, topography, lighting, and layout as shown on the attached site plans, will be permitted pursuant to the Chapter 40B Comprehensive Permit for this Project.
B+T Comment: The number of parking spaces provided (48 total) adheres to the underlying zoning requirements of 1 per unit with less than two bedrooms (40 total units) and 2 per unit with two or more bedrooms (4 units). Therefore, it is unclear why this waiver is being sought by the Applicant. We request that the Applicant clarify the need for the waiver to be granted.		
<i>Applicant's Response: This waiver request is intended to authorize Project parking not only for the proposed residential units, but also for any/all portions of the proposed building that might be deemed subject to additional minimum parking requirements, such as subsections (C)(4) (office space), (C)(6) (place of assembly), and/or (C)(9) (accessory uses).</i>		
<b>B+T Response: The response provided by the Applicant is unclear. It is our understanding based on the documentation provided that the Project is a "residential" project. It is unclear where the other referenced uses are proposed. Accordingly, we reiterate the intent of our initial comment and request that the Applicant clarify the need for the waiver to be granted.</b>		
Topsfield Zoning Bylaw Section 5.01 Enforcement Officer and Duties	<i>Enforcement of the Bylaw and issuance of building permits and occupancy certificates, etc.</i>	A waiver is sought for this section solely with respect to enforcement of the provisions of the Zoning Bylaw for which waivers have been requested. Building permits, occupancy certificates, etc. shall be issued pursuant to the Chapter 40B Comprehensive Permit for the Project and the State Building Code.
B+T Comment: This waiver request is generally administrative. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Topsfield Zoning Bylaw Section 5.02(A)(6) Permit Granting Authority and Special Permit Granting Authority	<i>Procedures relating to applications to the ZBA</i>	A waiver is sought for this section to the extent it imposes procedural requirements that exceed the requirements of M.G.L. c. 40B and 760 CMR 56.00, including notice requirements.
B+T Comment: This waiver request is generally administrative. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		



Topsfield Zoning Bylaw Section 7.01 Site Preparation	<i>No building permit shall be issued for any structure that requires the excavation of sod, soil, sand, gravel, stone, or any other like materials in an amount in excess of one hundred twenty (120) percent of the foundation of said structure. Where a variance from the above has been granted by the Permit Granting Authority, the excavation and removal of said material shall be subject to the provisions of the Topsfield Soil Removal By-Law.</i>	A waiver is sought for this section in its entirety. Instead, all site preparation subject to this section, including all excavation as shown on the Project plans, shall be approved as part of the Comprehensive Permit for the Project.
B+T Comment: The Project as proposed will result in a net fill of material and proposed excavation appears to be minimal. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Topsfield Zoning Bylaw Article IX (all sections), including guidelines set forth at Appendix ZA:1 (all sections)	<i>Regulations applicable to the approval of site plans for construction of any building and establishment of new uses (except as exempted per Section 9.04)</i>	A waiver is sought for these sections and the associated guidelines in their entirety, including any/all procedural and filing requirements, technical specifications, performance standards, and standards of review applicable to the site plan review process. Instead, Project site plans will be reviewed and approved as part of the Comprehensive Permit under M.G.L. c. 40B and 760 CMR 56.00 and any/all applicable state, federal, and unwaived local laws and regulations.
<p>B+T Comment: The Applicant is seeking a blanket waiver from the Topsfield Wetlands By-Law (Article IX), its implementing regulations, and administrative filing components thereunder. While we recognize the need for waivers from filing components (review under the By-Law is consolidated to the ZBA as part of the comprehensive permit), we caution against blanket waivers from general bylaws. We request that the Applicant either list or tabulate which sections of the By-Law are required for this Project. We note that the Applicant has the burden of demonstrating which waiver requests are necessary to construct the Project. Relative to this waiver we note the following:</p> <ul style="list-style-type: none"> <li>▪ Section 9.06(7) requires information regarding the lighting design (heights, details, etc.) and photometric coverage to review the adequacy of the lighting design. The location of light poles are noted, but no other design information has been provided. We request that the Applicant further clarify the intent of the lighting design to the satisfaction of the Board when considering the waiver requested.</li> <li>▪ Section 9.06(9) requires the location of electrical, telephone and communication (ETC) service to be detailed on the plans. This information has not been included. We request that the Applicant further clarify the intent of the ETC design to the satisfaction of the Board when considering the waiver requested.</li> </ul>		

*Applicant's Previous Response: Initially, it appears that the reference in this comment to the Topsfield Wetlands By-Law and its implementing regulations and administrative filing components thereunder appears to be a typographical error. It is presumed that this comment refers to Section IX of the Zoning Bylaw, which pertains to site plan review.*

*The Applicant concurs with B+T's comment that site plan review under this Section of the Zoning Bylaw is consolidated with the Board's review as part of the comprehensive permit process. Consistent therewith, the Applicant requests waivers from the procedural, filing, and administrative requirements of Sections 9.05, 9.06, and 9.08(2), which are superseded by 760 CMR 56.05(2). Similarly, the standards of review as set forth in Section 9.07 are superseded by 760 CMR 56.07(2)(b)(3).*

*Specifically with respect to B+T's comments regarding Sections 9.06(7) and 9.06(9), although not required by 760 CMR 56.05(2), the Applicant will agree to provide a photometric study and supplement the existing utility plan to provide the additional details requested here.*

B+T Previous Response: B+T will review the supplemental documentation described in the response to Article IX once it is provided by the Applicant.

*Applicant's Current Response: A photometric study plan has been added as well as the electric service (ETC) to the building on Plan C-2*

**B+T Current Response: B+T does not take exception to the waiver being requested in the context of the Project as proposed as it is administrative in nature. Accordingly, we defer to the Board on the potential granting of this waiver. We further acknowledge the incorporation of the electrical service and photometric information into the plan set. We consider this portion of our previous comment to have been adequately addressed by the Applicant.**

