

**Please Note:**

Prepared by Bracken Engineering, Inc. (BEI)

May 17, 2023

BEI responses to comments below in red.

BEI indicates response by others in blue.

**Chessia Consulting Services LLC**



May 3, 2023

Leslie Woodson Snell  
Deputy Director of Planning  
2 Fairgrounds Road  
Nantucket, MA 02554

RE: Engineering Review  
HAC Decision dated September 16, 2022  
Comprehensive Permit  
Surfside Crossing  
Nantucket, MA

Dear Ms. Snell:

Chessia Consulting Services, LLC has reviewed the submittal data provided to us regarding the above referenced project. The project was submitted under Chapter 40B as a Comprehensive Permit application and was approved by the Zoning Board of Appeals (ZBA) on June 13, 2019 with numerous conditions. The Applicant appealed the Board's Decision and the Housing Appeals Committee (HAC) issued a Decision on September 16, 2022 that struck several conditions, modified other conditions and added some additional conditions.

The following documents were provided for review:

Plan Sets Entitled:

- "Surfside Crossing a Proposed 40B Development in Nantucket, Massachusetts Permitting Set February 15, 2018 Revised Through: February 28, 2020" prepared by Bracken Engineering, Inc. The set consists of 9 sheets. This set of plans was the basis for the HAC Decision and is listed in the Decision as Exhibit 3. (Exhibit 3)
- "Surfside Crossing a Proposed 40B Development in Nantucket, Massachusetts Permitting Set February 15, 2018 Revised: February 28, 2020 Revised March 30, 2023" prepared by Bracken Engineering, Inc. The set consists of 10 sheets. (Site Plans)
- "Water & Sewer Utility Easement Plan Surfside Crossing a Proposed 40B Development in Nantucket, Massachusetts", marked DRAFT dated March 30,

- 2023” prepared by Bracken Engineering, Inc. (Easement Plan)
- “Operation & Maintenance Plan Surfside Crossing a Proposed 40B Development in Nantucket, Massachusetts” dated March 30, 2023” prepared by Bracken Engineering, Inc. (O&M Plan)
- “SCN 3, 5, 7 & 9 South Shore Road Nantucket MA 02554” Comprehensive Permit Set prepared by Ahern , LLC Landscape Design Studio consisting of 15 sheets (Landscape Plans)

#### Supporting Documents and Reports

- Commonwealth of Massachusetts Housing Appeals Committee Surfside Crossing, LLC v. Nantucket Zoning Board of Appeals No. 2019-07 Decision September 16, 2022. (HAC Decision)
- Town of Nantucket, Massachusetts Zoning Board of Appeals File NO. 20-18 Decision on Application for Comprehensive Permit Applicant: Surfside Crossing, LLC Decision Date: June 13, 2019/ (ZBA Decision)
- “Stormwater Report Prepared for Surfside Crossing for Surfside Crossing, LLC Map 67 Parcels 336, 336.7, 336.8 & 336.9” prepared by Bracken Engineering, Inc. and dated February 15, 2018 revised February 28, 2020. (Report)
- “Stormwater Report For Phased Construction Prepared for Surfside Crossing for Surfside Crossing, LLC Map 67 Parcels 336, 336.7, 336.8 & 336.9” prepared by Bracken Engineering, Inc. and dated March 30, 2023.
- Stormwater Pollution Prevention Plan (SWPPP) for Construction Activities At 3-9 South Shore Road Nantucket, MA 02554 SWPPP Prepared For CC Construction, Inc. 15 Diamonds Path South Dennis, MA 02660 SWPPP Prepared By Bracken Engineering, Inc. Donald F. Bracken, Jr. P.E. 49 Herring Pond Road Buzzards Bay, MA 02532 SWPPP Preparation Date 03/30/2023. (SWPPP)
- Memorandum from MDM Transportation Consultants, Inc. dated March 11, 2020 with attached Exhibits 1-3 indicating Fire Truck swept path analysis.

This review includes a review of the ZBA and HAC Decisions and provides a template for the ZBA to use for determining whether the final plans submitted by the developer comply with the conditions of approval as struck, modified or added by the HAC. There are sections in the review of the Decisions that identify where additional work is required. Some of this may ultimately be included in the Final Construction Plans (also called Final Construction Drawings in the HAC Decision). Some of the data provided could be incorporated into the Final Construction Plans but the material provided would not all be considered Final Construction Plans. In addition, I have reviewed previous filing data and the current filing and have provided separate comments to address issues with the data provided relative primarily to the stormwater design calculations and other supporting documents for construction.

This effort includes the following tasks:

1. A review of both the HAC Decision and ZBA Decision to determine what is required. I have included the ZBA Decision with sections that have been struck marked in ~~strikeout text~~. Where a condition was modified that section was also ~~struck~~ with the replacement section inserted and noted as part of the HAC Decision. Additional conditions added through the HAC Decision are included at the end of the ZBA Decision section. The text

of the ZBA Decision and the modified, replaced or added Conditions from the HAC Decision are listed below in *italic text*. I have added my comments below the Decision to address whether additional data or input from the Board or Counsel is required.

2. Review of the plans, calculations and supporting data submitted to this office for compliance with the Decisions as listed above. Data regarding Conditions 23, 36, 40, 45, 117 & 126 are discussed in Appendix A. In addition, I have deferred review of the SWPPP and Construction Phasing Report as at this time it would be appropriate to address data under Task 1 first. In addition, these aspects should be reviewed with the Final Construction Drawings. It is also unclear if the Board will require a detailed review of the SWPPP. This could be provided but as noted would be more appropriate post the submission of the Final Construction Drawings.

I previously reviewed the project for the ZBA and issued letters dated August 20, 2018 & April 10, 2019 in addition I submitted a memo dated 1-14-2018 regarding a proposed stormwater treatment system and a summary of Issues list for use at the public hearing August 28, 2018. I visited the site on August 14, 2018 to observe current conditions with Eleanor Antonietti and Ryan Maxwell of Bracken Engineering, Inc.

Following is the ZBA Decision with comments on the status of various conditions that still apply. In some cases, no engineering comment is required and this is noted below the Condition. As noted, Conditions are in *italic type* with noted conditions struck or modified by the HAC Decision. I have only commented where appropriate as many conditions do not require engineering comment.

### **ZBA Decision Conditions:**

#### ELIGIBILITY

1. *760 CMR 56.04(1)(a) requires that the Applicant “shall be” a “Limited Dividend Organization.” Accordingly, the Board requires as a condition of this Decision that the Applicant execute the Regulatory Agreement required by this Decision prior to issuance of a building permit.*

Modified by the HAC to be limited to subject to the requirements of the subsidizing agency. No engineering comment required.

2. *The Applicant has provided a Project Eligibility Letter from MassHousing dated April 12, 2018.*

3. *With respect to compliance with the site control requirements of 760 CMR 56.04(1)(c), this Decision relies upon the findings and representations upon which the Project Eligibility Letter is based.*

#### GENERAL CONDITIONS

4. *The comprehensive permit application was based on a Project Eligibility Letter issued to the Applicant on April 12, 2018 by MassHousing. This Permit is conditioned upon*

*receipt of Final Approval from MassHousing, including the grant of subsidy funding through the New England Fund or MassHousing program of MassHousing funding programs. Evidence of Final Approval is a condition precedent to any grading, land disturbance, construction of any structure or infrastructure, or issuance of any building permit.*

5. *The terms, provisions and conditions of this Permit shall burden and benefit the authorized successors and assigns of the Town and the Applicant with the same effect as if mentioned in each instance where the Town or the Applicant is named or referenced.*

6. *This Permit is granted to the Applicant and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the Board, as required by 760 CMR 56.05(12)(b), except to an Applicant-controlled affiliate.*  
Modified by the HAC Decision to allow transfer of the Permit as provided in the Regulations upon Notice to the Board.

7. *Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant and the Applicant's successors and assigns for as long as the Project and the use of the land does not strictly and fully conform to the requirements of the Nantucket Zoning Bylaw; and reference to this Comprehensive Permit Decision shall be incorporated in every deed conveying all or a portion of the Property.*

8. *The Applicant and MassHousing shall execute a Regulatory Agreement prior to any grading, land disturbance, construction of any structure or infrastructure, or issuance of any building permit.*

9. *The Decision is based on, and this Permit is issued based on, the real property identified on the Comprehensive Permit Plans, described below ("Locus" or "Site").*

10. *Except as otherwise specified in this Decision, the Project must substantially conform to the Comprehensive Permit Plans referenced in Section I, as conditioned by the Board. To the extent any details in the Comprehensive Permit Plans are inconsistent with the terms and conditions of this Permit or Appendix C, this Permit and Appendix C shall supersede the inconsistency.*

This reference would change to the current plans submitted in response to the HAC Decision listed as Exhibit 3 in the HAC documentation.

#### **BEI: Response by others**

11. *If, between the date that this Decision is filed with the Office of the Town Clerk and the completion of the Project, the Applicant desires to change any details of the Project (as set forth in the Comprehensive Permit Plans, or as required by the terms of this Decision), the Applicant shall promptly inform the Board in writing of the change requested. Changes will be administered or addressed pursuant to 760 CMR 56.05(11).*

12. *Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents to the Board, the Board or its designee shall review*

and provide a written response as to whether such plans or other documents are consistent with this Decision within ninety (90) days of the Board's receipt of such plans or other documents.

### SITE SPECIFIC CONDITIONS

#### 13. SINGLE FAMILY BUILDING REQUIREMENTS –

As the revised plans do not include any single family building lots this entire section is no longer applicable. The HAC Decision did strike the sections as identified by ~~strike through~~ below. This section should be modified to reflect the current project if possible.

**BEI Response: As stated above, this section is no longer applicable.**

- A. *Minimum Lot Size = 5,000 square feet for 3 and 4 Bedroom Units;*
- B. *Minimum Lot Size = 6,250 square feet for 5 Bedroom Units;*
- C. *Minimum Frontage = 50 feet for all Single Family Dwelling Lots, Except for Lot 41;*
- D. *Setbacks = 10 feet in front yard, 5 feet on one side yard and 10 feet on the other side yard, and 5 feet in rear yard;*
- E. *Parking = minimum of 2 on-lot spaces for 3-4 Bedroom Lots and minimum of 3 on-lot spaces for 5 Bedroom Lots;*
- F. ~~*No spas or pools on any lots:—*~~
  - ~~*i. —the proposed spas impermissibly distinguished market rate from affordable units, since spas were proposed for only the market rate units;*~~
  - ~~*ii. —the proposed spas would create a noise and privacy issue between units given the limited depth of the setbacks and limited lot area sizes.*~~
- G. *No AC or Mechanical Units may be located on street/front elevation or visible from the street;*
- H. *All Single-Family Dwellings shall have exterior stairway basement access;*
- I. *Maximum Number of Single Family Dwellings = Forty (40);*
- J. ~~*Maximum Number of Five (5) Bedroom Units shall be four (4), including at least one affordable unit; and*~~

- K. *Height/Exterior Architectural Design shall be as conditioned on the Board's notes on the architectural plans contained within the Comprehensive Permit Plans, Appendix A.*

~~14. MULTI-FAMILY UNITS BUILDING REQUIREMENTS~~

This entire section was struck in the HAC Decision.

