



TOWN OF UXBRIDGE
21 South Main Street
Uxbridge, Massachusetts 01569
Telephone (508)278-8600 x2013
Fax (508)278-0709

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Zoning Board of Appeals

**Comprehensive Permit
Issued to 47 Dodge Deco, LLC
DECISION
#FY23-07**

**354 Douglas Street
APRIL 19, 2023**

GRANTED with Conditions

This is a Decision of the Uxbridge Zoning Board of Appeals ("Board") on the request for a Comprehensive Permit under Massachusetts General Laws ("M.G.L.") Chapter 40B, §20-23 ("Act"), made by the owner, 47 Dodge Deco, LLC, 997 Millbury Street, Worcester, MA 01607 ("Applicant") for the property located at 354 Douglas Street in Uxbridge, Massachusetts. The property is identified on the Uxbridge Town Atlas map as Map 23, Parcel 2357 ("Site").

This Decision is in response to an application for a Comprehensive Permit for a forty (40) single-family homes/lots development ("Project"). The Project consists of 30 four-bedroom single family detached residences and 10 four-bedroom single family detached residences to be sold to income-qualified families ("Affordable Single Family Homes"). The Comprehensive Permit application was submitted to the Zoning Board of Appeals on October 11, 2022. The Board opened a duly noticed public hearing on November 2, 2022. The Board held continued hearings on December 7, 2022, January 4, 2023, February 1, 2023, March 1, 2023, April 5, 2023 and April 19, 2023. The Board closed the public hearing on April 19, 2023. Throughout the duration of the hearings, the Board heard testimony from the Applicant, Town Staff, Graves Engineering, Inc., and abutters to the proposed Project. Board members Robert Knapik, Thomas McNulty, James Blackburn and Tariq Fayyad were present throughout the hearings. The minutes of the hearings and submissions on which this decision is based may be referred to in the Town Clerk's office or the office of the Board at Uxbridge Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits (which are incorporated herein):

- 1.1 The Application for a Comprehensive Permit entitled "Pine Ridge Estates, 354 Douglas Street" was filed with the Town Clerk on October 11, 2022. The drawings and documents submitted as part of the application and as revised throughout the course of the hearing are as follows:
 - Application for Comprehensive Permit for "Pine Ridge Estates" by 47 Dodge Deco LLC dated October 4, 2022, under cover letter prepared by Turning Point Engineering dated October 7, 2022.
 - "Pine Ridge Estates, Comprehensive Permit Plan, 354 Douglas Street, Uxbridge, Massachusetts" dated October 3, 2022, prepared by Turning Point Engineering; revision #1 dated December 28, 2022; revision #2 dated February 27, 2023; and revision #3 dated April 4, 2023.
 - "Stormwater Management Report for Pine Ridge Estates, A Comprehensive Permit, 354 Douglas Street, Uxbridge, MA" dated October 3, 2022, prepared by Turning Point Engineering; revision #1 dated December 28, 2022.
 - "Operation & Maintenance Plan for Pine Ridge Estates, A Comprehensive Permit, 354 Douglas Street, Uxbridge, MA" dated October 3, 2022, prepared by Turning Point Engineering.
- 1.2 Additional plans and documentation submitted as part of the application included the following:
 - Trip Generation & Site Access Letter entitled "Uxbridge, MA – 40B Residential Development", prepared by Greenman Pedersen, Inc. dated December 20, 2022.
 - Document entitled "Affordability at Pine Ridge", prepared by Eastland Partners, Inc. dated January 4, 2023.
 - Document entitled "Peer Review Comment Responses, Pine Ridge Estates Comprehensive Permit – 354 Douglas Street" prepared by Turning Point Engineering dated January 6, 2023.
 - Document entitled "Waiver Requests, Pine Ridge Estates Comprehensive Permit – 354 Douglas Street" prepared by Turning Point Engineering dated January 13, 2023.
- 1.3 Interdepartmental communications were received from:
 - Document entitled "Pine Ridge Estates", prepared by the Economic Development & Community Planning dated October 10, 2022.
 - Memorandum entitled "Pine Ridge Estates 40B – DPW Review #1", prepared by Uxbridge Department of Public Works dated November 2, 2022.

- Document entitled “Pine Ridge Estates, 354 Douglas Street, Comprehensive Permit Application, Peer Review #1”, prepared by Graves Engineering, Inc. dated November 22, 2022.
- Document entitled “Pine Ridge Estates, 354 Douglas Street, Comprehensive Permit Application, Peer Review #2”, prepared by Graves Engineering, Inc. dated February 3, 2023.