Topsfield Zoning Bylaw Article XIII Sign Regulations (all sections), including Permit Granting Authority's Rules & Regulations for Sign Regulations	<i>Regulations pertaining to the design, location, and size of signs; requiring a special permit and/or sign permit from the Topsfield Select Board (f/k/a Board of Selectmen) and/or Inspector of Buildings.</i>	A waiver is sought for these sections in their entirety. Instead, Project signage will be approved under this Bylaw as part of the Comprehensive Permit for this Project. Said signage will be limited to building-mounted signage to identify building locations, site directional and advisory signage, traffic signage, and an externally illuminated monument sign at the site entrance (25 square feet maximum sign board area; 8' maximum sign height).
B+T Comment: Though a rendering is not provided, the Project sign as proposed appears to meet the intent of the underlying zoning. Therefore, it is unclear why this waiver is being sought by the Applicant. We request that the Applicant clarify the need for the waiver to be granted.		
<i>Applicant's Response: Section 13.5(A)(2) of the Zoning Bylaw (as well as Chapter 359 of the Topsfield General Bylaws) would require that the Project secure a special permit to authorize the proposed signage. Pursuant to M.G.L. c. 40B, § 21, the Comprehensive Permit for the Project shall include and encompass all local approvals required for all aspects of the Project. As such, approval of the Project sign is requested under this Section and related Bylaw. As noted in the Waiver List, the Applicant has proposed that the dimensions of the Project sign will have a sign area of not more than 25 square feet and a maximum height of 8', which is consistent with the requirements applicable to freestanding signs in the Business Village and Business Park districts.</i>		
<b>B+T Response: B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Town of Topsfield Bylaws Chapter 63 Purchasing and Contracts, Section 63-6 Site Qualifications	<i>Local eligibility rules pertaining to the approval of tax abatement agreements for affordable housing developments.</i>	A waiver is sought for this section to the extent it varies from or exceeds the affordability requirements of M.G.L. c. 40B and 760 CMR 56.00. Instead, it is requested that the Comprehensive Permit for the Project include a finding that the Project is eligible for the negotiation and formation of any tax abatement agreement pursuant to these sections (if any) if the Project complies with the affordability requirements of M.G.L. c. 40B and 760 CMR 56.00, subject to action of the Topsfield Select Board and/or Topsfield Town Meeting.
B+T Comment: This waiver request is generally administrative. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Town of Topsfield Bylaws Chapter 153 Historic District (All sections) and Topsfield Historical Commission Rules, Regulations, & Procedures and Design Guidelines	<i>Local rules and regulations applicable to buildings located in the Topsfield Historic District.</i>	A waiver is sought from this Bylaw in its entirety, including without limitation any/all procedural and filing requirements, technical and design specifications, performance standards, and standards of review applicable to the Topsfield Historic District. Instead, all building construction and design, fencing, landscaping, and other site work and improvements associated with the Project shall be approved under this Bylaw as part of the Comprehensive Permit for this Project as shown on Project plans.
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B+T Comment: We note our previous commentary relative to concerns regarding blanket waivers from entire sections of the By-Law. We request that the Applicant specify which aspects of the referenced By-Law are not being met in terms of technical specification and performance standards. We recommend that the Board solicit feedback from the Historical Commission on the Applicant's submission prior to considering the waiver requested.

*Applicant's Response: This Bylaw would require that the Project secure a certificate of appropriateness from the Topsfield Historic Commission approving the construction of the proposed building. Pursuant to M.G.L. c. 40B, § 21, the Comprehensive Permit for the Project shall include and encompass all local approvals required for all aspects of the Project, including the approval required under this Bylaw. Consistent therewith, the Applicant requests waivers from the procedural, filing, and administrative requirements of THC's Bylaw, Guidelines, Rules, Regulations, and Procedures, each of which are superseded by 760 CMR 56.05(2).*

*As discussed above, all specific local performance standards are subject to waiver unless there is evidence of a valid Local Concern that would occur if such local requirements were to be waived. More specifically, the Applicant seeks waivers from all performance standards of the THC's Guidelines that would require the proposed building to imitate period architecture or utilize non-standard building materials as specified in Project plans. Notably, most of these provisions apply to work on existing buildings, which is not proposed. However, some provisions would appear to apply to the construction of new buildings, including, without limitation, the THC's Trim & Siding Guideline 5, and their Guidelines pertaining to doors, fences, solar panels, and windows.*

*Finally, the Applicant concurs with B+T's recommendation that the Board solicit feedback from THC and notes that THC has in fact filed a written feedback letter dated February 15, 2023. The Applicant will respond separately to that letter.*

<b>B+T Response: We acknowledge the response provided by the Applicant. Accordingly, we defer to the ongoing Topsfield Historical Commission (THC) review process and resolution of the THC comments dated February 15, 2023.</b>		
Town of Topsfield Bylaws Chapter 203 Soil Removal (All Sections)	<i>Local regulations pertaining to soil removal; requiring a soil removal permit from the Soil Removal Board</i>	A waiver is sought for these sections in their entirety, including any/all procedural and filing requirements, technical specifications, performance standards, and standards of review applicable to the soil removal permit review process. Instead, any/all soil removal subject to this Chapter will be reviewed and approved under this Bylaw as part of the Comprehensive Permit under M.G.L. c. 40B and 760 CMR 56.00 and any/all applicable state, federal, and unwaived local laws and regulations.
B+T Comment: The Project as proposed will result in a net fill of material and proposed excavation appears to be minimal. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: The Applicant concurs. No further response is called for.</i>		
<b>B+T Response: As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Town of Topsfield Bylaws Chapter 220 Stormwater Management (All Sections), including Stormwater and Erosion Control Regulations of the Planning Board	<i>Local regulations pertaining to  stormwater management and erosion  control; requiring a stormwater  management permit from the  Planning Board</i>	A waiver is sought for these sections in their entirety, including any/all procedural and filing requirements, technical specifications, performance standards, and standards of review applicable to activities subject to these sections. Instead, any/all activities subject to this Chapter will be reviewed and approved under this Bylaw as part of the Comprehensive Permit under M.G.L. c. 40B and 760 CMR 56.00 and any/all applicable state, federal, and unwaived local laws and regulations – including, without limitation, the State Stormwater Management Standards, as will be applied by the Topsfield Conservation Commission pursuant to its review of the Project under the Wetlands Protection Act, 310 CMR 10.
B+T Comment: We note our previous commentary relative to concerns regarding blanket waivers from entire sections of the By-Law. We recommend that the Applicant specify which components of the Topsfield Stormwater Management By-Law and Stormwater and Erosion Control Regulations of the Planning Board require a waiver for the Project rather than a blanket waiver to this entire section of the By-Law or regulations thereunder.		



*Applicant's Previous Response: Section 220-6 of this Bylaw would require that the Project secure a separate local stormwater management permit from the Topsfield Planning Board to authorize the proposed stormwater management systems. Pursuant to M.G.L. c. 40B, § 21, the Comprehensive Permit for the Project shall include and encompass all local approvals required for all aspects of the Project. As such, approval of the Project's stormwater management systems is requested under this Section. Consistent therewith, the Applicant requests waivers from all procedural, filing, and administrative requirements of this Bylaw and Regulations, which are superseded by 760 CMR 56.05(2).*

*As discussed above, all specific local performance standards are subject to waiver unless there is evidence of a specific matter of Local Concern that would occur if such local requirements were to be waived. All such requirements are therefore waived to the extent they exceed the requirements of applicable state and federal laws, including the Massachusetts Stormwater Management Standards (MSWMS) and NPDES/MS4 requirements. The Applicant notes that B&T has also been retained by the Topsfield Conservation Commission to perform a peer review of the Project under the Wetlands Protection Act and its implementing regulations, which will include review for compliance with the MSWMS. Although distinct from this peer review process, B+T's review of the Project under these (unwaivable) state requirements will directly relate to the issues under review here.*

*As the Board's review advances (as well as that of the Topsfield Conservation Commission), the Applicant will seek to supplement the Waiver List with greater specificity as to which of the exact local performance standards set forth in this Bylaw and its implementing regulations will be waived and which will be complied with. To that end, this response will be supplemented by future filings.*

B+T Previous Response: B+T will review the supplemental documentation described in the response to Chapter 220 once it is provided by the Applicant.