- ~~A. No Eight Plex Buildings Permitted;~~
- ~~B. Duplex Buildings
  - ~~i. Minimum Lot Size = 7,500 square feet;~~
  - ~~ii. Minimum Frontage = 70 feet;~~
  - ~~iii. Setbacks = 10 feet front yard, 10 feet side yard and 10 feet rear yard;~~
  - ~~iv. Parking = 6 on-lot spaces per duplex building lot;~~
  - ~~v. No living space in basements;~~
  - ~~vi. No AC or Mechanical Units located on street/front elevation or visible from the street; and~~
  - ~~vii. Maximum number of duplex buildings = Six (6) (total of 12 units).~~~~
- ~~C. Fourplex Buildings
  - ~~i. Minimum Lot Size = 10,000 square feet, with each building on its own lot;~~
  - ~~ii. Minimum Lot Frontage = 100 feet;~~
  - ~~iii. Setbacks = 10 feet front yard, 20 feet side yard, 20 feet rear yard;~~
  - ~~iv. Parking = 7 on-lot spaces on each Fourplex lot;~~
  - ~~v. No units located entirely in basements (lower level);~~
  - ~~vi. No AC or Mechanical Units located on street/front elevation or visible from street; and~~
  - ~~vii. Maximum number of Fourplex buildings = Two (2).~~~~
- ~~D. Height/Exterior Architectural Design as conditioned on the Board's notes on the architectural plans contained within the Comprehensive Permit Plans, Appendix A.~~

15. RECREATIONAL BUILDING REQUIREMENTS-

- A. *Maximum Ground Coverage = 1,000 square feet;*  
This was not struck by the HAC Decision. The Exhibit 3 Plans indicate a footprint of 3,912 square feet and the current Site Plan has a footprint of 3,975 square feet. This appears to be an issue remaining to be addressed on the plans.

**BEI: Plans have been approved as submitted by HAC.**

- B. *Maximum Interior Space = 2,800 square feet: 1,000 on ground and basement levels, and up to 800 feet more allowed on second floor to reach*

*maximum 2,800 square feet; the additional land area resulting from the reduction in the footprint of the Recreation Building shall be devoted to green space or outdoor passive recreation;*

- C. *No commercial kitchen/catering facilities;*
  - D. *For exclusive use of residents and guests, no outside rentals;*
  - E. *8 parking spaces;*
- Both Exhibit 3 and the current plans have 10 parking spaces.

**BEI: Agreed**

- F. *Minimum Lot Square Footage of 38,196 square feet; Height/Exterior Architectural Design subject to final review and approval by the Board prior to issuance of a building permit; and*

Not applicable as there are no separate lots, the entire site would be one condominium lot.

**BEI: Agreed**

- G. *Height/Exterior Architectural Design subject to final review and approval by the Board prior to issuance of a building permit.*

To be addressed with the Final Construction Plans.

**BEI: Agreed**

#### 16. *POOL REQUIREMENTS*–

- A. *No spa permitted;*

~~B. *Dimensions No greater than 20 feet by 48 feet as proposed by Applicant;*~~  
The HAC Decision required that the pool be the same dimensions as indicated on Exhibit 3. The Site Plans satisfy this requirement.

**BEI: Agreed**

- C. *Hours of Operation = 8 a.m. to dusk;*
- D. *For exclusive use of residents and guests; and*
- E. *Homeowners' Association and Condominium Association, as applicable, to handle internal governance issues not otherwise covered in this Permit.*

#### 17. *LANDSCAPING/HARDSCAPING REQUIREMENTS*

A. *143 Street Trees as proposed by Applicant and shown on Landscape Plan L-1 in the Comprehensive Permit Plans;*

Based on my review this would be met by the Landscape Plans as there are 150 trees proposed, 7 of these are in the vicinity of the common area, the remainder (143) would be near an access drive or parking area.

**BEI: Agreed**

F. *Must comply with Zoning Bylaw as to required tree caliper size;*

Proposed Street Trees are listed as 3” caliper. I have not been able to confirm the size complies with the Zoning Bylaw but the size is commonly specified for Street Trees.

**BEI: Agreed**

F. *Native/Non-invasive plants only, per list compiled on “Landscaping with Native Plants on Nantucket” by the Nantucket Biodiversity Initiative and Nantucket Conservation Foundation;*

This aspect should be addressed by a Landscape professional.

**BEI: Plans will be reviewed and certified by a Massachusetts licensed Landscape Architect.**

F. *Walkways for Multi-Family and Single-Family Dwelling Units must match; all walkways shall consist of bluestone;*

Not applicable as the entire site would consist of condominium units.

**BEI: Agreed**

E. *~~Driveways must be native stone (gravel), must comply with Zoning Bylaw section 139-20.1(B)(2)(b), and aprons shall be same surface as roadway;~~*

F. *Roadway, Sidewalks, and Curbing – either native stone chip seal finish on both sidewalk and roadway or asphalt roadway and brick sidewalk. ~~All curbing to be vertical granite curbing.~~*

The proposed roadways would be asphalt with sidewalks adjacent to the roadway having a dark gray chip seal finish. There are no brick walkways proposed. There are several areas with peastone chip seal walkways primarily internal walkways from sidewalks to units or to a pervious peastone walkway that would connect to specific doorways. Exhibit 3 plans included paved sidewalks and peastone internal walkways. This aspect will need to be clarified.

**BEI: Materials shown on submitted plans are as approved by HAC.**

## 18. OPEN SPACE REQUIREMENTS –



*Limited to private exclusive use of residents and guests. The amount of green space as shown on the Comprehensive Permit Plans, as further conditioned in this Permit, shall not be reduced.*

Based on the HAC Decision, this was not struck. Since Exhibit 3 is the reference plan for the HAC Decision I note the following changes based on the plans:

Summary of Areas		
	Exhibit 3	Current Plans
Impervious-Semi Pervious	282,241 square feet	307,924 square feet
Unusable Open Space (perimeter buffer)	56,151 square feet	86,380 square feet
Usable Open Space	252,215 square feet	196,303 square feet
Total Vegetated Areas	308,366 square feet	282,683 square feet

Based on the above there are changes to the plans that would not be consistent with the Decisions as there is an increase in overall Impervious-Semi Pervious of 25,683 square feet. The associated drainage calculations should be updated to reflect the proposed conditions, if this is an acceptable increase in impervious area consistent with the HAC Decision.

**BEI: Additional impervious and semi-pervious were added to accommodate walking paths and sidewalks for accessibility and slight increases in building size (due to sidewall panels, not increase in foundation dimensions). The increase in semi-pervious of 8% is minimal in overall project scheme and will have no measurable impact on the current drainage design, however, we will update the calculations to reflect this increase in area.**

19. LIGHTING REQUIREMENTS –

A. *Street Poles prohibited; pathway lighting and bollards are an allowed alternative;*

No street poles are proposed, there are low pathway lights proposed and some hardscape lights. The Landscape Plans Sheet L.04 includes a lighting plan with light types and locations. This requirement has been met.

**BEI: Agreed**

B. *Must comply with Town Code Chapter 102 – Dark Skies.*

I defer review of this aspect to the appropriate Town Official or Consultant.

**BEI: Final lighting plans to be submitted as part of Final Construction Plans.**

20. BUFFER ZONES REQUIREMENTS –

~~A. *No disturbance buffer of 25 feet along site perimeter and expanded to 50-feet along South Shore Road, augmented as necessary per list of approved plantings;*~~

~~B. — Split rail fence to delineate entirety of all buffer zones prior to commencement of construction.~~

~~C. — Applicant shall exercise care not to impact the intent of the “no disturb” buffer area’s purpose of protecting adjacent residences from visual and noise impacts by excessively trimming trees or trampling low lying shrubs and brush. The Board reserves the right to require additional screening, including but not limited to the planting of new trees and/or shrubs if presented with evidence the above conditions have been violated.~~

~~D. — The “no disturb” buffer area lots shall be considered permanently protected open space consistent with G.L. c.40A, §9.~~

The above conditions have been replaced by the HAC Decision as follows:

*“No- disturbance buffers shall be retained along the site perimeter. They shall be as shown on Exhibit 3 (Site Development Plans), sheets 3 and 4, that is, of a width of approximately ten to twenty- five feet, and greater along South Shore Road.”*

The Site Plans indicate a minimum perimeter buffer of 25 feet with a buffer of 40-50 feet along South Shore Road, except at proposed access and emergency access openings. This requirement has been met by the plans.

**BEI: Agreed**

E. *Based upon the information presented, the Board determines that an adequate buffer standard should be at least one (1) tree per ten (10) linear feet of the “no disturb” buffer area perimeter, said trees being a minimum height of five (5) feet and minimum caliper of three (3) inches. Planting should occur within or at the edges of the “no disturb” buffer areas as directed by the Board or its designee. Trees shall be planted in a natural pattern, shall be offset where appropriate and are meant to supplement existing, mature vegetation. This condition shall be incorporated into the final landscaping plan required by this Decision. The Board reserves the right to alter any aspect of this standard and vary tree sizes and locations based upon a review of the detailed final landscape plan.*

Minimal work is proposed in the buffer, which exceeds the dimensions required in the HAC Decision. I recommend that the Landscape Plans also note/list proposed plantings in the portions of the perimeter buffer to be restored or revegetated as indicated on the Site Plans.

**BEI: Plans will be certified by a Massachusetts licensed Landscape Architect.**

F. *The Applicant shall stake the proposed locations for these required trees for review with the goal being to maximize the screening between the Site and abutting properties. The final landscaping plan and a schedule for*

*the planting of all required trees submitted for review by the Board shall identify species of conifers that would meet the above goal and be suitable for planting in the “no disturb” buffer areas to the satisfaction of the Board or its designee. The Board reserves the right to alter any aspect of this procedure and specify alternative tree types and species based upon a review of the detailed final landscape plan.*

No new trees are indicated on the Landscape Plans in the perimeter buffer area.

**BEI: Perimeter vegetated buffer has been staked and a post and rail fence has been installed to delineate the vegetated buffer. The buffer consists of existing vegetation which is not to be disturbed. Disturbed areas to be re-vegetated as shown on the provided Landscape Plans.**

*G. The Applicant shall be responsible for maintaining the health of these trees until the sale of the 44<sup>th</sup> lot. Thereafter, the Homeowner’s Association shall maintain the trees of the “no disturb” buffer area, including the replacement of unhealthy, diseased or dead trees. This condition shall be included in the Homeowner’s Association documents.*

No new trees are indicated on the Landscape Plans in the perimeter buffer area.

**BEI: Plans will be certified by a Massachusetts licensed Landscape Architect.**

*H. The Board reserves the right to require additional planting in the event that care in preserving existing vegetation of the “no disturb” buffer area is not undertaken by the Applicant until the completion of the project.*

No comment required.

## 21. PARKING/ROADWAY ACCESS REQUIREMENTS –

~~*Minimum of one (1) additional on-street parking space per dwelling unit;*~~

## 22. MAINTENANCE BUILDING REQUIREMENTS

*Approved as to height/exterior architectural design on the conditions noted on the architectural plans within the Comprehensive Permit Plans, Appendix A.*

Not applicable the maintenance building is no longer proposed.

**BEI: Agreed**

*23. All units must have gutters, which must be maintained in accordance with an approved maintenance plan, and all roof water drainage must be directed to subsurface drainage systems independent of the roadway system as proposed and agreed to by the Applicant.*

Architectural Plans have not been provided to determine if gutters are proposed. The plans indicate a conceptual roof infiltration system for the building roofs independent of the roadway drainage system as required. I note that some of

these systems are closer to the proposed buildings than allowed under the DEP Handbook, see Condition 36 below and Appendix A review comments.

**BEI: Architectural Plans will be updated to include proposed gutter locations.**

The infiltration systems are not closer than allowed. The infiltration systems are designed as “drywells” specifically used for roof runoff and require a 10-foot separation as shown in the MA Stormwater Policy drywell diagram. For most locations these drywells will be at least 15’ from buildings. This is an approved use as per the Massachusetts Stormwater Handbook. Furthermore, foundations will have adequate waterproofing and local sandy soils will be well drained.

24. *There shall be no additional parking or expansion of parking areas beyond parking areas shown on the Comprehensive Permit Plans as conditioned herein. Notice of this restriction must be included in the Homeowners Association Documents and Condominium documents.*  
No engineering comment required.
- ~~25. *No conversions of non livable space, e.g., attics, to livable space after completion of construction of units as approved herein. No expansion of building envelope.*~~  
This condition was struck except as applicable to all homes in Nantucket.
- ~~26. *No customary home occupations shall be allowed in light of the overburdening issues already posed by the density of this Project in relation to existing traffic congestion.*~~
- ~~27. *There shall be no parking of campers, trailers, boats, storage trailers or storage units, temporary garage structures or shelters, panel trucks, recreational vehicles, commercial vehicles (unless the commercial vehicle is the unit owner’s personal vehicle), or unregistered vehicles on Project property.*~~  
This condition was struck except as applicable to all homes in Nantucket.
28. *No changes in the Homeowners’ Association and/or Condominium Trust rules which affect conditions of the Permit shall be permitted. Any future proposed changes to exterior architectural features shall be subject to the jurisdiction of the Nantucket Historic District Commission.*  
No engineering comment required.
29. *Snow removal provisions shall be subject to review and approval by the Nantucket Fire Department. No dumping in buffer zones. In the event designated snow storage areas are inadequate for a particular storm event or events, excess snow must be removed from the Property.*  
No engineering comment required. I note that the O&M Plan includes snow storage locations as required under DEP Stormwater Regulations.