2 GOVERNING LAW & JURISDICTIONAL ELEMENTS

- 2.1 The law governing this Project is the Act and regulations promulgated by the Department of Housing and Community Development's ("DHCD") at 760 CMR 56.00 (the “Regulations”), and any rules and regulations for comprehensive permits by the Board.

Pursuant to the Act and the regulations at 760 CMR 56.04, an applicant for a comprehensive permit must fulfill three (3) jurisdictional requirements. The Board finds that the Applicant has provided sufficient information to meet them.

- The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization. The Applicant has satisfied this requirement by agreeing to legally bind itself to limit the profit it derives from a comprehensive permit development. Thus, the Applicant is a Limited Dividend Organization as defined by DHCD. The Project shall be fundable by an authorized Subsidizing Agency under a Low or Moderate Income Housing subsidy program;
- The Applicant has satisfied this requirement through the submission of a Project Eligibility Letter dated September 8, 2022, from DHCD indicating that the Project is fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program.
- The Applicant shall control the site: Quitclaim deed from Joanne Czupryna, as Trustee of the Theresa Gervais Trust-2016, and Theresa Gervais, Individually and as Life Tenant, and Jessica Lee Sobrinho to 47 Dodge Deco LLC dated December 29, 2021 and recorded in the Worcester District Registry of Deeds in book 66902, page 139.

Further, the Applicant was granted a Project Eligibility letter from DHCD dated September 8, 2022 confirming that the above three (3) requirements were met.

3 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits, and the record of the proceedings, the Board finds and concludes that:

- 3.1 The submitted application complies with the Board's comprehensive permit application requirements and 760 CMR 56.00.

- 3.2 According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI) as of February 6, 2023, Uxbridge's SHI percentage is 4.9%. As a result, Uxbridge does not presently have sufficient low or moderate income housing to meet Chapter 40B's minimum 10% criterion.
- 3.3 The Site is located within the Residential-C (R-C) Zoning District.
- 3.4 The Site totals approximately 27.45 acres in area.
- 3.5 The entire proposed Project consists of 40 single family homes, each on its own lot, under the Local Initiative Program of the DHCD.
- 3.6 The Project will have 10 (ten) Affordable Single Family Homes which is made available to households whose incomes and assets qualify them as low or moderate-income.
- 3.7 The Project is located less than 1.5 miles from Uxbridge's schools and approximately 1.5 miles from significant shopping destinations.
- 3.8 The Project complies with the Town of Uxbridge General Bylaws, Section 181 – Excavations, and therefore any permit required pursuant to this bylaw section is incorporated with this Comprehensive Permit.
- 3.9 The Project complies with the Town of Uxbridge General Bylaws, Section 182 – Filling Project, and therefore any permit required pursuant to this bylaw section is incorporated with this Comprehensive Permit.
- 3.10 The Project complies with the Town of Uxbridge General Bylaws, Section 290 – Stormwater, and therefore any permit required pursuant to this bylaw section is incorporated with this Comprehensive Permit.
- 3.11 The Applicant has requested waivers from the following Town of Uxbridge Bylaws and Rules and Regulations
 - 3.11.1 Town of Uxbridge's Zoning Bylaw:

§400-13(A) – Table of Dimensional Requirements

No building or structure shall be constructed nor shall any existing building or structure be enlarged or altered as to lot coverage; lot area; land area per dwelling unit; lot width; front, side and rear setbacks; and maximum height of structures; except in conformance with the Table of Dimensional Requirements or as may otherwise be provided elsewhere herein, Appendix B.

Since this project will be permitted through the Zoning Board of Appeals as a Comprehensive Permit with lot sizes smaller than allowed in this zoning district, the applicant requests a waiver from this section of the Zoning Bylaws.

Waiver to reduce frontage, area, and setbacks to accommodate the project. The minimum dimensional requirements that shall be applied to all lots within the Project are as follows:

- Minimum Area: 11,277 s.f.
- Minimum Frontage: 50.61 ft.
- Minimum Setbacks: Front: 20 ft.; Side: 12 ft.; Rear: 20 ft.

§400-13(B) – Notes to the Table of Dimensional Requirements

3. On any lot abutting on two intersecting streets, the side yard along the side street shall conform to the setback requirements, as set forth herein.

Since this project will be permitted through the Zoning Board of Appeals as a Comprehensive Permit with setbacks smaller than allowed in this zoning district, the Applicant requests a waiver from this section of the Zoning Bylaws.

§400-14(D) – Contiguous Buildable Lot Area

No lot created after the adoption of this Section 400-14(D) may be built upon unless it contains a contiguous upland area equal to at least sixty percent (60%) of the minimum lot area required for the zoning district in which the lot is located. For purposes of this Section 400-14(D), contiguous upland area shall mean a contiguous area of land, exclusive of any non-riverfront resource area subject to regulation under G.L. c. 131, § 40, within which any building(s) to be constructed on the lot shall be located. At the time a building permit application is submitted for a lot created after the adoption of this Section 400-14(D), the Building Inspector shall require that the boundaries of any non-riverfront resource areas located on such lot be delineated by a wetland scientist or botanist and verified by the Conservation Commission.