*Applicant's Current Response: The Topsfield Stormwater Management and Erosion Control Regulations have been reviewed and incorporated into the project. A waiver for the following is requested:*

*R:7.0 POST DEVELOPMENT STORMWATER MANAGEMENT CRITERIA*

*Recharge*

*(5.)(i): The rooftop contributing area to any one discharge location cannot exceed 1000 sq. ft*

*(5.)(ii) The contributing length of a rooftop to a single discharge location cannot exceed 75 ft.*

*Water Quality Volume*

*(7.)(a): The rooftop contributing area to any one discharge location cannot exceed 1000 sq. ft*

*(7.)(b): The contributing length of a rooftop to a single discharge location cannot exceed 75 ft.*

*Reason for waiver and summary of proposal to address the intent:*

*1,000 sq.ft. rooftop requirement: The rooftop is 20,000 sq ft in area and is collected into one single stormwater mitigation basin that exceeds all of the DEP and other town regulatory requirements with efficiency with respect to function and future maintenance. Meeting the 1,000 sq ft limit requirement would require 10 separate areas of mitigation resulting in expanded disturbance, less efficiency and unnecessary potential for failure over time.*

75 ft. length of rooftop: The building is 350 feet long and is pitched. The 75 foot roof limitation per discharge location would require 10 separate discharge locations for a pitched roof 350 long. For the same reasons above, the proposed design offers superior stormwater mitigation with respect to disturbance, peak and volume attenuation and long term maintenance with this design.

The list of waivers is also currently under review by the Applicant's attorney and this list may be adjusted prior to the next scheduled meeting. This list does not address non-engineering items such as administration, fees and other related items addressed at the state level process.

Responding the specific B+T comments above, the Operation & Maintenance plan in the report has been modified to add more detail required by the local regulations, TSS removal calculations have been provided within the drainage report, Phosphorus compliance is met by meeting the DEP requirements per local bylaw, the higher stormwater rainfall data has been implemented in the design.

**B+T Response:** As previously noted, B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.

<p>Town of Topsfield  Chapter 250  Wetlands (All  Sections), including  Rules and Regulations  of the Topsfield  Conservation  Commission</p>	<p><i>Local regulations pertaining to  wetlands; requiring a local wetlands  permit from the Topsfield  Conservation Commission</i></p>	<p>A waiver is sought for these sections in their entirety, including any/all procedural and filing requirements, technical specifications, performance standards, designation of resource areas, and standards of review applicable to activities subject to these sections. Instead, any/all activities subject to this Chapter will be reviewed and approved under this Bylaw as part of the Comprehensive Permit under M.G.L. c. 40B and 760 CMR 56.00 and any/all applicable state, federal, and unwaived local laws and regulations – including, without limitation, the Wetlands Protection Act, 310 CMR 10, as will be applied by the Topsfield Conservation Commission pursuant to its review of the Project under said Act.</p>
<p>B+T Comment: We note our previous commentary relative to concerns regarding blanket waivers from entire sections of the By-Law. The Applicant is seeking a blanket waiver from the Topsfield Wetlands By-Law (Chapter 250).</p> <p>We request that the Applicant either list or tabulate which sections of the Wetlands By-Law are required for this Project. We note that the Applicant has the burden of demonstrating which waiver requests are necessary to construct the Project.</p> <p>We request that the Applicant specify why waivers are necessary, what alternatives have been considered, and what the implications of granting the requested waiver would be.</p> <p><i>Applicant's Response: This Bylaw and its implementing regulations would require that the Project secure a separate local permit from the Topsfield Conservation Commission to authorize the proposed stormwater management systems. Pursuant to M.G.L. c. 40B, § 21, the Comprehensive Permit for the Project shall include and encompass all local approvals required for all aspects of the Project. As such, approval of the Project is requested under this Bylaw, including its implementing regulations. Consistent therewith, the Applicant requests waivers from all procedural, filing, and administrative requirements of this Bylaw and Regulations, which are superseded by 760 CMR 56.05(2).</i></p> <p><i>As discussed above, all specific local performance standards are subject to waiver unless there is evidence of a specific matter of Local Concern that would occur if such local requirements are waived.</i></p>		

*All such requirements are therefore waived to the extent they exceed the requirements of applicable state and federal laws, including the Massachusetts Environmental Protection Act. As noted, B&T has also been retained by the Topsfield Conservation Commission to perform a peer review of the Project under the Wetlands Protection Act and its implementing regulations. Although distinct from this peer review process, B+T's review of the Project under these (unwaivable) state requirements will directly relate to the issues under review here.*

*Notwithstanding the foregoing, as the Board's review advances (as well as that of the Topsfield Conservation Commission), the Applicant will seek to supplement the Waiver List with greater specificity as to which of the exact local performance standards of this Bylaw and its implementing regulations will be waived and which will be complied with. To that end, this response will be supplemented by future filings.*

B+T Previous Response: B+T does not take exception to any of the administrative filing requirements noted above as the review is being conducted through the Comprehensive Permit process.

The proponent's interpretation of the statute as it applies to waivers does not appear to comport with that of the available guidance documents published by the Massachusetts Department of Housing and Community Development and the Massachusetts Housing Partnership (please refer to the listed documents for full author attribution). The verbiage of the above response appears to indicate that 'such local requirements *are* waived' (emphasis added) as if it were by-right as part of the comprehensive permit process. Rather, it is our understanding that that the Zoning Board of Appeals is empowered with the waiver granting authority if necessary for the development to proceed.

The Chapter 40B Handbook for Zoning Boards of Appeal (2017) states the following: *It is the developer's responsibility to identify the waivers needed in order to build the Project. As a rule, the ZBA should not grant what is commonly known as a "plan waiver," or a blanket waiver to accommodate conditions that may be apparent on the developer's plan but not specifically identified in a list of waivers requested by the developers.*

We understand from the above statement that the Applicant will provide a supplemental waiver list as to the exact standards and regulations from which a waiver is being request. B+T respectfully reserves the right to further comment once that supplemental list is provided.