30. *Trash barrels must be stored out of view. No exterior air conditioning units or other mechanical equipment shall be located within lot setbacks areas.*  
No engineering comment required.

**BEI: Trash and recycle sheds have been added to the Landscape Plan, Sheet 8.**

31. *All affordable units must have central air conditioning if market rate units have central air conditioning. Applicant has stated on the record that all units will have central air conditioning.*  
No engineering comment required.

32. *Ground coverage for each lot shall not change from that depicted on the Comprehensive Permit Plans as revised per the conditions set forth herein.*  
No individual lots are proposed the project would be all on one lot. The Site Plans indicate an increase in ground coverage compared to the Exhibit 3 Plans. See Conditions 18. above. As noted associated work with this change should be incorporated in the drainage calculations.

**BEI: The drainage calculations will be updated to include the increase in lot coverage.**

33. *All local requirements concerning roadway construction shall apply.*  
It is unclear if this section is applicable as there is no subdivision roadway. This requirement has been assumed to mean construction of the gravel and pavement cross section. The cross section exceeds requirements as 4 inches of bituminous pavement and 8 inches of gravel are proposed.

**BEI: Agreed**

34. *The lighting plan for the Project must meet local requirements for exterior lighting.*  
Refer to comment under Condition 19.

**BEI: Same**

35. *Roadway right of ways shall be a minimum of 40 feet wide. Suitable access for emergency access vehicles, snow storage, landscaping without impacting clear sight lines and on street parking as applicable must be provided. Final plans must be submitted by a Transportation Engineer for compliance with Institute of Transportation Engineers (ITE) standards for circulation within the site and at access/egress locations.*

As noted no roadway right of ways are proposed in the current plan. The submittal data included a Memorandum from MDM Transportation Consultants Inc. dated March 11, 2020. This submittal also included Exhibits 1-3 indicating Fire Truck swept paths through the project site. I defer this issue to the Board's Transportation Engineer. The HAC Decision includes a discussion of issues that

were raised regarding Fire Department access relative to Exhibit 3 that "...this is not a public safety concern sufficient to outweigh the regional need for affordable housing" (see page 34 of the HAC Decision) Comparing the two plans (Exhibit 3 and the current Site Plans) the access drive and parking layout are the same. There are changes to other aspects including pathways, buildings, etc. that should not impact the submitted Memorandum and Exhibits.

**BEI: Agreed**

36. *All stormwater management plans and calculations shall conform to the requirements of the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Regulations, including the requirements specifically applicable to the Zone II areas.*

This aspect will require additional updated data to fully review and comment. At this time the Stormwater Report is based on the Exhibit 3 plans. There are changes in impervious area, buffer areas, etc. and the Report will need to be updated to reflect all of the changes. It is likely that a compliant plan can be developed but there are other design components such as the building plans and roof system designs that have not been submitted at this time. There are also calculation aspects that will also need to be addressed. Although it is anticipated that soils are likely suitable for the proposed systems the Regulations require testing at the specific location of each system. Refer to Appendix A for a list of comments on this and other associated Conditions regarding Stormwater.

**BEI: Please refer to Appendix A responses.**

37. *All utilities must be installed underground.*  
This Condition is satisfied on the plans.

**BEI: Agreed**

38. *No impervious areas except those indicated on the Comprehensive Permit Plans, as further conditioned in this Permit, are allowed on the lots.*

As noted there is an increase in impervious area proposed compared to Exhibit 3. The Board will need to address this change.

**BEI: The increase is de minimis and falls within the scope of the approval.**

39. *No construction or site disturbance is allowed prior to the receipt of any approvals required by applicable Massachusetts Environmental Policy Act (MEPA) regulations.*

Based on my review of the HAC Decision, the Applicant has filed with MEPA and an EIR is not required.

**BEI: Agreed**

40. *Soil testing, consistent with MassDEP Stormwater Handbook requirements, at all proposed stormwater infiltration systems, shall be completed and submitted for review and approval by the Board or its designee.*

This remains to be completed, also refer to Appendix A.

**BEI: Test pits will be completed prior to Final Construction Plans.**

41. *Final Construction Plans shall be provided for review and approval by the Board or its designee providing all data required under the Town's local Subdivision Regulations.*

There are no longer any proposed subdivision roadways. As noted, Final Construction Plans remain to be submitted.

**BEI: Agreed**

42. *Applicant shall allow and provide necessary funding for inspection of construction consistent with Subdivision Regulations and other Town requirements not waived in this Decision.*

No engineering comment required.

43. *Applicant shall complete for the review and approval by the Board or its designee a comprehensive Sediment and Erosion Control plan consistent with EPA SWPPP requirements and the DEP Stormwater Handbook.*

A SWPPP has been submitted. If desired this will be reviewed under separate cover prior to construction.

**BEI: No response**

44. *Applicant shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) and the regulations of the Massachusetts Architectural Access Board (AAB).*

The appropriate party should assess this requirement at the appropriate time.

**BEI: Refer to Landscape Plans for ADA access compliance.**

45. *Final Construction Plans and supporting calculations must be provided for final review and approval by the Board or its designee. The final design shall comply with MassDEP Stormwater Management Regulations as described in the MassDEP Stormwater Regulations and associated Stormwater Handbook.*

The Site Plans are not Final Construction Plans as they note that final location of roof infiltration systems will be coordinated with Final Building plans. The collection systems for roof runoff are not included on the plans. The Stormwater Report is for the Exhibit 3 Plans not the current Site Plans and should be updated. Refer to Appendix A for comments regarding this condition and the Stormwater Design.

BEI: General locations of roof drainage infiltration systems are shown on the submitted plans and details for each building types will be added to the revised plans.

46. *The EPA SWPPP template shall be used to demonstrate compliance with MassDEP requirements with respect to erosion/sedimentation control during all phased construction activities in order to protect abutters and the Town roadway. Tracking pads shall be a minimum of 50 feet long. Sizing data for temporary basins, etc. must all be provided.*  
A SWPPP has been submitted. If desired this will be reviewed under separate cover.

BEI: No response

47. *An Operations & Maintenance (“O&M”) Plan shall be provided for review and approval by the Board or its designee prior to the start of any construction activities or related site disturbance, including an O&M Plan for the individual lot systems and a final stand-alone O&M plan including a plan with the location of all BMP’s, manufacturer’s requirements, etc.*

The submittal includes an O&M Plan and the Report includes an O&M description. I note the that following should be changed in the O&M:

- Catch basin inspections should be **required** quarterly not just recommended.
- Oil/Grit Separator inspections are listed as quarterly in the Report and both quarterly and monthly on the Plan. DEP requires monthly inspections.
- Subsurface systems should include the manufacturer’s maintenance manual.
- I recommend that the times for maintenance as listed in the O&M Inspection form be adjusted as it is uncommon to clean structures in the winter, the January and February time may be more appropriate in April and May or move one of the inspections/cleaning to November after most all of the leaves have fallen, i.e., two inspections in the spring and two in the fall although quarterly implies every three months.

BEI: Agreed. O&M plan to be updated and submitted with revised plans.

48. *A signed illicit discharge statement shall be submitted to the Board prior to any occupancy permits.*

An unsigned statement is included, this should be submitted prior to any occupancy permits.

BEI: Agreed

#### ADDITIONAL CONDITIONS CONCERNING FIRE PROTECTION AND RELATED SAFETY CONCERNS



Some of the Conditions below would not apply to the current design.

49. *Access roads must be 20 feet in width not including any areas designated for parking (527 CMR18.2.3.4.1.1),*  
It is assumed that this Condition specifies a minimum width as typically required for fire access. This would be satisfied as all proposed access roadways are 24 feet wide.  
**BEI: Agreed**
- a. *No on street parking allowed shall be allowed if such parking would narrow the roadway width to less than 20 feet on two way sections;*  
Not applicable as all roadway widths are 24 feet.  
**BEI: Agreed**
- b. *No on street parking on one-way sections where the roadway width will be reduced below 13 feet;*  
Not applicable as all roadway widths are 24 feet and there are no one-way roadways.  
**BEI: Agreed**
- c. *For roadways on the Comprehensive Permit Plans showing widths of 20 feet for one-way sections, parking on one side of the roadway will be allowed with posted and enforced No Parking signs in these sections;*  
Not applicable as all roadway widths are 24 feet.  
**BEI: Agreed**
- d. *A section of roadway that is two-way and 22 feet and must be posted and enforced with No Parking signs;*  
Not applicable as all roadway widths are 24 feet.  
**BEI: Agreed**
- e. *Modeling must be submitted for the Fire Chief's review and approval to assure the fire departments apparatus can access development;*  
Turning analysis plans have been provided. The Fire Chief should review these plans.  
**BEI: Agreed**
- f. *Two of the roads have no provisions for turning around. (527 CMR 18.2.3.4.4) "Dead-end access roads in excess of 150 feet in length shall be provided with approved provisions for fire apparatus to turn around."*  
It is unclear if this requirement would apply as the HAC Decision on the revised roadway layout did not require further revisions to address Fire Department access other than potentially minor modifications. (See page 33) As noted above the Fire Department may require revisions that do not involve the Board.  
**BEI: Agreed**
50. *Trees and vegetation must be maintained and not allowed to grow to block access for emergency vehicles. This would include vertical growth of tree. (527 CMR 18.2.3.4.1.2)*  
This is a maintenance issue that should be included in the Condominium Documents. I defer this issue to the Board and Town Counsel.  
**BEI: No response**
- a. *All roadways shall have a vertical clearance of not less than 13 feet 6 inches;*

No barriers are proposed relative to height. Tree growth may impact access and should be a maintenance issue included in the Condominium Documents. I defer this issue to the Board and Town Counsel.

**BEI: No response**

- b. *Vegetation must not reduce the road width below the dimensions required in above section.*

Tree growth may impact access and should be a maintenance issue included in the Condominium Documents. I defer this issue to the Board and Town Counsel.

**BEI: No response**

51. *Final Fire Department access plans must be submitted to the department for review and approval (527 CMR 18.1.3.1).*

No comment required, refer also to comments under Condition 49. f.

**BEI: No response**

52. *Hydrant lay out needs to be reviewed and approved by the Fire Chief and installed before construction of any dwelling units; plans for fire protection must also be reviewed and approved by the Fire Chief for the time period between any initial site disturbance and completion of construction. Any proposed phasing of hydrant installation is subject to approval by the Fire Chief.*

No engineering comment required.

**BEI: Agreed, hydrant locations to be modified or additional hydrants to be added as directed by the fire department.**

53. *Applicant must complete a hydraulic study for review and approval by the Fire Chief addressing impact of Project on water capacity necessary for fire protection on other critical infrastructure located on the same water main.*

I have no further data on this requirement. This study should be performed if not yet completed.

**BEI: Wannacomet Water Company has previously stated that the water supply and pressure are adequate to serve the development. Hydraulic analysis for fire suppression systems to be submit at the time of building permit applications for each building..**

#### ADDITIONAL CONDITIONS CONCERNING PUBLIC SEWER

- ~~54. *The wastewater collection system for the proposed development shall not be connected to the Town's existing force mains.*~~

- ~~55. *The wastewater collection system for the proposed development shall include the Town's preferred option of a new gravity sewer along South Shore Road, from the proposed development to the Surfside WWTF. This option shall relocate the*~~

~~proposed wastewater pump station from the proposed development to the Surfside WWTF.~~

56. *The deficiencies in the revised plans discussed in Section IV.A. above, shall be addressed to the satisfaction of the Nantucket Sewer Department.*  
This aspect remains to be addressed by others. Data on the proposed sewer system is conceptual at this time. Final Construction Plans for the sewer system have not been completed at this time.