Since this project will be permitted through the Zoning Board of Appeals as a Comprehensive Permit with lot sizes smaller than allowed in this zoning district, the Applicant requests a waiver from this section of the Zoning Bylaws.

§400-31 – Growth Management

The By-law shall apply to all applications for residential building permits for construction of new residential dwelling units submitted after the effective date of this By-law, except as expressly exempted in Section 400-31(F). The By-law shall apply to all residential dwelling units whether they be single-family dwelling units or units in multi-family dwellings. The By-law shall be

effective through June 30, 2009. The By-law may be extended for up to five years, to achieve its purposes without lapse of its provisions, conditions and limitations by majority vote of a Town Meeting prior to June 30, 2009.

Although it appears that this bylaw may not be in effect, the Applicant requests a waiver from this entire bylaw section so that there are no limitations on the quantity of building permits issued for the construction of single-family dwellings per twelve (12) month period for this project.

3.11.2 Planning Board Rules and Regulations for the Subdivision of Land

§ 4.1.1 – Location and Alignment

The minimum centerline radii of curved streets shall be two hundred (200) feet. Greater radii may be required for primary streets.

The Applicant proposes a minimum centerline radii of two hundred (200) feet with the exception of two (2) curves along the loop portion of the road where the centerline radii are one hundred-fifty (150) feet.

§ 4.1.4 – Dead End Streets

No subdivision street shall be less than two hundred fifty (250) feet in length. No dead-end street or system of dead-end streets shall be created or extended to provide frontage for more than twenty-five (25) potential dwelling units in accordance with the applicable provisions of the Uxbridge Zoning Bylaw in effect at the time of the application.

The Applicant proposes forty (40) dwelling units on a dead-end street. For safety reasons, the streets have been connected to provide one continuous looping street.

§ 4.1.9 – Environmental Impact Study

An Environmental Impact Study (EIS) following the Massachusetts Guidelines for a Massachusetts Environmental Policy Act (MEPA) study shall be provided at the expense of the developer if in the opinion of the Planning Board an EIS is necessary to assure the safety, convenience, and welfare of the inhabitants in the proposed subdivision and the town. The Board may require alternate courses of road systems to better protect adjacent wetland areas, in and outside of the subdivision.

More than ten (10) dwellings in a development will, at the discretion of the Planning Board, require an impact study regarding utilities, schools, traffic, etc.

The Applicant requests a waiver from this requirement as much of this information has been provided throughout this process and input from various department heads was utilized in the current project design.

§ 5.3.6 – Curbing

Curbing shall be sloped granite edging or bituminous concrete, subject to Planning Board approval except at catch basins and intersection roundings where vertical granite curb shall be required. Granite transition sections shall be provided at transitions from slope to vertical curb.

Bituminous concrete berm is proposed in the form of Cape Cod berm style curb on the non-sidewalk side of the road and vertical bituminous concrete style curb on the sidewalk side of the road. Vertical granite curb is required at catch basins and at intersection roundings, however, vertical granite curb is only proposed at all intersection roundings, but not at catch basin locations.

§ 5.5 – Sidewalks

Not less than one (1) sidewalk, which is not less than five (5) feet in width, shall be constructed on one (1) side of the street. Sidewalk shall abut the street with vertical bituminous concrete or sloped granite.

This written section of the Regulations conflicts with the figure shown as the Standard Cross Section. The Applicant proposes vertical bituminous concrete style curb on the sidewalk side of the road with a 5-foot sidewalk abutting it.

§ 5.7.7 – Standard Cross Section

Subdivision design and construction shall comply with the Standard Roadway Cross Section included herein as FIGURE 5-1 unless waivers are granted.

Since there is a conflict between Section 5.5 of the Regulations and the Standard Cross Section, a waiver has been requested to allow the construction of a sidewalk immediately abutting the roadway with a vertical bituminous concrete style curb. The side of the road with no sidewalk proposed shall have a Cape Cod berm style curb.

§ 6.2 – Compliance with Zoning Bylaw

No plan of subdivision shall be approved unless all of the lots shown on the plan comply with the zoning bylaw.

Since this Project will be permitted through the Zoning Board of Appeals as a Comprehensive Permit with lot sizes smaller than allowed in this zoning district, the Applicant requests a waiver from this section of the subdivision regulations.