**B+T Current Response: The Applicant has not prepared a response to the above B+T comment pertaining to the Wetland Bylaw Waiver Requests, and the comment was not reflected in their latest correspondence. Based on the Applicant's cover letter, we understand that omitted responses are those which the Applicant has determined to be resolved. However, this comment has not been resolved and we request the information noted above.**

**We reiterate our comment that it is the Applicant's responsibility to specifically list out which waivers are necessary through the Comprehensive Permit Process.**

Town of Topsfield Bylaws Chapter 325 Historic District Rules and Regulations (All sections)	<i>Local rules and regulations applicable to buildings located in the Topsfield Historic District.</i>	A waiver is sought from these Rules and Regulations in their entirety, including without limitation any/all procedural and filing requirements, technical and design specifications, performance standards, and standards of review applicable to the Topsfield Historic District. Instead, all building construction and design, fencing, landscaping, and other site work and improvements associated with the Project shall be approved under these Rules and Regulations as part of the Comprehensive Permit for this Project as shown on Project plans.
B+T Comment: We note our previous commentary relative to concerns regarding blanket waivers from entire sections of the By-Law. We request that the Applicant specify which aspects of the referenced By-Law are not being met in terms of technical specification and performance standards. We recommend that the Board solicit feedback from the Historical Commission on the Applicant's submission prior to considering the waiver requested.		
<i>Applicant's Response: See above regarding Chapter 153.</i>		
<b>B+T Response: We acknowledge the response provided by the Applicant. Accordingly, we defer to the ongoing THC review process and resolution the THC comments dated February 15, 2023.</b>		

Town of Topsfield Chapter 359 Sign Regulations (all sections)	<i>Regulations pertaining to the design, location, and size of signs; requiring a special permit and/or sign permit from the Topsfield Select Board (f/k/a Board of Selectmen) and/or Inspector of Buildings.</i>	A waiver is sought for these Rules and Regulations in their entirety. Instead, Project signage will be approved under these Rules and Regulations as part of the Comprehensive Permit for this Project. Said signage will be limited to building-mounted signage to identify building locations, site directional and advisory signage, traffic signage, and an externally illuminated monument sign at the site entrance (25 square feet maximum sign board area; 8' maximum sign height).
B+T Comment: Though a rendering is not provided, the Project sign as proposed appears to meet the intent of the underlying zoning. Therefore, it is unclear why this waiver is being sought by the Applicant. We request that the Applicant clarify the need for the waiver to be granted.		
<i>Applicant's Response: See above response regarding Zoning Bylaw Article XIII.</i>		
<b>B+T Response: B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver.</b>		

Town of Topsfield Chapter 364 Stormwater and Erosion Control Regulations (All Sections)	<i>Local regulations pertaining to stormwater management and erosion control; requiring a stormwater management permit from the Planning Board</i>	A waiver is sought for these Rules and Regulations in their entirety, including any/all procedural and filing requirements, technical specifications, performance standards, and standards of review applicable to activities subject to these Rules and Regulations. Instead, any/all activities subject to these Rules and Regulations will be reviewed and approved under these Rules and Regulations as part of the Comprehensive Permit under M.G.L. c. 40B and 760 CMR 56.00 and any/all applicable state, federal, and unwaived local laws and regulations – including, without limitation, the State Stormwater Management Standards, as will be applied by the Topsfield Conservation Commission pursuant to its review of the Project under the Wetlands Protection Act, 310 CMR 10.
<p>B+T Comment: We note our previous commentary relative to concerns regarding blanket waivers from entire sections of the By-Law. We recommend that the Applicant specify which components of the Topsfield Stormwater and Erosion Control Regulations require a waiver for the Project rather than requesting a blanket waiver to this entire section of the By-Law. Relative to this waiver we note the following:</p> <ul style="list-style-type: none"> <li>▪ Section 364-6 M stipulates the needed requirements of an Operation and Maintenance (O&amp;M) Plan. The O&amp;M provided does not appear to be compliant or specific to this Project. We request that the Applicant provide a compliant O&amp;M plan.</li> <li>▪ Section 364-7 B (6)[3] stipulates the removal rates for structural best management practices (BMPs). The Applicant has not provided calculations for phosphorus or nitrogen removals. We request that the Applicant provide these calculations in accordance with referenced By-Law.</li> <li>▪ Section 364-7B(8)(k) requires that design storms be based on Northeast Regional Climate Center "Atlas of Precipitation Extremes for the Northeastern United State and Southeastern Canada". The storm data used does not appear to comply with this requirement, particularly regarding the 100-year storm event. We request that the Applicant utilize the referenced data or NOAA Atlas 14 design rainfall data.</li> </ul>		

*Applicant's Response: See above response regarding Chapter 220.*

*With respect to Section 364-6(M), the Project stormwater management report include an Operation and Maintenance (O&M) Plan in compliance with the MSWMS. To the extent the filing requirements of this Section exceed the requirements of the MSWMS, they are subject to waiver.*

*With respect to Section 364-7(B)(6)(3), the requested calculations are not required by the MSWMS. Notwithstanding, the Applicant will conduct and provide these calculations in a future filing for reference purposes.*

*With respect to Section 364-7(B)(8)(k), the requested data is not required by the MSWMS. Notwithstanding, the Applicant will provide this data in a future filing for reference purposes.*

**B+T Response: B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver. Relative to the request for technical clarifications regarding O&M plans, rainfall intensity, etc., we consider the Applicant to have adequately addressed those concerns.**



Town of Topsfield Chapter 368 Subdivision Regulations (All Sections)	<i>Local regulations pertaining to subdivisions of land</i>	A waiver is sought for these Regulations to the extent they may be deemed applicable to the Project, whether directly or by reference, notwithstanding the fact that the Project does not propose a subdivision of land. This waiver shall encompass any/all technical, design, construction, and performance standards; filing fees; procedural and filing requirements; and bonding, surety, guarantee requirements.
<p>B+T Comment: Understanding the Project is not a subdivision; we note the following for the benefit of the Board. Relative to this waiver request we note the following:</p> <ul style="list-style-type: none"> <li>▪ The single driveway only provides one means of emergency access and is greater than the 650-ft maximum length requirement for a dead-end street. We recommend that the Board solicit feedback from Topsfield Fire Department personnel relative to the adequacy of the emergency access provided.</li> <li>▪ The details for concrete sidewalk do not appear complete. We request the Applicant clarify the design intent for concrete sidewalks and in accordance with Section 368-25E (1) of the By-Law.</li> </ul>		
<p><i>Applicant's Previous Response: The Applicant concurs with B+T's recommendation that the Board solicit feedback from the Topsfield Fire Department and notes that Fire Chief Collins-Brown has in fact filed a written feedback letter dated February 16, 2023. The Applicant will respond separately to that letter but notes that Chief Collins-Brown did not raise any concern in her letter regarding the proposed driveway length.</i></p> <p><i>Regarding sidewalk construction details, see Civil Sheet C-4.</i></p>		
<p>B+T Previous Response: We acknowledge the response provided by the Applicant. Regarding Topsfield Fire Department input we defer to the ongoing review process and resolution of Chief Collins-Brown comments dated February 16, 2023. Regarding the sidewalk detail on Sheet C-4, as noted, the detail is incomplete as dimensions "A" and "B" do not appear to be defined. Accordingly, we reiterate the intent of that portion of our initial comment.</p>		
<p><i>Applicant's Current Response: The concrete detail has been clarified</i></p>		
<p><b>B+T Response: B+T does not take exception to the waiver being requested in the context of the Project as proposed. We defer to the Board on the potential granting of this waiver. Relative to the request for technical clarifications regarding the concrete sidewalk detail, we consider the Applicant to have adequately addressed that concern.</b></p>		