**BEI: The final sewer connection remains in process depending on the availability of the newly installed gravity line.**

57. *The wastewater collection system for the proposed development shall be constructed in accordance with the Nantucket Sewer Department Design Standards and Specifications in place at the time of construction. The final design plans shall be submitted to the Nantucket Sewer Department for review and approval to ensure conformance with the Design Standards and Specifications.*  
This aspect remains to be addressed by others. Data on the proposed sewer system is conceptual at this time. Final Construction Plans for the sewer system have not been completed at this time.

**BEI: Final design plans shall be in compliance with the design standards and specifications.**

58. *Given that the 2014 CWMP identified the sewer needs areas in Town, that these flows were used to determine the capacity of the Surfside WWTF, which is currently being upgraded, and that while the proposed development properties are part of the service area to the WWTF, the density of the proposed development creates much higher wastewater flows than the current zoning would allow, and given that the additional flow from the proposed development would be taking up planned capacity at the WWTF, the Board denies waivers of sewer related fees and requires that all properties in the proposed development be subject to the appropriate sewer fees outlined in the Nantucket Sewer Department Rules and Regulations in place at the time of construction. These fees include, but are not limited to, sewer connection fees, sewer user fees and sewer capacity fees. All local rules and regulations concerning sewer connection fees, permit fees, sewer privilege fees or charges, sewer extension fees, and service fees shall apply to the project permitted by this Decision.*  
No Engineering comment required as this Condition addresses fees.

**BEI: Response by others**

59. *The Applicant must also comply with the Sewer Application and Permit requirements of the Nantucket Sewer Department and the Nantucket Sewer Permit Checklist and Sewer As-Built Checklist, subject to review and approval by the Sewer Director.*  
This Condition should be addressed with the Sewer Application.

BEI: No response

60. *The Applicant shall submit stamped record drawings of the wastewater collection system. Record drawings shall also be provided in the latest version of AutoCad. This is a post-construction requirement and the appropriate data should be submitted as required.*

BEI: Post-construction plans to be submitted.

61. *The Applicant shall submit copies of the Operations & Maintenance Manual for the pump station, as well as an electronic copy on a CD or portable drive. This is a post-construction requirement and the appropriate data should be submitted as required.*

BEI: Post-construction plans to be submitted.

62. *The Applicant shall establish and provide a copy of the legal entity's (e.g. Homeowner's Association and Condominium Trust) documents to ensure proper operation and maintenance of the proposed wastewater collection system and other common infrastructure on private property. This information should be submitted for review and approval prior to occupancy permits, if not earlier.*

BEI: Response by others

63. *The sewer infrastructure shall be constructed by the Applicant in accordance with the preferred option presented by Weston and Sampson, with the Town to contribute an agreed allocated cost of construction proportionate to the degree to which the infrastructure confers a public benefit independent of servicing the project approved by this Decision. This may be an applicable condition subject to comments in the HAC Decision regarding the costs if a gravity system is ultimately proposed.*

BEI: Response by others

64. *The sewer system must be submitted for inspection, review and approval by the Sewer Director pre and post-construction, and will be conveyed to the Town following payment of the agreed allocated cost of construction as conditioned above. No comment required.*

#### ADDITIONAL CONDITIONS CONCERNING PUBLIC WATER CONNECTION

65. *Subject to the additional conditions below, the Board approves the proposed connection to Town water conditioned upon the Applicant's compliance with all rules, regulations and requirements of the Nantucket Board of Water*

*Commissioners, and the Wannacomet Water Company and Director, including but not limited to review and approval of the design and construction of the proposed water mains and final inspection, testing, and chlorination of the water mains prior to public water being turned on to service the development and prior to water being turned on to service residential units.*

No engineering comment required.

**BEI: No response.**

66. *All local fees and charges for the initial construction and connection of the water mains, and any initial or continuing service or other fees or charges once the system has come on-line, shall apply to the Applicant and the development approved by this Decision.*

No engineering comment required.

67. *The water connection is also conditioned upon and subject to MassDEP approval of the Wannacomet Water Company's requested increase in the capacity of the Town's Water Withdrawal Permit to an initial increase to 1.9 million gallons per day.*

No engineering comment required.

**BEI: The Water Company now has approval for 2.01 million gallons per day.**

68. *Applicant shall provide water conserving appliances (dishwasher, washing machines, toilet, shower heads, etc.) for all appliances to be included in the residential housing units offered at the project, as well as appliances serving any other amenities offered at the development (facilities offered at pool or in recreational building, etc.), subject to review and approval by the Wannacomet Water Director.*

No engineering comment required.

69. *Applicant shall implement Low Impact Development Design concepts for managing stormwater ~~and shall fund an independent Environmental Monitor during construction phases to document activities and ensure the protection of groundwater quality and private and public drinking water supplies located in the project area.~~*

- ~~70. *Applicant shall construct a stormwater system to provide treatment and dispersed infiltration from roadways, and which shall capture and retain the first inch of stormwater and parking areas and use vegetated swales and bioretention basins with overflows to the maximum extent possible, rather than use of a stormceptor-type design with direct infiltration.*~~

71. *Applicant shall provide a Site Maintenance and Integrated Pest Management Plan for review and approval by the Board or its designee and shall ensure that the Homeowners' Association and Condominium Trust documents for the*

*development require the use of organic and/or non-toxic fertilizers and pesticides, as well as use of certified applicators. The Homeowners' Association and Condominium Trust documents must also require regular maintenance of storm drains, including filing a maintenance plan and actual maintenance with the town annually.*

No engineering comment required.

72. *Applicant has stated, and the Board imposes a condition, that landscape irrigation shall be provided by private well and not the public water supply. Applicant shall take all necessary steps to protect against adverse effects upon the capacity of other private drinking water wells in the area.*

No engineering comment required.

### COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

73. *Development of the Project shall comply in all respects with the conditions contained in the Project Eligibility Letter approval for the project issued by MassHousing on April 12, 2018.*

No engineering comment required.

74. *The Project, and all construction, dwelling units, utilities, roads, drainage, earth removal or relocation of structures and all related appurtenances with respect to the Project, shall comply with all applicable state and federal regulations. The Applicant shall promptly provide the Board with copies of all permitting requests and other correspondence directed to any applicable state or federal agency and of all correspondence, approvals or disapprovals received from any such agency.*

No engineering comment required.

75. *The Project shall comply with all rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Endangered Species Act, G.L. c.131, §23, 321 CMR 10.00. No site disturbance shall be permitted pursuant to this Decision until the Nantucket Land Council's currently pending administrative appeal of the NHESP determination for the Site is fully and finally resolved, including exhaustion of court appeals.*

No engineering comment required.

76. *The Project shall comply with all rules, regulations, permit and filing requirements, and certifications of the Department of Environmental Protection with respect to stormwater disposal, resource protection, water supply and low impact development management practices.*

Refer to comments under Conditions 36, 43 and 45-48.

**BEI: See responses under specific comments.**

77. *The Project shall comply with the rules and regulations of, filing and permit requirements and certifications required by the regulations governing the Massachusetts Historical Commission.*  
No engineering comment required.
78. *Copies of all approvals from state and federal agencies shall be submitted to the Board prior to recording of final plans.*  
No engineering comment required.

### LOCAL REQUIREMENTS

79. *Except as expressly waived by this Decision, the development of this Project, including the construction of all dwelling units, utilities, roads, drainage structures and other appurtenances, shall comply with all local requirements and regulations as defined in 760 CMR 56.02, including any and all related fees and charges.*  
No engineering comment required.
80. *Except as specifically waived by this Decision, the Project shall comply, in all respects, with any and all rules, regulations, filing and permit requirements of the Nantucket Sewer Commission and Wannacomet Water Department concerning public sewer and water servicing the Project, including any and all related fees and charges. No fees shall be waived.*  
No engineering comment required.
81. *The Applicant shall also comply with any and all filing requirements for issuance of a building permit, including any and all related fees or charges. No fees shall be waived.*  
No engineering comment required.
82. *To the extent the Project requires the conveyance of any interest in Town-owned land, the Board notes that it lacks jurisdiction to grant such an interest. To the extent Town Meeting approval is required for any aspect of the Project, the Town's right to require Town Meeting approval as a prerequisite to such aspect of the Project is expressly reserved. Nothing in this Decision shall be construed as a grant of approval of any interest in property owned or held by the Town or County of Nantucket.*  
No engineering comment required.
- ~~83. *The total number of dwelling units permitted for this Project shall not exceed sixty (60) units and the total number of bedrooms shall not exceed two hundred and six (206) bedrooms.*~~

### AFFORDABLE UNITS

This entire section does not require Engineering comment or review but has been modified to comply with the HAC Decision.

- ~~84. The affordable units shall be evenly distributed within the Locus and shall be indistinguishable in architectural style, exterior finish materials, and exterior appearance from market rate units. If interior finishes differ between market and affordable units, the quality of the interior finishes of the affordable units must be of reasonable quality. As part of the Building Permit application, the Applicant must provide for review and approval by the Board or its designee specifications/information on any proposed finishes and equipment (including but not limited to floor treatments, cabinets/vanities, countertops, lighting, kitchen appliances, and bathroom fixtures) in the affordable units that differ from finishes and equipment proposed for the market units. There shall also be a proportionate share of housing types (single family, duplex, and fourplex) allocated between affordable and market rate units; 25% of each unit type offered shall be affordable, e.g., if five bedroom units are offered, 25% of the total number of five bedroom units shall be affordable units.~~
- ~~85. An affordable housing restriction, enforceable by the Town of Nantucket, requiring that the affordable units remain affordable in perpetuity or for as long as the project does not comply with local requirements, whichever is longer, and in a form approved by the Board, shall be recorded senior to any liens on the Project Locus to protect the requirement for the affordable units in the event of any foreclosure, bankruptcy, refinancing or sale. All affordable units shall be subject to the Universal Deed Rider as required by MassHousing. The sale and re-sale of all affordable units shall comply with all MassHousing and Chapter 40B requirements, including, if applicable, any income, asset, and first time homebuyer requirements.~~  
The condition is modified to read simply,  
“The affordable units shall remain affordable in perpetuity or for as long as the housing is not in compliance with local zoning requirements.”
86. Upon the sale of an affordable dwelling, the Applicant or its successors or assigns shall provide written notice to the buyer that the premises are subject to an affordable housing restriction and subject to the terms and provisions of the affordable housing restriction and that any amendment purporting to alter, amend or delete the restriction shall be void and of no effect.
87. The deeds to the Affordable Units shall include the standard MassHousing Affordable Housing Restriction/Deed Rider in which the affordability restrictions described herein survive foreclosure.
88. For every three (3) Market Rate units for which a Certificate of Occupancy is issued, there shall be at least one (1) Affordable Unit for which a Certificate of Occupancy is issued. The Applicant has the right but not the obligation to accelerate the rate of construction of the Affordable Units.

## MANAGEMENT DOCUMENTS



This entire section does not require Engineering comment or review.

89. *The Applicant shall prepare documents in a form that conforms to this Decision and applicable law designed to manage the Project and ensure that the terms and conditions of this Decision are enforced.*
90. *The management documents shall provide that the Town or County of Nantucket shall not have any legal or financial responsibility for, operation or maintenance of, roadways, driveways, parking areas, stormwater management systems, snowplowing, landscaping, trash disposal or pickup, street lighting or other illumination, or other roadway infrastructure within the Project or the Locus.*

### PROFITABILITY

This entire section does not require Engineering comment or review, but has been modified to comply with the HAC Decision.