- 3.12 Given the regional need for affordable housing, the Board finds that the increased density of this Project is reasonable for affordable housing on this Site and that the access as proposed is adequate.
- 3.13 The proposed Project, when conforming to the conditions set forth in this Decision, is represented by the Applicant to adequately provide for storm water drainage and sewerage, will not be detrimental or injurious to the surrounding neighborhood, will provide for convenient and safe vehicular and pedestrian movement within and through the site, all without an undue burden on the occupants of the Project or on the surrounding neighborhood or the Town.
- 3.14 The proposed Project as supported by the evidence, and as conditioned below, (i) would not be rendered uneconomic by the terms and conditions of this decision, and (ii) would represent a reasonable accommodation of the need for low and moderate income housing.
- 3.15 The Board has received comments from various Town departments, which are listed in Exhibit 1.3 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.
- 3.16 This Decision has been issued and filed with the Town Clerk within the time frame specified in M.G.L. Ch. 40B, §20-23 and as agreed to by the Applicant.

4 BOARD ACTION

Therefore, the Board voted unanimously on April 19, 2023, to GRANT the requested Comprehensive Permit consisting of a total of 40 (forty) single family homes (inclusive of 10 (ten) Affordable single family homes) and GRANT all of the requested waivers all as shown on the plan entitled “Pine Ridge Estates, Comprehensive Permit Plan, 354 Douglas Street, Uxbridge, Massachusetts” dated October 3, 2022, prepared by Turning Point Engineering; revision #1 dated December 28, 2022; revision #2 dated February 27, 2023; and revision #3 dated April 4, 2023 (“Approved Plans”).

5 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. The Town of Uxbridge may elect to enforce compliance with this Comprehensive Permit using any and all powers available to it under the law.

- 5.1.1 The Applicant (or assignees) shall be responsible for maintenance of all ways and infrastructure within the subdivision until the road is accepted by the Town. Said maintenance includes but is not limited to, the removal of snow.
- 5.1.2 A covenant shall be required, pursuant to MGL 41 Section 81U. Said covenant shall guaranty the completion of the construction of the infrastructure. The surety amount shall be submitted by the Applicant and confirmed by the Board's peer review engineer. Any request for a release of a portion of the surety will be by a vote of the Board after an inspection by the Board's peer review engineer and a confirmation that the remaining balance is adequate for the remaining work. The surety shall be increased if determined necessary by the Board's peer review engineer.
- 5.1.3 Within thirty (30) days following endorsement of the approved Plan, the applicant shall provide the Board with four (4) complete sets of said Plan, as finally approved.
- 5.1.4 Within six (6) months following endorsement of the approved plan, the applicant shall record with the Worcester County Registry of Deeds, and in the case of registered land, with the Recorder of the Land Court, a copy of said Plan and any covenants, and shall submit four copies of recorded plan(s) to the Board.
- 5.1.5 The Applicant will be held responsible for any regulatory traffic warning signs which may be needed after the development becomes occupied as required by the Police Department or Board of Selectmen.
- 5.1.6 All street names shall be approved by the Board of Selectmen. Street name signs shall be posted prior to the submittal of applications for building permits within the subdivision.
- 5.1.7 The Applicant (or assignees) shall be responsible for the roadway and any associated drainage structures prior to formal acceptance of the roadway and any drainage infrastructure associated therewith by the Town. The Applicant shall offer the roadway and associated drainage structures to the Town within six (6) months of completion/final paving for formal acceptance at Town Meeting. As the project is presented with the intent of the roadway ultimately being a public way, the Applicant shall take all expeditious and necessary steps to ensure this takes place.

- 5.1.8 The Applicant shall retain rights to any and all easements that may be needed for Town infrastructure. Such rights shall be assignable in easement form to the Town of Uxbridge upon request.
- 5.1.9 The Applicant will comply with the "Requirements for Digital Submission for Site or Subdivision Plans, ANRs or As-Built Drawings", including fee.
- 5.1.10 Copies of all recorded instruments, including this Decision, deed restrictions, easements (utility easements), etc. shall be provided to the Board.
- 5.1.11 The Applicant shall promptly pay the reasonable fees of the Board's consultants, for assisting the Board during the public hearing, in preparing this Decision, for post-permit reviews of the plans or documents described herein and for inspections during the construction phase, as may be deemed necessary or appropriate. All consultant fees incurred prior to the issuance of this Decision shall be paid by the Applicant within thirty (30) days after this Decision is filed with the Town Clerk.
- 5.1.12 Prior to actual start of work on this subdivision or roadway construction activity including tree clearing, a pre-construction meeting will be held with representatives of the Town of Uxbridge DPW, Water Department, Fire Chief, Police Chief, Planning Department, Conservation Commission and any other town agencies deemed necessary.
- 5.1.13 Construction hours of operation shall be 7:00 a.m. to 6:00 p.m. Monday-Friday and 8 a.m. to 4:00 p.m. on Saturdays. No work shall be performed on Sunday or federally recognized holidays.
- 5.1.14 Lots 1, 5, 7, 10, 13, 16, 21, 31, 35, and 39 shall be designated as the Affordable Single Family Homes.
- 5.1.15 All utilities, including but not necessarily limited to electric, cable and telephone shall be located underground.
- 5.1.16 This Project shall be established and conducted at all times in accordance with the terms of this Comprehensive Permit and shall conform with and be limited to the improvements indicated in the Plan as modified herein.
- 5.1.17 The Applicant shall be diligent to ensure that no construction debris or material from the site enter any of the abutting properties or the public right-of-way.
- 5.1.18 The Applicant shall make every attempt to minimize any adverse or nuisance construction conditions (such as, but not limited to dust, noise, vibrations, etc.) from affecting neighboring and abutting properties during the construction