Town of Topsfield Chapter 384 Wetland Regulations (All Sections), including all TCC policy statements	<i>Local regulations pertaining to wetlands; requiring a local wetlands permit from the Topsfield Conservation Commission</i>	A waiver is sought for these Regulations in their entirety, including any/all procedural and filing requirements, technical specifications, performance standards, designation of resource areas, and standards of review applicable to activities subject to these Regulations. Instead, any/all activities subject to these Regulations will be reviewed and approved under these Regulations as part of the Comprehensive Permit under M.G.L. c. 40B and 760 CMR 56.00 and any/all applicable state, federal, and unwaived local laws and regulations – including, without limitation, the Wetlands Protection Act, 310 CMR 10, as will be applied by the Topsfield Conservation Commission pursuant to its review of the Project under said Act.
B+T Comment: We note our previous commentary relative to concerns regarding blanket waivers from entire sections of the By-Law. The Applicant is seeking a blanket waiver from the Topsfield Wetlands Protection Regulations. We caution against blanket waivers from general bylaws and request that the Applicant either list or tabulate which sections of the Wetland Regulations are required for this Project.		
<i>Applicant's Previous Response: See above response regarding Chapter 250.</i>		
B+T Previous Response: B+T will review the supplemental waiver request described in the response to Chapter 250 once it is provided by the Applicant.		
<p><i>Applicant's Current Response: The Topsfield Wetlands Protection Regulations have been reviewed and incorporated into the project. A waiver for the following is requested:</i></p> <p><i>R:10-2 DEFINITIONS</i>  <i>Reason: The project is following the Wetlands Protection Act, 310 CMR 10</i></p> <p><i>R: 10-3 IDENTIFICATION OF RESOURCE AREAS PROTECTED</i>  <i>Reason: The project is following the Wetlands Protection Act, 310 CMR 10</i></p> <p><i>R: 10-3 P(1010) #5. All soils stored at the construction site for greater than 24 hours shall be covered with water proof tarpaulin or equivalent rainwater protection.</i></p>		

Reason for waiver and summary of proposal to address the intent:

The contractor with assistance from DZI will prepare a SWPPP/NPDES program for addressing stockpiles that will be more effective and manageable than providing plastic atop stockpiles. The proposed protection plan will include specific stockpile locations, means and methods to address silt and erosion through approved methods such as additional erosion control lines, monitoring, reporting and temporary seeding if necessary to avoid large areas of plastic that will not effectively address the situation properly.

**R:10-16 P(1025) DOCUMENTATION OF PROJECT PROPOSAL AND ACTS**

- (1.b) ...shade cuts and fills distinctly and provide representative cross sectional views.
- (2.bii) Plans showing ... cross sections and profiles of all proposed drainage system components
- (2.d) Construction Implementation Phase.
- (2.e) Monitoring Plan
- (2.f) other information required on a case-by-case basis

Reason for waiver and summary of proposal to address the intent:

The contractor with assistance from DZI will prepare a SWPPP/NPDES program for addressing the means and methods of construction related items. Items such as cut and fill analysis, cross sections of wetland resources that are not within the project limit of disturbance cross sections and profiles are excessive for this project. The design plans show structure charts, callouts of inverts, structure rims and pipe sizes.

**R:10-16 P(1045) REGULATIONS**

- (2) Building structures shall have drip trenches.

Reason for waiver and summary of proposal to address the intent:

All roof area will be piped to the detention basin and not allowed to drop at the foundation edge. Drip trenches are not necessary. A drip edge is intended to protect water from sheeting from the roof and causing erosion and this is avoided entirely by a piped system that collects, diverts and mitigates all the roof runoff in the basin.

The list of waivers is also currently under review by the Applicant's attorney and this list may be adjusted prior to the next scheduled meeting. This list does not address non-engineering items such as administration, fees and other related items addressed at the state level process.

**B+T Response: B+T does not take exception to the above-listed waiver being requested in the context of the Project as proposed. We recommend that as a potential condition of approval, the Board require the SWPPP to be provided for review prior to the start of construction.**

B+T further notes that there may be additional requirements of the Regulations that are necessary to be waived for the Project to be completed as submitted. For example, it appears that a waiver would be needed from Section R:10-5 which speaks to local filing requirements or Section R25-8 which requires a mitigation ratio of 1:1 for work within the Buffer Zone or Riverfront Area. While we acknowledge the Applicant's indication that the requested waivers exclude administrative items, we recommend that the Applicant submit a comprehensive list of waiver requests, including both administrative and technical matters (such as are noted above).

Town of Topsfield Chapter 392 Zoning Board of Appeals Procedures (All Sections)	<i>Local procedures of the Topsfield Zoning Board of Appeals</i>	A waiver is sought for these Regulations to the extent their requirements differ from and/or impose requirements that exceed the requirements of M.G.L. c. 40B and 760 CMR 56.00.
B+T Comment: This waiver request is generally administrative. B+T does not take exception to the waiver being requested in the context of the Project as proposed.		
<i>Applicant's Response: No response provided by the Applicant.</i>		
<b>B+T Response: We reiterate the intent of our previous comment.</b>		

### **Civil Engineering Comments**

- The volume of post-development runoff to the on-site vernal pool is unclear. Stormwater runoff is being collected and discharged to the south and downstream of the vernal pool location, potentially impacting its future hydrology (hydroperiod water elevations) relative to its continuing to provide habitat. We request that the Applicant clarify the design intent and document that hydrologic impacts to the vernal pool will not occur.

*Applicant's Current Response: A separate analysis for the existing and proposed contributory runoff areas and peak rates to the potential vernal pool has been provided in the drainage report as requested. The design intent is not to dry up or flood that area by maintain flows. A second outlet pipe has been added from the treated basin to flow towards the pool area it to maintain the flows.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

3. The modeled elevations of the stormwater basin do not correlate to those depicted on the plans. We request that the Applicant revise the documentation accordingly.

*Applicant's Current Response: The typo on the outlet control structure detail on Plan C-5 has been changed.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

4. The low flow invert on the proposed stormwater basin appears to be at elevation 85.50-feet and the bottom basin elevation is 85-feet. This would create approximately  $\pm 0.5$ -feet of ponded water which would need to be infiltrated. Additionally, the Applicant appears to claim exfiltration in the stormwater calculations. We request that the Applicant clarify if the basin is designed as a detention basin with no infiltration or will function as an infiltration basin.

*Applicant's Current Response: The detention basin is modelled as a detention basin that has capabilities of providing infiltration as the basin detains the stormwater. This is indicated on the HydroCad model.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

5. We acknowledge the test pit information provided by the Applicant. Only one test pit was conducted within the footprint of the stormwater basin to determine the in-situ soil conditions and the estimated seasonal high groundwater elevation. Portions of the work associated with the basin appear to lie within areas mapped as hydric soil and locally jurisdictional wetland on the existing conditions plan. We request that this information be included on the design sheets. Additionally, we recommend the Applicant conduct two more test pits in accordance with Table 1B.1, Volume 2, Chapter 2 of the Handbook. Furthermore, the assumed estimated seasonal high groundwater elevation of 62-ft is not consistent with TP-9. We request that the Applicant clarify the matter and revise the modeling as necessary.