91. *The Project shall be limited to the profit allowed under the Regulatory Agreement (“Allowable Profit”).*
- ~~92. *Any profit that is above the Allowable Profit pursuant to the Regulatory Agreement shall be returned to the Town of Nantucket for use by the Town for the purpose of efforts toward affordable housing. The profit limitation may be enforced by the Town or its agencies, boards or commissions at any time.*~~
93. *The Applicant shall provide the Board with a copy of all financial documentation, including Cost Certification submissions, required by the Regulatory Agreement.*

### BEI: Response by others

### MARKETING/LOCAL PREFERENCE

This entire section does not require Engineering comment or review, but has been modified to comply with the HAC Decision.

94. *There shall be a local preference plan established for the sale of the affordable units.*
- ~~95. *Insofar as allowed under G.L. c. 40B and any other applicable laws and by the Subsidizing Agency, with respect to at least 70% of the Affordable Units, the Applicant shall provide a preference category in the Lottery for the Affordable Units for current Nantucket residents, Nantucket municipal employees, employees of local Nantucket businesses, and households with children attending Nantucket schools. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preferences and obtain approval of the categories of persons qualifying for the same, in accordance with Chapter 40B requirements. In no event shall the*~~

~~Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence. If the Board or its designee does not provide such information within thirty (30) days of a written request by the Applicant, its Lottery Agent, or the Subsidizing Agency, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above.~~

~~96. MassHousing shall approve the Lottery Packet and the Applicant's Affirmative Fair Housing Marketing Plan (AFHMP) as part of its Final Approval review. A copy of the proposed Lottery Plan and AFHMP shall be submitted to the Board simultaneously with its submission to MassHousing. The Applicant shall also submit to the Board the assumptions and calculations upon which the pricing of the Affordable Units is based. All costs associated with the lottery and marketing plans, including the advertising and processing for the Affordable Units, shall be borne by the Applicant. Buyers of Affordable Units must satisfy all applicable Chapter 40B requirements, including all applicable income, asset, and First Time Homebuyer requirements.~~

#### CONDITIONS PRECEDENT TO COMMENCEMENT OF PROJECT

97. The conditions below are conditions precedent to site disturbance. In particular, and without limitation, no grading, land disturbance, or construction of any structure or infrastructure shall commence until:

a. Final Review – Prior to commencement of any construction and granting of any permits for the Project, the Applicant has submitted detailed construction drawings to the Board to ensure that said drawings are consistent with this Permit, with local requirements not waived in the permit, and with state and federal codes and requirements of state and federal agencies and their respective decisions. Copies of the detailed, approved construction drawings (“Final Plans”) shall also be filed in hard copy (twenty full-scale sets) and in digital format with the Board and the Building Department for recordkeeping purposes. The Applicant must secure Board approval prior to construction and allow the Board ninety (90) days to review the detailed construction drawings. The final plans shall include a building code review.

As noted there are several aspects related to the plans submitted that are not at the Final Construction Plan stage.

**BEI: No response**

~~b. The Applicant has posted with the Town Clerk a bond or surety in the amount needed to complete the ways, utilities, drainage, shade trees in the right of way, and as built plans for the Project as approved, plus a 50% margin of error plus an appropriate rate of inflation over a 5-year period. The performance~~

~~bond or surety shall contain the following provision: “If the principal shall fully and satisfactorily observe and perform in accordance with the qualifications and time schedule set forth herein as specified in all the covenants, agreements, terms and provisions as set forth in the decision of the Board in this matter, as attached hereto, then this obligation shall be void, otherwise it shall remain in full force and effect, and, in the absence of completion of the above work, the aforesaid sum shall be paid to the Town of Nantucket in order to complete the construction in accordance with the plans and specifications.”~~

c. The Final Plans, including phasing plans, way and underground utilities plans (water system, stormwater system, gas, telephone, electric and cable systems), entrance/intersection street lights and signs have been reviewed and have received approval consistent with this Decision by the Board, and consistent with their respective jurisdictions by any and all relevant federal and state agencies, departments, boards, or commissions for matters not otherwise approved or waived by this Decision.

As noted there are several aspects related to the plans submitted that are not at the Final Construction Plan stage. Construction Phasing plans have been submitted. These will be reviewed if requested but have not been reviewed at this time as they should be reviewed with the Final Construction Plans.

**BEI: No response**

~~d. The Applicant and MassHousing have executed a Monitoring Agreement, similar in form to the Monitoring Agreement published by MassHousing but revised in content as required for consistency with this Decision.~~

e. A Regulatory Agreement, similar in form to that published by MassHousing, has been executed by the Applicant and MassHousing and has been recorded with this Decision. The Regulatory Agreement shall contain, at a minimum, the following terms: 1) 25% of the units shall remain affordable in perpetuity or for as long as the project does not comply with local requirements, whichever is longer. Such units shall be sold to households whose annual income, adjusted for household size, does not exceed 80% of the applicable Area Median Income for Nantucket as defined by HUD. 2) pricing of the affordable units shall be in accordance with MassHousing and Chapter 40B requirements; 3) Affordable units shall be sold in accordance with the MassHousing approved Affirmative Fair Housing Marketing Plan (“AFMP”); and 4) Identification of the location of all Affordable Units shall be included.

No engineering comment required.

f. A NPDES Stormwater Pollution Prevention Plan, Erosion Control Plan and Stormwater Management Systems Operations and Maintenance Plan has been approved in accordance with applicable state and federal regulations.

A SWPPP has been submitted. If desired by the Board this aspect will be reviewed under separate cover prior to the start of construction.

BEI: No response.

~~g. Final and detailed landscape improvements and plans prepared by a Landscape Architect registered in the Commonwealth of Massachusetts to the detail required for use as on-site construction and planting drawings and/or to obtain a building permit in accordance with the State Building Code, whichever requirement is more detailed, have been submitted to the Board and all other relevant public agencies for review and approval, including acknowledgement of consistency with this Decision. Such plans shall include shade trees along roadways, and shall specify the types, number, size and location of all proposed landscape plans, trees and shrubs at the time of planting, the location and type of fence or other screening materials, plans and profiles of all planting and screening materials and details of any and all other proposed landscape materials. Such plans indicate the specific types of active/passive recreational equipment to be installed within the open space and recreational areas located on the approved plans. Such plans shall also indicate the location of mailboxes, dumpsters and other appurtenant structures to be located within or integral to, the project.~~

~~h. Identification of all areas of the site proposed for vegetative clearing.~~

~~i. A detailed plan showing landscape improvements, open area, limit of construction activity, edge of clearing, sedimentation and erosion controls, a soil stockpiling area, and construction staging, refueling and storage area(s), for verification that such plan conforms with this Decision. Tree protection measures shall be stated with details for tree wells around existing trees to be protected included in the plan set. The removal of trees, shrubs, and natural groundcover on the site shall be minimized to preserve the natural environment to the highest degree possible. All trees over 8 inches in caliper within the limits of work shall be flagged prior to tree clearing. A representative or agent of the Board shall have the opportunity to identify trees that need to be protected and preserved during construction.~~

Replaced with the following from the HAC Decision:

*“[...no... construction... shall commence until: ...]*

*g. Final and detailed landscape plans prepared by a landscape architect registered in the Commonwealth of Massachusetts to the detail required for use as on-site construction and planting drawings and/or to obtain a building permit in accordance with the State Building Code, whichever requirement is more detailed, have been submitted to the appropriate Nantucket agencies for review and approval, including acknowledgement of consistency with the comprehensive permit decision. Such plans shall include shade trees along roadways, and shall specify the types, number, size and location of all trees and shrubs at the time of planting, the location and type of fence or other screening materials, plans*

*and profiles of all planting and screening materials and details of any and all other proposed landscape materials. Such plans shall indicate the specific types of active/passive recreational equipment to be installed within the open space and recreational areas located on the approved plans. Such plans shall also indicate the location of mailboxes, dumpsters and other appurtenant structures to be located within or integral to, the project. Such plans shall identify all areas of the site proposed for vegetative clearing, and shall show the limit of construction activity, edge of clearing, sedimentation and erosion controls, a soil stockpiling area, and construction staging, refueling and storage areas. The removal of trees, shrubs, and natural groundcover shall be minimized to the extent practical. Trees, particularly those over 8 inches in caliper, that, in the judgment of the landscape architect, can be preserved shall be flagged prior to tree clearing. The plans shall state tree protection measures with details for tree wells around existing trees that can be preserved. During construction, a representative or agent of the Board shall have the opportunity to monitor trees that have been flagged for protection.”*

Landscape Plans have been submitted and include the required data excepting:

- Only partial data on active/passive recreation equipment.
- No mailboxes are indicated on the plans.
- Dumpsters are not indicated.

**BEI: Addressed on Final Landscape Plans.**

- No data on construction phase work including limit of work, clearing, sedimentation/erosion controls, etc. are on the Landscape Plans. There are other plans that indicate this information and a separate Stormwater Report for Phased Construction. These can be reviewed if requested by the Board.

**BEI: Phasing plans were submitted (Civil) that are coordinated with the Drainage design and reports.**

j. *An infrastructure operations and maintenance plan has been submitted for review and approval by the Board, with any updates as required. The plan shall include, at a minimum, maintenance during and post construction as well as perpetual maintenance and monitoring of the roadway, roadway infrastructure and drainage systems (routine and seasonal). The operations and maintenance plan shall bind the Applicant. The stormwater operation and maintenance plan include specific tasks and timelines associated with inspection and maintenance of all proposed stormwater management structural and non-structural measures, a repair and replacement plan for the system with estimated costs as well as identify the owner and party responsible for inspection, operation, maintenance,*

*repair, and replacement including certification of acceptance of legal responsibility for the aforementioned.*

Partially addressed, there is a plan for stormwater system O&M but it does not include the estimated costs. There would also be general landscape maintenance, other infrastructure including paving, walks, building exteriors and roofs. The data provided did not include any legal aspects, which should be part of the Condominium Association Documents when filed.

**BEI: Stormwater system O&M annual general budget will be submitted.**

*k. A construction schedule identifying the sequence and approximate dates of all key stages of construction has been submitted to and approved by the Board or its designee. This submission also will include: (i) identification of all contractors, field engineers, construction managers, surveyors, wetland and biology specialists, and other professionals that will be involved in the implementation of the project; (ii) staking driveways, dwelling foundations, parking areas, drainage basins and other drainage structures, and well locations; (iii) placement of sediment and erosion controls and limit of construction fencing; (iv) identification and approval of significant trees to be cut on the site; (v) removal of vegetation and topsoil; (vi) drainage system construction; (vii) major states of roadway construction; (viii) excavating dates for building foundations; (ix) sewer and water line installation; and (x) inspection dates.*

The Construction Schedule has not been submitted at this time and should be included with the Final Construction Plans. There is a Construction Phasing Plan developed to address erosion and sedimentation during construction. As noted this aspect can be reviewed if requested by the Board.

**BEI: Response by others**

*~~l. The Applicant has provided to the Town of Nantucket, in form and substance approved by Town Counsel, Applicant's agreement that the Town of Nantucket shall be free of any liability for any act, omission or negligence caused by the Applicant, its employees, agents, subcontractors, beneficiaries or trustees who have relation to this Project, and that Applicant on behalf of itself and its successors and assigns has consented and agreed to indemnify the Town, its employees and officials for any harm, damage or injury caused by the Applicant, its employees, agents, subcontractors, beneficiaries or trustees with regard to this Project, and proof of insurance adequate to cover all risks reasonably foreseeable in relation to the construction of the Project, which must be maintained until completion of all phases of construction.~~*

*m. The Applicant has granted to the Town easements giving the Town the right to enter the Locus to repair and maintain water and sewer lines, as applicable and as necessary to ensure the health and safety of the residents therein. The easements shall be shown on a site plan provided to the Board and shall be recorded by the Applicant.*

A Draft Water & Sewer Utility Easement Plan has been provided. I defer comments on this plan to Counsel and the respective Utility Purveyors. As noted this is a Draft and not a Final Construction Plan.

**BEI: No response**

*n. Cuts and fills have been designed to preserve the existing land elevations to the extent reasonably possible based on the final plans as approved, and the use of retaining walls is optimized to preserve existing vegetation wherever practicable.*

It does not appear that any comments are required for this Condition.