operations. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.

5.1.19 Blasting, if any, shall be performed in accordance with regulations of the Commonwealth of Massachusetts, 527 CMR. 13.00, and in accordance with any existing written regulations of the Uxbridge Fire Department related to blasting. The Applicant shall not use explosives containing perchlorate. Any blasting activity at the site must conform to the requirements of the Town's Fire Department, the State Fire Marshall's Office and any other appropriate regulatory official. Additionally, the Applicant and/or Contractor shall be responsible for seismograph monitoring, notification to neighbors within the immediate work area prior to blasting and posting a fire detail on the site pursuant to 527 CMR 13.00. If blasting is required for site construction, the following steps will be taken to monitor/rectify any potential damage as a result of the blasting:

- a) The Applicant shall maintain documented inspections (i.e. videotaping) of any preblast inspections surveys that are performed within 250' of any expected blast area prior to the start of any blasting;
- b) The Applicant or its hired contractors, shall perform preblast survey inspections in accordance with 527 CMR 13.09(9) and (10);
- c) Blasting hours will be limited from 8:00a.m. to 4:00p.m., weekdays only;
- d) The Applicant shall rectify those problems that are proven to be a result of blasting (i.e. foundation cracking and deterioration in water quality of abutting properties);
- e) Hours of operations pertaining to air hammering, drilling, or similar practices shall be limited to weekdays between the hours of 7:00 a.m. to 4:00 p.m.

5.1.20 In the event the Zoning Enforcement Officer determines that the Applicant's construction drawings submitted with its building permit application(s) materially deviate from the final Approved Plans in such a manner that, in his professional opinion, they do not conform to the requirements and conditions imposed by this Comprehensive Permit Decision, the Zoning Enforcement Officer shall notify the Applicant of the specific deviations, and the Applicant shall either bring the construction drawings into conformity with this Decision or seek modification of this decision in accordance with 760 CMR 56.05(11). In the event of a disagreement between the Zoning Enforcement Officer and the Applicant with respect thereto, they shall notify the Board which shall thereupon determine whether the building permit construction drawings (with any necessary revisions) do conform to this Decision. The Board shall endorse those construction drawings if so requested by the Applicant. Any change or modification to the plans, which in the opinion of the Zoning Enforcement Officer are deemed to be de minimis in nature, shall be deemed to be within the scope of this Comprehensive Permit.

- 5.1.21 By granting waivers from the local bylaws and regulations identified above, it is the intention of this Comprehensive Permit to permit construction of the Project as shown on the final Approved Plans. If, in reviewing the Applicant's building permit application(s), the Zoning Enforcement Officer determines that any additional waiver from local zoning bylaws, general bylaws, health regulations, or subdivision regulations is necessary to permit construction to proceed as shown on the final Approved Plans, the Zoning Enforcement Officer shall proceed as follows: (a) any matter of de minimis nature shall be deemed within the scope of the waivers granted by this Comprehensive Permit; and (b) any matter that is not de minimis shall be reported back to the Board pursuant to 760 CMR 56.05(11).
- 5.1.22 Unless waived by the Board of Selectmen, the Applicant shall pay all fees of the Town of Uxbridge generally imposed with respect to construction projects and for the purposes of monitoring compliance of the Project's building construction and occupancy in accordance with this Comprehensive Permit. This condition shall apply to costs for third party inspections or peer review consultants pursuant to G.L. c. 44, § 53G.
- 5.1.23 The Applicant shall copy the Zoning Enforcement Officer on all correspondence between the Applicant and any federal, state, or Town official, board or commission that concerns the conditions set forth in this Decision, including but not limited to all testing results, official filings and other permits issued for the Project.
- 5.1.24 The Applicant shall comply with the State Building Code.
- 5.1.25 The Applicant shall determine the volume of any cuts/fills needed for the Project and provide this information to the Building Department and Board, signed by the Registered Civil Engineer of record. Any soil materials needed for fill, excluding crushed stone and processed gravel, shall include the source of the material and a laboratory analysis that it is clean fill and confirmed by the Town's consulting engineer or Third Party Reviewer.
- 5.1.26 The Applicant shall maintain a copy of the endorsed Approved Plans, Storm Water Management Report, and this Decision at the Site during construction.
- 5.1.27 The Applicant (or assignee) shall maintain and repair temporary, and permanent, drainage structures and the stormwater management system within the Site until such time as the Town accepts the roadway by vote at Town Meeting.
- 5.1.28 All SWPPP inspections required during construction per Section 3.8, G of the Stormwater Management Report shall be submitted to the Board and Board's Engineer within 14 days of each inspection. Such inspections should include sufficient photographic evidence of satisfactory conditions of erosion controls and overall site conditions.