*Applicant's Response: Eight test pits were performed for the septic system and five borings were performed within the building area in addition to the detention basin test pit. All testing indicates identical conditions. Understanding that one more test pit is required for the basin, we respectfully request that this test pit be a condition of approval and performed prior to construction with the results provided to the town.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. B+T recommends that the completion of one additional test pit within the limits of the proposed detention basin prior to construction be considered as a condition of approval. B+T further recommends that a log of the test pit be provided to the Board for the Administrative Record.**

6. The post development modeling of Subcatchment PR-2 is unclear. The Tc used is 0 minutes which is inconsistent with the requirements of the Handbook. We request that the modeling be revised accordingly.

*Applicant's Current Response: The Tc was changed to 6 minutes.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

7. The Applicant does not appear to provide sizing calculations for the proposed sediment forebays. We request that the referenced calculations be provided by the Applicant.

*Applicant's Current Response: Three sediment forebay calculations have been added to the Drainage Report.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

8. We request that the Applicant provide calculations documenting that the proposed rain garden will dewater within 72-hours in accordance with the Handbook.

*Applicant's Current Response: Calculations have been added showing the rain garden will dewater within 72 hours.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

9. The Applicant does not appear to include off-site areas in their stormwater analysis. We request that the Applicant include a comprehensive analysis of the watershed area in their drainage analysis.

*Applicant's Current Response: There are two offsite areas that are tributary to the site. Area 1 is the side yards of the neighboring homes, located to the north of the site. This area drains to the site and is tributary to existing drainage area EX-1 and EX-2 and is tributary to DP-1 and DP-2 respectively. The proposed conditions maintain an existing ridge that splits the runoff from this off-site area and directs it to DP-1 and DP-2, similar to the existing conditions. The net impact of this off-site area is considered to be neutral, as it relates to the site stormwater design and therefore it is not included in the calculations. Area 2 is located to the southwest of the site. The runoff from this area enters the site via a small swale and terminates at an existing headwall that is located within the proposed site entry drive and enters the High Street drainage system. The proposed conditions collect the runoff from the existing swale via a flared end and carries it to High Street drainage system, similar to the existing conditions and therefore this off-site area has a neutral impact on the site drainage system.*

**B+T Current Response: B+T acknowledges the Applicant's response regarding minimal offsite tributary runoff; however, notes that there appears to be an inconsistency between the total area used in the existing conditions hydrologic analysis and that of the proposed conditions analysis. B+T requests that the Applicant clarify the overall drainage areas utilized in both analyses and confirm that there are no new untreated discharges in accordance with Standard 1 of the Handbook.**

10. We request that the Applicant clarify the use and design intent for the Infiltrator Quick4 Plus Standard Detail on Sheet C-6 as it does not appear to be incorporated into the design.

*Applicant's Current Response: The Infiltrator Quick4 Plus is for the septic system leaching field. Final design will be submitted to the Board of Health for review.*

**B+T Current Response: B+T acknowledges the Applicant's response and defers final review and approval of the proposed septic system to the Town of Topsfield Board of Health. No further action is required.**

11. The Applicant does not appear to provide a clear path for maintenance equipment to be able to access all sides of the proposed basin or rain garden. We request that the Applicant clarify how the proposed BMPs will be maintained.

*Applicant's Current Response: A clear path has been added to the basin (from the parking lot) and rain garden (from the sidewalk) to provide access and maintenance.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

12. The Applicant does not appear to provide 1-foot of freeboard for the proposed rain garden. We request that the Applicant clarify the design intent and revise the design accordingly.

*Applicant's Current Response: The freeboard has been modified to be 1 ft and spot grades added to the plan to show this.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

13. The rain garden overflow is proposed to be connected to the municipal drainage system. We defer to the Topsfield DPW personnel to confirm the capacity of the system to accommodate this additional potential runoff flow.

*Applicant's Current Response: The Applicant concurs. No further response required.*

**B+T Current Response: B+T acknowledges the Applicant's response and defers final review and approval of the proposed stormwater connection to the Town of Topsfield Department of Public Works. No further action is required.**

14. The rim and invert schedule on Sheet C-2 appears to indicate that there are three pipe connections to DMH1; however, the drawing appears to indicate two connections, one from LD1 and one to FES1. We request that the Applicant clarify the design intent and revise the plans and calculations as necessary.

*Applicant's Current Response: There are 3 pipes associated with DMH1 as the DMH1 is provided over an existing pipe. The 3rd pipe originates from the existing DMH located in proximity on High Street.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**



15. We request that the Applicant provide a secondary TSS Removal Calculation Worksheet for the treatment train discharged to the proposed rain garden documenting compliance with Standard 4 of the Stormwater Handbook.

*Applicant's Current Response: An additional TSS Removal Calculation Worksheet has been added to include the rain garden.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

16. The Applicant does not appear to have provided a Stormwater Pollution Prevention Plan (SWPPP) or draft SWPPP in accordance with Standard 8 of the Stormwater Handbook; however, they note that one will be prepared prior to the commencement of construction. B+T recommends that the Board consider requiring the submission of a SWPPP for the Board's review prior to construction as a potential condition of approval.

*Applicant's Current Response: The Applicant concurs. The project will require a NPDES / SWPPP under federal law and the contractor can provide the plans and permit to the town.*

**B+T Current Response: B+T acknowledges the Applicant's response and recommends that the submission of a SWPPP to the Board for review and comment prior to the start of construction be considered as a condition of approval.**

17. The Applicant does not appear to have provided a signed Illicit Discharge Statement in accordance with Standard 10 of the Stormwater Handbook. We request that the referenced documentation be provided by the Applicant.

*Applicant's Current Response: The illicit Discharge Statement was included within the Drainage Report and a signature has now been added as noted.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

### **Traffic Comments**

18. Please see the “Traffic Peer Review” attached hereto provided by Chappell Engineering Associates dated January 30, 2023.

*Applicant’s Response: See enclosed letter of Vanasse & Associates, Inc.*

**B+T Response: We acknowledge the response provided by VAI as referenced herein. Chappell Engineering Associates issued their findings under separate cover in a letter dated February 28, 2023 and appeared at the February 28<sup>th</sup> virtual public hearing.**

19. Relative to the request from Chappell Engineering Associates for defined sight line triangles, with only 100-ft of frontage, we request that the Applicant document if easements will be required from abutting properties to keep the sight triangles maintained and clear of vegetation.

*Applicant’s Response: As can be seen on Figure 1, the sight triangle areas are contained within the Project site or the public right-of-way. As such, sight line easements are not required for the Project.*

**B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.**

### **Public Safety Emergency Access Comments**

20. The Applicant does not appear to include a contiguous safety barrier or other form of deterrent between the paved parking areas and driveway and the stormwater BMPs. The proposed stormwater basin will have a maximum ponding depth of approximately ±1.6-ft which may be a public safety concern. We request that the Applicant extend the guardrail in the vicinity of the stormwater management BMPs to create a contiguous barrier.

*Applicant’s Current Response: The guard rail has been modified to be constructed between the down slopes of the basins near paved vehicular areas posing perceived risk.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

21. The Applicant does not appear to provide a vehicular turning analysis indicating that emergency response vehicles can safely enter and maneuver within the proposed paved areas. We request that the Applicant provide an AutoTURN or other similar form of turning analysis to document that an emergency response vehicle can safely access and maneuver on site.