*o. The final plan has addressed constructability with regard to infrastructure drainage due to settlement in substantial fill areas.*

It does not appear that any comments are required for this Condition.

*p. All zoning lines have been identified on the final plan for reference purposes.*

The zoning district and setbacks are indicated in a table on Sheet 4. Setback lines associated with the District are not on the plans.

**BEI: District setback lines not been included to avoid confusion.**

*q. The interior roadway layout and parking areas have been approved by the Fire Chief, to facilitate emergency access and increase fire safety.*

The Fire Chief should review the plans. Comments from the Fire Chief, consistent with the HAC Decision, should be addressed on the plans although these do not have to go before the Board according to the HAC Decision.

**BEI: Response by others**

*r. Easements have been provided on the final plan to facilitate utility installation and slope maintenance outside the rights of way.*

This Condition appears to reflect roadway right of ways and easements for access to maintain the right of ways. As no subdivision roadways are proposed it is unclear that this Condition would apply.

**BEI: No response**

*s. The final plans indicate that roadway construction materials and thicknesses conform to a 2 ½" binder and 1 ½" surface course.*

This Condition would be satisfied by the Site Plans.

**BEI: No response**

*t. The final plans shall include limitations on lawn areas.*

It is unclear what limitations would be required here as the plans indicate the limits of various surfaces and non-disturb areas. This Condition could be addressed through the Condominium Documents.

**BEI: See lawn areas shown on submitted Landscape Plans.**

*u. The final site plan submission shall include an acceptable snow management plan.*

The O&M Plan indicates proposed snow storage areas and the Report includes a section on snow removal.

**BEI: No response**

*v. The final plans have been reviewed and accepted by the Fire Chief and the Wannacomet Water Department for hydrant and valve locations; hydrant locations shall provide a 10-foot minimum separation from storm drains or other approved means of protecting the water supply from the storm drains.*

The appropriate officials should review the plans. Hydrants are 10 feet from storm drains based on scaling the plans. The hydrant at the southwest corner of Condo #2 is just 10 feet depending on where the final location is set during construction.

**BEI: No response**

*w. The Applicant has obtained all necessary private utility permits and final designs including but not limited to gas pipeline, electric, telephone and cable service required by the respective utilities prior to the commencement of construction. Documentation of all permits/approvals issued by private utilities pertaining to the development of the project shall be provided to the Board prior to any construction or Site disturbance.*

This is required to be provided prior to construction.

**BEI: No response**

*x. The Applicant has submitted to the Board and all other relevant public agencies for review and final acknowledgment of consistency with this Decision, all requests for approval, and upon receipt of all approvals, has provided to the Board copies of all necessary approvals from all local, state and federal agencies, departments and commissions pertaining to this Project.*

This is required to be provided prior to construction.

**BEI: No response**

*y. The final plans shall include the location and design, including materials to be used, of all retaining walls to be used within the Project.*



The Landscape Plans indicate the location of retaining walls and a detail but the detail does not indicate the reinforcing, although called a reinforced concrete wall.

**BEI: Structural details to be provided on Construction Plans.**

z. *The final plans shall identify the location of all street lighting fixtures in accordance with the condition requiring compliance with the Town's code provisions concerning outdoor lighting.*

Satisfied, lighting is indicated on the Landscape Plans.

**BEI: A comprehensive lighting plan shall be submitted with final construction plans.**

#### CONDITIONS PRECEDENT TO MAKING APPLICATION FOR BUILDING PERMIT(S)

98. *All conditions precedent to commencement of Project have been fulfilled as per this Decision and to the satisfaction of the Board.*

At this time, it does not appear that all conditions have been fulfilled as some comments should be addressed.

**BEI: refer to responses to specific comments**

99. *The Applicant shall provide proof that the subdivision and lotting plans, as approved by the Board, have been recorded at the Nantucket County Registry of Deeds and three (3) copies of the final plan, exactly as it is recorded, shall be provided to the Board.*

No longer applies as no lots will be created.

**BEI: No response**

~~100. *The Applicant shall enter into the standard MassHousing Limited Dividend Monitoring Agreement with MassHousing prior to receiving the initial building permit for the project. Compliance with the limited dividend requirements under G.L. c. 40B shall be determined by the Subsidizing Agency in accordance with the rules of the applicable housing subsidy program. All revenue and expenses attributable to upgrades and/or options purchased by home buyers must be included in the cost certification documents. Any rebates for materials/equipment/appliances must be included in the Cost Certification. The Board shall receive copies of any and all materials submitted to the Subsidizing Agency related to Cost Certification and Limited Dividend restriction monitoring and reviews.*~~

101. *No later than the submission of the initial building permit application, the Applicant shall submit, as applicable for the proposed project, for review and approval by the Board or its designated representative a copy of the proposed Homeowners Association Declaration of Trust, Homeowners Association Budget,*

*and Declaration of Covenants, Restrictions and Easements as well as all Condominium Association documents, including but not limited to the Declaration of Trust, Master Deed, Rules and Regulations, and Condominium Budget. Said documents shall reference this Decision and the affordability requirements upon which the Comprehensive Permit is conditioned and state that the Project is subject to this Decision. The Homeowners Association and Condominium documents shall provide that the Homeowners Association and Condominium Trust are responsible for maintaining the roadways and sidewalks, storm water management system, common landscaping including all buffer areas, and fencing therein, all infrastructure and other common facilities including the Recreation and Maintenance Buildings, and shall also be responsible for snowplowing and trash removal. The Board acknowledges that the Subsidizing Agency has final approval authority in regard to the Homeowners Association and Condominium documents, including the respective budgets. These documents must include an explanation of how common costs (including the operation of the Recreation area) to be shared between the Homeowners Association and the Condominium Association shall be allocated between the two entities. Any applicable Homeowners Association or Condominium Fees shall be allocated to the Affordable Homes based upon a percentage of Fair Market Value. In determining the Chapter 40B allowable sales prices for the Affordable Units, a realistic Homeowners Association or Condominium fee must be used. If Affordable Unit owners will be responsible for the payment of any applicable sewer permitting fees, any such fees must be taken into consideration in determining the allowable sales prices for Affordable Units. Upon its formation, the Homeowners' Association and the Condominium Trust, as applicable, shall be initially endowed by the Applicant in the amount of Four Hundred Dollars (\$400) per unit.*

Some of this Condition would not apply as it would be one condominium development. The HAC Decision removes any aspects that would relate to how the sale price of affordable units is calculated.

#### **BEI: Response by others**

*There shall be no change in the By-laws of the Homeowners' Association or the Condominium Trust, as applicable, without the approval of 75% (as rounded below) of each of the two (2) income levels of the homeowners, as applicable and as illustrated below:*

No engineering comment required, as noted there would only be one condominium association.

#### *Single Family Units*

*Market Rate Units: 30 units\*75% = 22.50 (Rounded to 22)*

*Affordable Units: 10 units\*75% =7.50 (Rounded to 8)*

#### *Duplex Units*

*Market Rate Units: 9 units\*75% = 6.75 (Rounded to 7)*  
*Affordable Units: 3 units\*75% =2.25 (Rounded to 2)*

*Multifamily Units (Fourplex Units)*

*Market Rate Units: 6 units\*75% = 4.50 (Rounded to 4)*  
*Affordable Units: 2 units\*75% =1.50 (Rounded to 2)*

*Owners may not vote changes inconsistent with the Comprehensive Permit and any conditions thereto, the approved Regulatory Agreement, and/or the Deed Rider.*

*The Applicant shall be responsible for completion and maintenance of all infrastructure and compliance with this Decision until all of the units in the development are constructed and sold. Thereafter, the Homeowners' Association and/or the Condominium Trust shall bear such responsibility. The Applicant may collect fees from homeowners, as appropriate and as required in the Homeowners' Association and/or the Condominium Trust documents, for the maintenance of the infrastructure and other customary Homeowners' Association and/or the Condominium Trust fees.*

102. *No later than the submission of the initial building permit application, the Applicant must also submit an engineered easement plan showing all easements along with a narrative explaining how all Units will be served by such easements. It is unclear if any easements will be required for the units. Utility purveyors typically would be provided easements to access their respective utilities and a Draft plan for Water & Sewer has been provided. The Final Plan should be approved by the appropriate utility purveyors.*

**BEI: No response**

103. *Not later than the date on which the first request for a building permit is filed, and before any building permit is issued, the Applicant shall file with the Board and all other relevant public agencies for review and for consistency with this Decision:*

*It is unknown if a Building Permit has been requested at this time. No Architectural Plans were included in the data provided.*

**BEI: Response by others**

A. *A copy of the request for a building permit, along with the required Form J under the local subdivision regulations. The building permit application must include a complete set of engineering drawings, plans and specifications ("Complete Plans") for use by contractors, inspectors, permit compliance officers and purchasers of the proposed dwelling units. These drawings, plans and specifications shall be stamped by a registered architect or professional engineer, as appropriate, licensed in the Commonwealth of Massachusetts. The Board shall review the complete plans for conformance with this Decision. The Building*

*Department shall not issue a building permit until receipt of the Board's report that the Complete Plans conform to this Decision. The Applicant must also submit prior to initiation of each proposed construction phase a Resident Safety Plan that documents the safety measures that the Applicant will undertake to protect the safety of residents occupying units prior to the completion of all construction. The Resident Safety Plan shall be reviewed and approved by the Board and must be updated as needed and as requested by the Board.*

This review is a partial response to this Condition. As noted the plans provided are not Final Construction Plans at this time based on some of the notes and other data.

**BEI: No response**

- B. *A copy of site layout plans and profiles shown at scales considered adequate for review purposes, of all private roads and parking areas. The Board shall review the layouts and profiles for conformance with this Decision. The Building Department shall not issue a building permit until receipt of the Board's report that there is conformance with this Decision. Roadway layouts shall include properly labeled horizontal and vertical curves and stationing. The location of these facilities shall be as identified in the above-noted layout plans.*

I note that neither plan layout with stationing and curve data nor profiles have been included in the Site Plans provided. There is a profile for the on-site gravity sewer system. This Condition should be addressed in the Final Construction Plans.

**BEI: As previously discussed, these are driveways and not subdivision roads and stationing or curve data is not required. In order to satisfy the Board, the plans will be updated to include this information.**

- C. *A copy of site layout plans, and final and detailed architectural drawings (including plans and elevations) shown at scales considered adequate for review purposes, of all structures containing dwelling units as approved by this Decision, including interior floor plans, current and finished elevations, construction type and exterior finishes to the detail required for use as on-site construction drawings and/or to obtain a building permit in accordance with the State Building Code, whichever requirement is more detailed ("Structure Plans"). The Board shall review the Structure Plans for conformance with this Decision and so notify the Building Department. The Building Department shall not issue a building permit until receipt of an affirmative report from the Board. Housing plans for dwelling units shall also be submitted to the Building Department in accordance with the State Building Code.*

Not provided, this should be addressed in the Final Construction Plans..

**BEI: No response**

- C. *The final and detailed utilities plans and profiles including properly labeled drainage components and all site utilities including electric, gas, water supply lines, wastewater disposal connections and appurtenances and dwelling unit connections thereto indicating that all utilities servicing this project shall be underground within the Locus of the Project and to the detail required for use as on-site construction drawings and/or to obtain a building permit in accordance with the State Building Code, whichever requirement is more detailed.*  
Partially provided, there are sewer system profiles for the on-site gravity system only. Utilities are proposed to be underground. This should be addressed in the Final Construction Plans.

**BEI: We will provide additional plan and profiles for the driveway that will include the catch basin locations and rim grades. Profiles have already been provided for sewer line construction. Two driveway cross-sections will be added showing applicable underground utilities.**

- E. *Submit to the Board plans and elevations of all proposed signs, including the entranceway sign, sufficient to determine their compliance with applicable Town Code provisions, and the design, size and location of any entrance or roadway intersection lighting. No sign waivers shall be granted.*  
Not provided. This should be addressed in the Final Construction Plans.