- 5.1.29 The Applicant shall obtain temporary easements or written permission from any abutting property owner if, during the course of construction, it becomes necessary to enter upon abutting land for construction or planting purposes.
- 5.1.30 The Applicant shall ensure safe and convenient vehicular access into and around the Site during the entire duration of the Project construction. Any traffic problems that occur as a result of onsite operations and construction shall be mitigated immediately, at the expense of the Applicant. Additional traffic mitigation measures may be required as necessary, or as directed by the Zoning Enforcement Officer or Building Commissioner. The Board's representatives shall be permitted access to the Site to observe and inspect the Site and construction progress until such time as the Project has been completed.
- 5.1.31 Except for the initial tree clearing and site access work, all construction vehicles shall be parked off Douglas Street at all times.
- 5.1.32 Prior to issuance of any building permit for the construction of any residential structures, a fire hydrant shall be installed and operational within 500 feet of the proposed structure, or to the satisfaction of the Uxbridge Fire Chief.
- 5.1.33 The Project shall be limited to a total of forty (40) single family homes.
- 5.1.34 As security for the completion of the infrastructure related to the Project as shown on the Approved Plans, including, but not limited to, the roadway, drainage facilities, utilities, and any other specific infrastructure shown on the final Approved Plans (the "Infrastructure"), the release of occupancy permits for all single family homes and the sale of all the single family homes in the development shall be subject to the following restrictions:
- (a) No occupancy permit for any single family home shall be issued, and no sale of any single family home shall be permitted, until: (1) Infiltration Basin 1 and Infiltration Basin 2 have been substantially constructed, (2) all infrastructure described herein and as shown on the Plan has been constructed or installed so as to adequately serve said single family home, and (3) all conditions of this Comprehensive Permit that require action or resolution by the Applicant prior to the issuance of occupancy permits have been completed to the satisfaction of the Zoning Enforcement Officer.
 - (b) No more than half of the occupancy permit for this Project shall be issued before all the infrastructure shown on the Approved Plan (except for the final coat of pavement on the roadway) is fully installed. The final coat of pavement shall not be installed until after the base and binder coat has endured a full winter season.

- (c) Notwithstanding the foregoing, if in the judgment of the Zoning Enforcement Officer landscaping cannot reasonably be completed because the time of year is inhospitable thereto, landscaping may be treated separately from Infrastructure such that the Applicant may be permitted to post a bond in lieu of completing the landscaping prior to release of the occupancy permits for the single family homes and the sale of the single family homes; provided that the Applicant shall complete the landscaping no later than the next growing season or the bond shall be forfeited.
- 5.1.35 Prior to the final certificate of occupancy being issued for the Project, the Applicant shall have substantially completed the improvements shown on the approved Plan or post a bond in accordance with the provisions of Section 5.1.19(b) of this Decision, it being understood that the approved Plan is general in nature and it may be reasonably modified by the Applicant, Owners of the Lots and as required by the Conservation Commission.
- 5.1.36 The Applicant (or assignee) shall maintain and repair the drainage structures and stormwater management system on the Site as shown on the Approved Plans until such time the roadway has been formally accepted as a public way.
- 5.1.37 The Applicant (or assignee) is responsible for maintaining, sweeping, and winter maintenance (snow removal and sanding) of the Project's roadway, permitting access to residents, emergency vehicles, and others during construction and until the roadway has been formally accepted as a public way.
- 5.1.38 The Applicant shall establish construction entrances and practices to prevent debris, dirt and construction materials from being tracked or deposited on Uxbridge's streets as a result of the Project. The Applicant shall promptly remove or cleanup any material as a result of the project.
- 5.1.39 The Applicant shall take all reasonable, necessary, measures to minimize dust from rising and blowing across the site and onto roads and adjacent properties. Any sediment or dirt tracked onto public ways shall be swept prior to the end of the construction day.
- 5.1.40 The Applicant must adhere to the DEP Stormwater Management Policy and Guidelines.
- 5.1.41 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 Site does not strictly and fully conform to the requirements of the Uxbridge Zoning Bylaw; and reference to these conditions shall be incorporated in the Ownership Documents for the Project and for any single family home in the Project.