**B+T Current Response: See response below for Comment #22.**

22. Understanding it is not a subdivision road, the minimum radius for a dead-end roadway cul-de-sac is 55-ft. As proposed, the turnaround radius is approximately 40-ft. We defer the adequacy of the emergency access provided to Topsfield Fire Department personnel.

*Applicant's Response: (#21 & #22): A turning template plan was previously prepared at the entrance. This plan has been updated to include full access into the site, around the cul-de-sac and returning out of the site (attached to letter).*

**B+T Current Response: The Applicant has provided an AutoTURN analysis of the site depicting the turning movements for a 46-foot-long unarticulated vehicle titled "Topsfield Fire" entering the site from both sides of High Street, going around the cul-de-sac and exiting onto High Street. B+T notes that the swept path of the vehicle appears to be largely within the limits of the proposed paved areas. Ultimately, B+T defers to the Town of Topsfield Fire Department on the adequacy of emergency site access provided.**

### **Landscape Plan Comments**

23. The Applicant has provided a Planting Plan (Sheet C-3) that includes a variety of deciduous and evergreen trees and shrubs, as well as herbaceous plant materials. While the plant materials specified consists of species that are commonly utilized and available in Massachusetts, some are not native to the New England area. We would encourage the Applicant to revise the plant schedule to include only plant species native to Massachusetts.

*Applicant's Response: Modifications to the plan were made to address your suggestion. All plants within the 100' Buffer zone, Riparian zones and stormwater management areas are native. All seed blends are native. The entire plant palette is 85% native, typically LEED certification requires 60%. Adaptive Honey locust trees are proposed to be used as street trees and parking lot trees. They provide diaphanous shade and do not have a root structure that invade and damage curbs, sidewalks and parking areas. Adaptive hydrangeas and Rhododendron are proposed at the foundation of the building.*

*These plants although are not native they are not invasive and are accepted adaptive plants commonly used in Massachusetts.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

24. The Applicant does not appear to have provided a limit of clearing. We request that the Applicant clarify the extents of the Project and its effects on the existing vegetation relative to maintaining existing vegetative buffers to abutting properties. This will assist in determining whether supplemental plantings (evergreen) should be proposed to provide additional screening of the Project from abutting properties.

*Applicant's Response: SP-1 indicates "EROSION CONTROL BARRIER" pointing to silt soxx embedded with silt fence which is the limit of disturbance. Additional clarification has been added to the SP-1 plan referring it as LIMIT OF CLEARING/ EROSION CONTROL BARRIER.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

25. We note that the Planting Plan has been stamped by a Professional Engineer. We recommend that the Planting Plan be reviewed and stamped by a Registered Landscape Architect.

*Applicant's Response: An RLA stamp will be provided on the plan in addition to a PE stamp.*

**B+T Current Response: We acknowledge the incorporation of the RLA Stamp. However, the license for the stamping RLA appears to have expired. Accordingly, we reiterate the intent of our previous comment.**

26. The Applicant has located the dumpster to the northeast of the proposed building. The dumpster appears to be enclosed with a wooden fence and various landscaping around the back and sides of the enclosure. We recommend that the Applicant confirm that the size of the dumpster to be provided is adequate to accommodate the number of residential units proposed.

*Applicant's Response: The pad is (19' wide x14' deep) which can easily accommodate two side by side 10-yard commercial dumpsters or combination of various trash and recycle scenarios for this development.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

27. Note 1 of the Planting Notes on Sheet C-3 states that the Existing Conditions information is reproduced from the survey prepared by Feldman Land Surveyors, whereas the Existing Conditions Plan included in the site plan set was prepared by Hancock Associates. We request that the Applicant clarify this matter.

*Applicant's Response: The note has been revised to reference Hancock Survey.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

#### **Water Use Comments**

28. The Applicant proposes to connect to municipal water from High Street; however, do not appear to have included information regarding the design water demand (both domestic and fire) or the sizing of the proposed water line. We defer to the Topsfield Public Works personnel relative to the available capacity to serve the Project.

*Applicant's Response: This will be coordinated with the Topsfield DPW.*

**B+T Current Response: B+T acknowledges the Applicant's response and defers to the Town of Topsfield Department of Public Works on the review and approval of the final water design and connection to existing utilities.**

29. The Applicant proposes one centrally located fire hydrant across the driveway from the building. This appears to be consistent with other similar projects and developments based on experience; however, we defer to Topsfield Fire Department personnel relative to the adequacy of the hydrant location.

*Applicant's Response: The project will adhere to the Topsfield fire department's requirements.*

**B+T Current Response: B+T acknowledges the Applicant's response and defers to the Town of Topsfield Fire Department on the adequacy of the proposed fire hydrant location for emergency response.**

### **Septic Comments**

30. The Applicant proposes to use an on-site pressure distribution septic system sited directly north of the proposed building. Test pits in the area indicate that estimated seasonal high groundwater (ESHG) is conservatively less than 3-feet from existing grade (approximate ESGH elevation  $\pm 64.3$ -feet). The bottom of the proposed leaching pit appears to be approximately elevation 70.5-feet which would provide approximately  $\pm 6.2$ -foot offset to groundwater. While the general design appears to be sufficient, we note that the Applicant does not appear to have provided calculations for the design of the septic system and the various components. We request that the Applicant document the design flows and how the proposed septic system will accommodate the proposed use. We defer to the Board of Health review process.

*Applicant's Response: The Topsfield Board of Health will be reviewing the septic system plans and calculations in accordance with the regulations and no waivers are expected.*

**B+T Current Response: B+T acknowledges the Applicant's response and defers final review and approval of the proposed septic system to the Town of Topsfield Board of Health. No further action is required.**

### **Wetland / Natural Resources Comments**

31. The WF-E Series wetland and its Buffer Zone are not depicted in the Plan except for the Existing Conditions sheet. Although we understand that it is the Applicant's intent to request a waiver from the local jurisdictional status of this resource area, we request that it be depicted on the Plan for review purposes. Given that it is referenced as a 'By-Law Hydric Soil Wetland' on the plan, we also request that the Applicant address how filling areas of hydric soil may affect the connected state jurisdictional wetlands, particularly the adjacent vernal pool.