**BEI: To be addressed on final construction plans.**

#### CONDITIONS PRECEDENT TO BUILDING CONSTRUCTION

104. *During construction, the Applicant shall conform to all local, state, and federal laws regarding noise, vibration, dust and the blocking of any roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area, and shall take all necessary steps to prevent damage to or contamination of private wells during the course of construction and to prevent damage to any sewer infrastructure located within the Site. For this condition, construction activities shall include, but not be limited to: start-up of construction vehicles, equipment or machinery; fueling of construction vehicles, equipment or machinery; storage of construction vehicles, equipment or machinery on Site; 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; demolition of existing structures; removal of stumps and debris; and erection of new structures. The Applicant shall submit to the Board on a phase-by-phase basis as-built plans showing the buildings, roadways, sidewalks, driveway aprons, edge of pavement, and utilities. Said as-built plans shall be submitted in a format satisfactory to the Building Inspector and be stamped by a licensed Massachusetts Professional Engineer. The Applicant shall also submit to the Zoning Board of Appeals digital copies of said as-built plans in a format acceptable to the Building Inspector. This is a construction phase Condition no comment required at this time.*

105. *Appropriate measures shall be taken during construction to prevent the tracking of material onto any public way. Any material tracked onto a public way shall be swept up and removed by the Applicant as necessary and as required by the Building Inspector.*  
This is a construction phase Condition no comment required.
106. *The Applicant shall repair in a timely manner any damage to public roads adjacent to the Project that results from the construction and/or maintenance of the Project.*  
This is a construction phase Condition no comment required.
- ~~107. *Parking for construction workers must be on site and not on public ways. No construction vehicle parking shall be allowed on South Shore Road.*~~
108. *The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation MassDEP's Dust regulations at 310 CMR 7.09, as amended, as directed by the Building Inspector. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.*  
This is a construction phase Condition no comment required.
109. *For each phase of the Project, prior to the start of construction of any building, roads to and within that phase of the Project which will have at least the first course of pavement, all hydrants in that phase of the Project will be operational, street signs will be in place and dwelling unit numbers will be provided at the building site to avoid conflict with building and lot numbers. Street names, house numbers, and building numbers for any fourplexes, shall be approved by the Nantucket Fire Department.*  
This is a construction phase Condition no comment required.
110. *Prior to the commencement of any work at the Site, a split rail fence shall be installed to delineate the buffer zones and limit of work. An erosion control barrier, hay bales stacked end to end and siltation fence firmly anchored with six inches of soil, shall also be installed on the project side of the split rail fence. The erosion control barrier shall be inspected by the Board or its representative prior to work commencing on the site and shall be maintained until all disturbed areas have been stabilized to the satisfaction of the Board or its representative.*  
This is a construction phase Condition no comment required.
111. *Limit of work construction fencing shall be installed in accordance with the final plan locations for the particular building lot.*  
This is a construction phase Condition no comment required.

## CONDITIONS RELATING TO CONSTRUCTION

112. *All dwelling units shall be built by the Applicant, and its agents or contractors over which it will exercise supervision and control and the acts of which it will be responsible, in accordance with this Permit and the Regulatory Agreement. No lots shall be sold to third-party builders. No vacant lots or lots containing partially completed buildings may be sold. No sales shall occur before issuance of certificate of occupancy. During construction, the name and mobile telephone number of the site manager or clerk of works employed by the Applicant shall be filed with the Building Department, the Board, and the Nantucket Police Department, and such name and mobile telephone number shall be kept current. No engineering comment required. Portions of this condition would not apply to the current project.*
113. *At least forty-eight (48) hours prior to any initial site work, a pre-construction meeting shall be held with the Applicant, Applicant's contractor, a representative of the Board, its consulting engineer, and representatives of Town departments having a review interest in the plan. Said meeting shall be for the purpose of familiarization with the Project, the conditions of approval, and the Project's construction sequence and timetable. No engineering comment required.*
114. *Prior to commencement of construction of each applicable phase, the Applicant shall provide the Board: A) The name, address, email and business telephone number of the individual(s) responsible for all activities on site; B) A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the site have been paid; C) Proof that all required federal, state and local licenses and permits have been obtained. No engineering comment required.*
115. *During construction, the Applicant and its agents and employees shall conform to all local, state and federal laws regarding noise, vibration, dust and use of Town or County roads and utilities. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction hours shall be limited Monday-Friday, 7:30 a.m. to 7:00 p.m.; Saturdays, 7:30 a.m. – 1:00 p.m. No construction or related activities on Sundays or legal holidays. No engineering comment required.*
116. *The Applicant shall submit to the Board, the Building Department and the Fire Chief, for review and final acknowledgment of consistency with this Decision, final and detailed scaled architectural drawings for all structures as approved by this Decision, including interior floor plans, current and finished elevations, construction type and exterior finishes to the detail required for use as on-site construction drawings and/or to obtain a building permit in accordance with the State Building Code, whichever requirement is more detailed. Not provided to this office.*

117. *Stormwater management systems shall meet the design and performance requirements of the MassDEP's Stormwater Management Policy and Handbook, as revised, including requirements concerning Zone II areas.*  
There are some aspects that require revision and the Stormwater Report was for a prior revision. Refer to Appendix A.

**BEI: Refer to responses in Appendix A.**

118. *Roadway design plans and construction details (inclusive with the final plans) with respect to interior ways shall be provided for approval by the Board. Except as otherwise provided by this Decision, roadway design and construction standards shall conform to the requirements of the Nantucket Planning Board subdivision rules and regulations. All proposed roadway and utility construction, grading and appurtenant work shall be described in complete detail to readily enable peer review and construction. A note shall be placed on each pertinent sheet of the plans stating that the Project is the subject of a comprehensive permit under G.L. c.40B, §§22-23, that the roads and ways within the Project in some cases may and in other cases may not, conform to the standards and requirements of the Nantucket subdivision rules and regulations. Sidewalks shall be provided as per approved plans and shall conform to the requirements of the subdivision rules and regulations. Complete development roadway profiles shall be provided for existing centerline and sideline grades, and proposed centerline grade. On street parking shall be prohibited, except in those areas shown on the Comprehensive Permit Plans. Signage prohibiting parking shall be installed and maintained as required by the Town.*

Partially addressed, full profile data has not been provided and it is not clear that the plans meet standards without this data. I note that there are no roadways that would be considered "subdivision roadways" as no lots are to be created.

**BEI: This is no longer a subdivision and the associate driveway design is adequate for this development. However, as previously responded to, we will provide this information**

119. *All utilities shall be underground, and shall conform to the private utility company's requirements.*

Utilities are underground the status of compliance with private utility company requirements is not known.

**BEI: Utilities are underground. Project to comply with utility requirements.**

120. *Proposed underground utilities shall be shown in cross-section on the way, utilities plan and construction details shall be provided.*  
Satisfied.

121. *Normal water service pressure within the Project shall be a minimum thirty-five (35) psi under all conditions except fire flow. Available service pressure under*



*peak water demand and fire flow conditions, including existing demands on the service pressure, shall be demonstrated to the Board's satisfaction by hydraulic modeling as required by the Fire Chief.*

It is not known if hydraulic modeling of the water system has been performed.

**BEI: See previous response. Work to be coordinated with Water Company.**

122. *Water system design and construction shall meet the requirements, standards and regulations of the Wannacomet Water Department and the Massachusetts Department of Environmental Protection's guidelines and policies for public water supplies. Water system design is also subject to the aforementioned conditions concerning water service.*

No comment required.

- a. *All stumps, brush, and other debris resulting from any clearing or grading shall be removed from the Locus. No stumps or other debris shall be buried or burned on the Locus.*

No comment required.

123. *A written submission shall be submitted to the Board describing all easements and covenants affecting the use of the subject site, referring to such covenants and location of such easements on a site plan. The Applicant shall also submit to the Board any written or recorded instruments granting or agreeing to such easements and covenants.*

If applicable, legal counsel should review the easements.

**BEI: No response**

124. *To ensure compliance with the terms and conditions of this Decision and any approval or order by any federal or state agency, the Applicant shall, no less than thirty (30) days prior to the request for a certificate of occupancies for any of the structures approved by this Decision, submit to the Board complete and detailed "As-Built Plans" of the roadway and associated infrastructure, as set forth in the Nantucket Planning Board subdivision rules and regulations and approved by the Board's consulting engineer together with a certification from a professional engineer or architect registered in the Commonwealth of Massachusetts that the Project's "As-Built Plan" complies in all substantive respects with this Decision and any other approval or order by any federal, state or local agency. Progress as-built plans may be submitted for the extent of roadway and associated infrastructure serving those dwellings for which certificates of occupancy are sought.*

No comment required.

125. *Temporary certificates of occupancy will not be permitted. The Fire Department will not sign the occupancy permit until all required fire prevention and detection systems are installed and operating, carbon monoxide detectors are installed and*

*operating, street signs and house numbers are in place and all required inspections have been completed by the Fire Department.*  
No comment required.

126. *Applicant must comply with all Zone II water protection requirements under the Town's Zoning Bylaw in addition to MassDEP regulations and requirements. The Zoning Bylaws include the following requirement:*

*“All land uses, buildings, and accessory structures, that result in rendering impervious more than 15% or 2,500 square feet of any lot, whichever is greater, unless a system for artificial recharge of 95% of annual precipitation is provided that will not result in the degradation of groundwater quality. The Planning Board may require that an applicant provide evidence of groundwater protection which may include a demonstrated history of treatment effectiveness of the proposed design/treatment technology, and it may require monitoring of on-site, pre- and post-development groundwater quality for potential pollutants.”*

The intention of the project would meet this requirement as there are proposed recharge systems for all impervious areas. Refer to Appendix A as there are some issues to be addressed in the design, and additional data is required to demonstrate compliance with the DEP Stormwater Regulations. MassDEP water supply regulations have similar requirements for recharge in the Zone II of a water supply well.

**BEI: Refer to responses in Appendix A.**

#### ADMINISTRATIVE

127. *Within fourteen (14) days of receipt of a statement of costs incurred by the Town prior to the date of this Decision in connection with reviewing the application for a permit, the Applicant shall submit a certified check made payable to the Town of Nantucket in an amount to compensate the Town for such costs.*  
No comment required.
128. *The Applicant shall pay the expenses incurred by the Board and Town in evaluating the plans required by this Decision and in monitoring and evaluating construction for this Project. These expenses shall be deducted from the special account established by the Town Treasurer for the Applicant. Prior to any clearing, grading or construction, the Applicant must pay to the Town, by certified check, \$30,000 as an advance deposit to cover at least a portion of these expenses. The Applicant will pay any additional costs to the Town as required. If at any time the amount of the advance deposit is reduced below \$5,000, Applicant, upon request, shall within five (5) business days pay to the Town an amount sufficient to increase the amount of the deposit to \$5,000, and if the Applicant fails to pay such amount within such period, all work on the Project*

*shall cease until such amount has been paid. Any excess remaining at the completion of the Project will be returned to the Applicant.*

No comment required. The HAC Decision appears to discuss this Condition relative to the discussion on Conditions 129 and 137, which have been struck.

~~129. *Inspections and testing during the construction of ways and installation of utilities and the stormwater management system shall be conducted at the expense of the Applicant. The Board may appoint an agent to conduct such inspections.*~~

130. *The Applicant must post a performance guarantee for each phase of work to be undertaken, satisfactory and reviewed by the Board to be noted on the plan to ensure that any construction related damage to adjacent roads is repaired by the Applicant in a manner satisfactory to the Board. This performance guarantee is to be received by the Board prior to the commencement of any of the improvements approved in the plan and will be required until the Board decides that the Applicant has completed all of the improvements approved in the plan. The form of the performance guarantee, adequacy and/or amount may be varied from time to time by the Applicant subject to an agreement satisfactory to the Board and reviewed by the Board's counsel.*

No comment required.

132. *Recorded copies of all required legal documents (Homeowners Association documents, Statement of Conditions, Grant of Right of Enforcement, Grant of Easements for Utilities, Drainage, and Covenant) shall be presented to the Board prior to the release of the second lot from the Covenant and within six (6) months from the date of this decision (June 13, 2019).*

No comment required.