- 5.1.42 At least fourteen (14) days prior to the start of construction, the Applicant shall provide written notice to the Zoning Enforcement Officer of the anticipated construction start date.
- 5.1.43 The Applicant and/or subsequent Owner(s) shall be bound by all conditions and requirements set forth in this Comprehensive Permit. Any sale or transfer of rights or interests in all or any part of the Site shall include a condition that successors are bound by the terms and conditions of this Comprehensive Permit.
- 5.1.44 This Comprehensive Permit may not be transferred to an entity in which the Applicant owns and controls less than 50% of the equity interests in such entity, or to a person other than the Applicant without the prior written approval of the Board and the execution of any instruments or documents that may be required to assure the perpetual enforcement of this Comprehensive Permit pursuant to Town Counsel's direction. The scope of the Board's review of a proposed transfer shall be limited to the review of the transferee's qualifications, experience, capacity and eligibility under 40B with regards to satisfying the three jurisdictional requirements.
- 5.1.45 Upon determination of completeness by the Board, the roadway and all associated infrastructure shown on the Approved Plans shall be put forward to the Town of Uxbridge as a public way.

5.2 AFFORDABILITY REQUIREMENTS

- 5.2.1 The certificate of occupancy for the Affordable Single Family Homes shall be issued prior to the last certificate of occupancy being issued for the newly constructed market rate single family homes.
- 5.2.2 No more than three (3) certificates of occupancy shall be issued by the Building Inspector for the newly constructed market rate single family homes until at least one (1) certificate of occupancy is issued for an Affordable Single Family Home, and this ratio shall endure for the entire project.
- 5.2.3 Affordable Single Family Home: The Affordable Single Family Homes shall be made available for purchase by households whose aggregate income is no greater than 80% of the Area Median Income as published by the Department of Housing and Urban Development (HUD) for the Worcester, MA HMFA. The Affordable Single Family Home, as designated on the Approved Plans, shall contain four bedrooms.
- 5.2.4 Sale Price: The maximum sale price for the Affordable Single Family Homes shall be reviewed and approved by the DHCD at the time of the lottery for selection of buyers of the Affordable Single Family Homes. Subject to the

approval of DHCD, the sale price for the Affordable Single Family Homes shall be set to be affordable to a household earning 70% of the Area Median Income published by the Department of Housing and Urban Development for the Worcester, MA HMFA, adjusted for household size. Any modification or deviation from the designation of the Affordable Single Family Homes as originally proposed and reviewed by the DHCD shall be subject to approval by the DHCD.

- 5.2.5 Selection of Buyers for Affordable Single Family Homes: The Applicant shall obtain DHCD approval of a buyer selection plan for the sale of the Affordable Single Family Homes prior to putting the Affordable Single Family Homes on the market. Buyers shall be selected through a fair lottery process (the "Lottery").
- 5.2.6 To the extent consistent with the requirements of the Subsidizing Agency, and otherwise allowed under G.L. c. 40B, its regulations and other applicable law, the Project's buyer's selection plan shall provide for a local preference of the affordable units at initial occupancy. The Applicant/Owner shall allow for the local preference to the maximum degree as allowed by DHCD or the Subsidizing Agency. Local preference categories include present residents of Uxbridge, Town of Uxbridge employees, or teachers employed by the school district serving Uxbridge. If approved by the Subsidizing Agency, this preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein, to the extent such local preference has been allowed by the Subsidizing Agency. The foregoing local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including advertising and processing shall be borne by the Applicant.
- 5.2.7 The Board acknowledges that the Town will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence
- 5.2.7.1 Within a pool of potential buyers, preference shall be given to households requiring the total number of bedrooms in the single family home with at least one occupant per bedroom and no more than two occupants per bedroom.
- 5.2.7.2 The selection of purchasers for the Affordable Single Family Homes, including the administration of the Lottery, shall be administered by a

consultant retained and funded by the Applicant. The Lottery shall be implemented pursuant to a Lottery Plan developed by the lottery consultant and approved by the DHCD. The Town or its designee, if permitted by the DHCD, shall oversee the Lottery and review the financial eligibility of the selected purchasers. The Applicant shall fund the expenses of the Lottery.