*Applicant's Response: For clarity, a second plan has been provided (Plan C-2A) that shows the requested resource lines and local jurisdictional buffers in context to the design for reference. The hydric soil/topsoil within construction areas will be removed. These areas are at the edge of the buffers and will not impact the resource areas.*

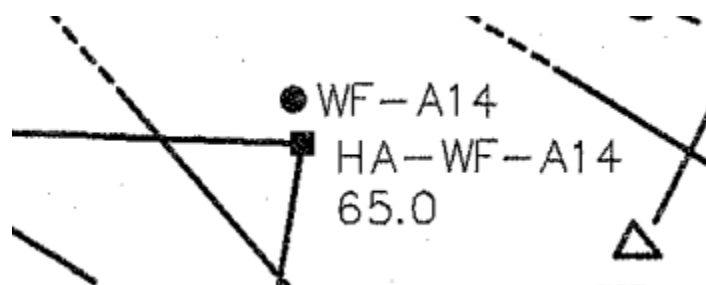
**B+T Current Response: The Local 200-foot Riverfront Area has been added to Plan C-2A but not the E Series Hydric Soil wetland as requested. As the Applicant indicates that 'hydric soil/topsoil' will be removed from the construction area, we further request that the Applicant provide the Board with information as to how potential weeping of groundwater will be addressed as hydric soils are removed from the proposed limits of disturbance.**

32. We request that the Applicant include the 100- and 200-foot Riverfront Area (RFA) boundaries pursuant to the By-Law. Although we understand that it is the Applicant's intent to seek a waiver from the locally-designated perennial status of this stream, it is difficult to understand how much of the limits of work fall within this local RFA in order to appropriately assess the waiver request.

*Applicant's Response: For clarity, a second plan has been provided (Plan C-2A) that shows the requested lines and buffers in context to the design for reference.*

**B+T Current Response: The 100- and 200-foot Riverfront Areas have been added to the plan. Although we take no exception to the granting of this waiver, we strongly recommend that the Applicant consider re-naturalizing the portions of the undisturbed local Riverfront Area.**

33. There appears to be some discrepancy between wetland flag locations from the various base plans referenced in the Existing Conditions plan. Some of the flags are labeled 'WETFLAG LOCATED BY HANCOCK' and others are labeled 'WETFLAG FROM BEALS PLAN' in the plan legend. The referenced 'BEALS PLAN' (Revision Date April 4, 2021) appears to contain both wetland flags located by GPS Instrumentation (by Beals Associates, Inc.) and field survey conducted by Morin-Cameron Group, Inc. Discrepancies were noted among wetland flags even where the Beals and Hancock plans both indicate the use of survey instruments. For example, WF-A14 was reported on the Beals plan to be located by field survey by the Morin-Cameron Group, Inc., and that of Hancock Associates. We request that the Applicant address the discrepancies as they relate to conflicting instrument surveys of resource area boundaries.



*Extract from Existing Conditions Plan*

*Applicant's Response: Hancock Associates was asked to respond to the question above and this response was provided for consideration: "With the field surveys being 1-2 years apart from each other, there could be many reasons why there are discrepancies in the locations of the flags. A few reasons why they could differ being: site conditions possibly made some of them more difficult to see; they've moved over the years due to weather or tree growth; maybe someone found a flag on the ground and re-tied it to a tree. It's hard to say exactly why there is a difference between them. Many of the flags we located are reasonably close to the locations by Morin-Cameron. In the end, what we portrayed for the Bordering Vegetated Wetland (BVW) and associated buffer lines was from wetland flags locations from the prior plan and anywhere we located a flag in-common, we held our location of the flag to control."*

**B+T Current Response: Acknowledged. However, we note for the record that these locations may differ though incrementally from those approved through the below-referenced ORAD. However, given the minor differences, and because flag locations do not encroach into the limit of work, we consider this comment adequately addressed, but note that resetting flags may be necessary prior to the start of construction.**

34. A finding of the Order of Resource Area Delineation (ORAD; MassDEP File No. 307-0776) for this Site establishes that *the A-Series and C-Series wetlands contain Vernal Pools which likely meet the MA NHESP criteria, appropriate evidence is to be gathered and submitted to NHESP for Certification.* Based on available mapping, it does not appear that the work to undertake the certification of these vernal pools has been completed. We request that the Applicant comment on the status of the vernal pool certification, and whether the Project will be subject to Standard 6 (Discharges to Critical Areas) of the MA Stormwater Handbook.

*Applicant's Response: No survey of the two potential vernal pools has taken place to verify biological evidence. The applicant's wetland consultant will survey these two areas during the 2023 breeding season (between late March to late April) to determine if these areas meet the biological criteria for certification. It is currently unknown if these potential vernal pools will meet the criteria for certification and therefore unknown if the project will be subject to Standard 6.*

**B+T Current Response: Acknowledged.**



35. We request that the Applicant depict snow storage locations on the plan.

*Applicant's Response: Snow storage locations have been added to Plan C-1 plan and all areas are outside of the 100-foot BVW buffer.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

36. Off-grading for the proposed Basin is situated near a wetland, particularly with reference to Flags WF-A16A and WF-A15. We request that the Applicant investigate reshaping the basin or its off-grading to increase the distance from the wetland. Currently, the perimeter sediment controls will be situated approximately five feet from WF-A16A.

*Applicant's Response: The basin has been reshaped as suggested.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

37. We request that the Applicant depict soil stockpile locations on the plan and provide notes for stockpile stabilization and perimeter controls.

*Applicant's Response: All stockpile areas will be within the Limits of Disturbance shown on Plan SP-1. The means and methods of construction will be addressed by the contractor within the NPDES/SWPPP process and provided to the town as suggested.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

38. The Erosion and Sediment Control details on Sheet C-4 include depictions of Silt Fence and Silt Soxx sediment control barriers. However, Sheet SP-1 provides notes for Haybales to be installed during construction (Notes 5 and 6). We request that the Applicant clarify the proposed erosion and sediment control plan for the Site, and we recommend that straw be considered instead of the use of hay given the risk for importing invasive species to the locus.

*Applicant's Response: Haybales are not proposed. Silt Soxx and Silt Fence will be clarified in the notes.*

**B+T Current Response: This comment has been adequately addressed by the Applicant. No further action is required.**

39. Based on B+T's January 12, 2023 site visit, it appears that many of the wetland flags have fallen or were no longer legible to correlate with the plan. Once the survey discrepancy is resolved with respect to flag locations, we recommend that flags be re-established prior to the start of work.

*Applicant's Response: No objection to the wetland flags being reestablished prior to construction.*

**B+T Current Response: We reiterate the intent of our previous commenting pending the re-establishment of the wetland flags.**

40. We request that the Applicant consider what mitigation opportunities are available for the Project, including restoration or enhancement of resource areas within the Site or in adjoining resource areas within commonly owned property.

*Applicant's Response: Substantial planting has been designed to screen the project from the abutters, but also screen and separate the wetlands from the project. Mitigation in these areas is not proposed as the areas outside of the limit of disturbance will be allowed to continue to renaturalize as has been occurring since disuse of the baseball fields.*

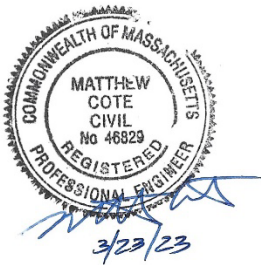
**B+T Current Response: We request that the Applicant consider seeding the historically disturbed recreational areas with native species appropriate for this landscape to help prevent invasive species from establishing.**

Mr. Robert Moriarty, Chair  
Topsfield Zoning Board of Appeals  
March 23, 2023  
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We thank the Board for the opportunity to assist with its review of the Project. We look forward to discussing our findings at the March 28, 2023 virtual public hearing.

Very truly yours,

BEALS AND THOMAS, INC.



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