133. *The following aspects of the Project shall remain private and the Town and County of Nantucket shall not have any legal or financial responsibility for operation or maintenance of:*

No comment required on this or sub listings a-g.

- a. *Roadways, driveways or parking areas;*
- b. *Stormwater management systems and appurtenances;*
- c. *Snow plowing or removal;*
- d. *Landscaping;*
- e. *Trash disposal or pickup;*
- f. *Street lighting or other illumination;*

- g. *Maintenance requirements of easements, access and appurtenances associated with any of the above.*
134. *The water system shall be constructed by the Applicant and granted to the Town of Nantucket upon the Town's acceptance of the installed water main and appurtenances and all required testing results. Such acceptance shall not serve to constitute acceptance of the infrastructure contained in the preceding paragraph.*  
No comment required.
135. *The Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the Project, of all infrastructure and compliance with this Comprehensive Permit decision until all of the units in the development are constructed and sold. Thereafter, the Homeowners' Association and/or the Condominium Trust shall bear such responsibility. The Applicant may collect fees from homeowners, as appropriate and as defined in the Homeowners' Association and/or Condominium Trust documents for the maintenance of the infrastructure...*  
No comment required.
136. *The Applicant shall complete construction within three (3) years from the date this Permit becomes final, unless such time shall be extended in writing by the Board for cause, not to be unreasonably withheld.*  
No comment required.
- ~~137. *The fees for the engineering reviews and the Town's construction oversight shall be the obligation of the Applicant. Prior to the commencement of work by a particular consultant, the Applicant shall pay the estimated fees for the required work. No site disturbance or clearing shall commence until all past and estimated future fees are paid, including all fees owed the Board and the Town of Nantucket for peer review services completed pursuant to G.L. c.44, §53G.*~~
138. *The Applicant shall keep the site and the adjoining existing roadway area clean during construction. Upon completion of all work on the site and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Board shall be notified in writing of the final disposition of the materials.*  
No comment required.
139. *Construction, once commenced, shall progress through to completion as continuously and expeditiously as possible and in accordance with the construction sequence and timetable approved. No clear cutting of this Site is permitted. Only such clearing as necessary to construct upon a particular lot, or section of Project infrastructure within the bounds thereof, is permitted, to occur contemporaneously with the construction. All other natural areas shall be maintained. A construction fence, restricting access to the Site from South Shore*

*Road, shall be maintained at all times during the initial phase of construction. Once the first residential unit(s) are constructed and occupied, fencing shall be relocated as necessary to restrict access to areas subject to ongoing or future phases of construction.*

The Phase 1 plan essentially requires clearing the entire site except for the perimeter buffer and an area within the common open space.

**BEI: No response**

140. *Construction equipment shall not be parked or stored within one hundred (100) feet of any drainage channel, drainage inlet, or related area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from these areas. Contractor's on-site personnel shall immediately notify the Town of any hazardous material spill, regardless of size. Earth material stockpiles shall not be allowed adjacent to perimeter siltation barriers or drainage inlets or related areas. Long-term stockpiles over thirty (30) days shall be shaped, stabilized and circled by siltation fence and hay bales and shall be stabilized by temporary seeding, sheeting or netting.*

Portions of the construction parking area are within 100 feet of proposed catch basin inlets. This should be an easy adjustment to the plans.

**BEI: Construction phasing plans to be updated to show equipment a minimum of 100' from drainage systems.**

141. *Prior to beginning construction on any phase of the Project, the Applicant will submit to the Board for its approval a plan showing the location of all construction storage and stockpiling areas for that phase, together with details of the planned use of such areas.*

The Phasing plans indicate the required locations.

**BEI: Agreed**

142. *All areas to be protected from encroachment from construction shall be marked on the ground as shown on the approved construction plans and these barriers shall be maintained by the Applicant throughout the construction phase of the Project. Prior to the initiation of each construction phase, Applicant shall provide for review and approval by the Building Inspector a proposed Safety Plan that documents how residents occupying units will be protected during the construction of future phases.*

No comment required.

143. *Excavation dewatering shall be in a workmanlike manner and such water shall be free of suspended solids before being discharged into a stormwater drainage system. This condition applies to all forms of dewatering including pumping and trenching.*

No comment required.

CONDITIONS PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

The following Conditions (144-148) do not require comment at this time.

144. *The Applicant shall provide the Board with proof that an appropriate budget has been established and funded to maintain the systems, dwelling unit, ways and improvements in the Project consistent with that required by the subsidizing agency.*
145. *No building shall be occupied until the improvements specified in this Decision and set forth on the plans of records are constructed and installed so as to adequately serve said building or adequate security has been provided, acceptable to the Board, to ensure such completion. Any such performance guarantee shall be approved as to the amount and form by the Board.*
146. *The Applicant shall submit final architectural plans to the HDC Administrator, as the Board's designee, for review and approval whether the plans conform with the requirements of the Board's conditions concerning exterior architectural features and design.*
147. *Based upon the recommendations of the traffic consulting engineers during the course of the public hearing, concerning calculation of proportional traffic mitigation funds based upon the Project impact, the Applicant shall pay traffic mitigation funds to the Town in the amount of Two Hundred Thousand Dollars (\$200,000.00). Payment shall be made in full upon the issuance of the initial building permit.*
148. *The Applicant shall enter into the standard MassHousing Affordability Monitoring Agreement with MassHousing or with a monitoring agent approved by MassHousing prior to receiving the initial occupancy permit.*

PERFORMANCE GUARANTEES

149. *Prior to full surety release, satisfactory as-built plans shall be provided to the Board as required under the Nantucket Planning Board regulations.  
No comment required.*
- ~~150. *All sureties shall contain the following provision: "The principal shall fully and satisfactorily observe and perform in accordance with the qualifications and time schedule set forth herein specified all the covenants, conditions, agreements, terms and provisions set forth in the Decision of the Nantucket Zoning Board of Appeals dated June 13, 2019."*~~
151. *No building shall be occupied until the building utilities specified in this Decision and set forth on the plans of record are constructed and installed and available so*

*as to adequately serve said building or surety provided by the Applicant, in the amount and form approved by the Board.*

No comment required.

~~152. In determining the amount of any surety, the Board shall be guided by the following formula in setting the sum of the security:~~

~~A. An estimate of the cost to complete the work that is satisfactory to the Board; plus~~

~~B. A 50% margin of error; plus an appropriate rate of inflation over a 5-year period.~~

153. *This Decision shall not substitute for compliance with the Subdivision Control Law, G.L. c.41, §81-L (et seq.), regarding the division of land into two or more lots.*

No longer applicable.

154. *The Board shall maintain jurisdiction to ensure compliance with all state and local rules and regulations applicable to subdivisions and related construction, bonding/surety, and recording requirements.*

No comment required.

Following are specific conditions added by the HAC Decision:

*The decision of the Board is vacated, and Board is directed to issue an amended comprehensive permit as provided in the text of this decision and the conditions below.*

*1. Any specific reference made to the “Board’s Decision,” “this Decision” or “this comprehensive permit” shall mean the comprehensive permit as modified by the Committee’s decision. Any references to the submission of materials to the Board, the building commissioner, or other municipal officials or offices for their review or approval shall mean submission to the appropriate municipal official with relevant expertise to determine whether the submission is consistent with the final comprehensive permit, such determination not to be unreasonably withheld. Such official may consult with other officials or offices with relevant expertise as they deem necessary or appropriate. In addition, such review shall be made in a reasonably expeditious manner, consistent with the timing for review of comparable submissions for unsubsidized projects. See 760 CMR 56.07(6).*

No Engineering comment required.

*2. The amended comprehensive permit issued by the Board shall conform to the application submitted to the Board, the Board’s original decision, and the modified proposal that was the subject of the hearing before this Committee, all as modified in this decision.*

This review letter addresses this condition.

**BEI: No response**

3. *The development, consisting of 156 total units, including 39 affordable units, shall be constructed substantially as shown on plans entitled “Surfside Crossing a Proposed 40B Development in Nantucket, Massachusetts,” dated February 15, 2018, with revisions through February 28, 2020, prepared by Bracken Engineering, Inc. (Exhibit 3), and shall be subject to those conditions and requirements imposed in the Board’s decision filed with the Nantucket Town Clerk on June 14, 2019 (Exhibit 2), as modified by this decision.*  
This review letter addresses this condition.

**BEI: No response**

4. *The Board shall not include new, additional conditions.*  
The Board should abide by this requirement.

**BEI: No response**

5. *The developer is required to comply with all applicable non-waived local requirements in effect on the date of its submission of its comprehensive permit application to the Board, consistent with this decision.*  
I defer this aspect to the appropriate Town agency for comment.

**BEI: No response**

6. *The developer shall submit final construction plans for all buildings, roadways, stormwater management system, and other infrastructure to Nantucket town entities, staff or officials for final comprehensive permit review and approval pursuant to 760 CMR 56.05(10)(b).*  
Not provided at this time. Landscaping Plans appear to generally meet this requirement but other plans are not Final Construction Plans.

**BEI: No response**

7. *All Nantucket town staff, officials, and boards shall promptly take whatever steps are necessary to permit construction of the proposed housing in conformity with the standard permitting practices. Submission of plans and materials to the Town for review or approval shall be to the appropriate municipal official with relevant expertise to determine whether the submission is consistent with the final comprehensive permit, such determination shall be made in an expeditious manner, consistent with the timing for review of comparable submissions for unsubsidized projects, and approval shall not to be unreasonably withheld.*  
No Engineering comment required.

8. *Should the Board fail to carry out this order within thirty days, then, pursuant to G.L. c. 40B, § 23 and 760 CMR 56.07(6)(a), this decision shall for all purposes be deemed the action of the Board.*  
This review summarizes the applicable conditions as modified by the HAC decision.



**BEI: No response**

9. *Because the Housing Appeals Committee has resolved only those issues placed before it by the parties, the comprehensive permit shall be subject to the following further conditions:*

*(a) Construction in all particulars shall be in accordance with all applicable local zoning and other by-laws in effect on the date of the submission of the developer's application to the Board, except those waived by this decision or in prior proceedings in this case.*

I defer this aspect to the appropriate Town agency for comment.

**BEI: No response**

*(b) The subsidizing agency or project administrator may impose additional requirements for site and building design so long as they do not result in less protection of local concerns than provided in the original design or by conditions imposed by this decision.*

No Engineering comment required.

*(c) If anything in this decision should seem to permit the construction or operation of housing in accordance with standards less safe than the applicable building and site plan requirements of the subsidizing agency, the standards of such agency shall control.*

No Engineering comment required.

*(d) Construction and marketing in all particulars shall be in accordance with all presently applicable state and federal requirements, including, without limitation, fair housing requirements.*

No Engineering comment required.

*(e) No construction shall commence until detailed construction plans and specifications have been reviewed and have received final approval from the subsidizing agency, until such agency has granted or approved construction financing, and until subsidy funding for the project has been committed.*

As noted Final Construction Drawings have not been provided at this time.

**BEI: No response**

*(f) The Board and all other Nantucket town staff, officials, and boards shall promptly take whatever steps are necessary to ensure that building permits and other permits are issued to the applicant, without undue delay and in conformity with the standard permitting practices applied to unsubsidized housing in Nantucket, upon presentation of construction plans, pursuant to 760 CMR 56.05(10)(b), that conform to the comprehensive permit and the Massachusetts Uniform Building Code.*

No Engineering comment required.

*(h) This comprehensive permit is subject to the cost certification requirements of 760 CMR 56.00 and DHCD Guidelines issued pursuant thereto.*  
No Engineering comment required.

I appreciate the opportunity to assist the Zoning Board of Appeals on this project and hope that this information is sufficient for your needs. This report is for the Nantucket Board of Appeals only and provides no engineering, planning or other advice that may be relied upon by any party or agency other than the Nantucket Board of Appeals. I would be pleased to meet with the Board or the design engineer to discuss the project at your convenience. If you have any questions, please do not hesitate to contact us.

Very truly yours,  
Chessia Consulting Services, LLC

John C. Chessia, P.E.