5.2.7.3 Selected purchasers shall complete a first-time homebuyer course before the closing of the purchase of an Affordable Single Family Homes if required by the purchaser's lender.

5.2.7.4 Income eligibility shall be governed by the rules and regulations of the DHCD Local Initiative Program, or in default, the rules and standards employed by the Department of Housing and Urban Development in the selection of income-eligible households for publicly subsidized housing.

5.2.8 Perpetual Affordability Restriction: Prior to the issuance of any occupancy permits, a Regulatory Agreement, in a form acceptable to DHCD shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) the Affordable Single Family Homes in the Project shall be sold and resold subject to a Deed Rider, in a form acceptable to DHCD, and (b) the Project Owner's profit shall be limited to 20% of the total development cost of the Project as defined by the Regulatory Agreement and applicable regulations.

The Deed Rider shall be attached to and recorded with the Deed for the Affordable Single Family Homes in the Project at the time of each sale and resale, and the Deed Rider shall restrict the Affordable Single Family Homes pursuant to this Decision in perpetuity in accordance with the requirements of M.G.L. Ch. 184, §§31-33.

After obtaining the DHCD's final approval of the Regulatory Agreement and Deed Rider, the Applicant shall use its best efforts to obtain any necessary governmental approvals for such a deed restriction to last in perpetuity, including without limitation the approval of the DHCD if required pursuant to MGL Ch. 184, §32 or other law.

In any event, as this Decision grants permission to build the Project under the Act, and as the Applicant has obtained the benefits of a comprehensive permit, the Project shall remain subject to the restrictions imposed by the Act so long as the Project is not in compliance with the Town of Uxbridge's zoning requirements which otherwise would be applicable to the Site and the Project but for the comprehensive permit's override of local bylaws to promote affordable housing. Accordingly, this Decision and the Deed Rider shall restrict such Affordable Single Family Homes so long as the Project is not in compliance with the Town of Uxbridge's zoning bylaw, so that the single family home continues to serve the public interest for which the Project was authorized. It is

the express intention of this Decision that the period of affordability shall be the longest period allowed by law. In no event shall the period of affordability be less than ninety-nine years.

- 5.2.9 Profit Cap: To conform to the intent of the Act that profits from the Project be reasonable and limited, the Applicant shall be limited to an overall profit cap of twenty percent (20%) of total development costs of the Project, as accepted by the DHCD (the "Profit Cap"). The Regulatory Agreement shall provide mechanisms to enforce this requirement (the "Profit Cap"). If the Applicant has exceeded the Profit Cap, the Applicant shall, subject to DHCD approval, donate the excess profit above the Profit Cap to the Town of Uxbridge to be used in the discretion of the Board of Selectmen for the express purpose of promoting, encouraging, creating, improving or subsidizing the construction or rehabilitation of affordable housing in the Town of Uxbridge.
- 5.2.10 Regulatory Agreement: Prior to applying for an occupancy permit for any single family home, the Applicant shall submit to the Board a copy of a fully executed Regulatory Agreement governing the protection and administration of the Affordable Single Family Homes covered by this Decision. The Regulatory Agreement shall be recorded prior to the conveyance of the first single family home. Subject to DHCD approval, the Town shall have the right, concurrent with DHCD, to enforce the terms and conditions of the Regulatory Agreement.
- 5.2.11 DHCD and Financial Information: The Market Rate single family homes and the Affordable Single Family Homes shall be visually comparable from the exterior as shown on the architectural plans. In addition, each Affordable Single Family Homes must contain complete living facilities including, but not limited to a stove, kitchen cabinets, plumbing fixtures, washer/dryer hookup, operational HVAC and refrigerator.

5.3 LIMITATIONS

The authority granted to the Applicant under this Comprehensive Permit is limited as follows:

- 5.3.1 The foregoing required conditions, legal requirements and affordability requirements have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 5.3.2 If, between the date this Decision is filed in the office of the Uxbridge Town Clerk and the completion of the Project, the Applicant desires to change in a material way and/or to a significant degree the proposed Project as reflected in and approved by this Decision, such changes shall be governed by 760 CMR 56.05(11). In no case shall the Applicant be allowed to implement a Project change that increases the number of single family homes, changes the mix of affordable and market rate single family homes, or increases the height of the buildings on the Site, without submitting a new application and undergoing a new public hearing and decision

process. Without limitation, in the event any subsequent permitting process results in a change to the Approved Plans that triggers the need for further waivers from local bylaws, rules, or regulations, any such matter shall be treated as a project change and the procedures in 760 CMR 56.05(11) shall be followed.

- 5.3.3 This Comprehensive Permit applies only to the Site identified in this Decision and to the proposed development as shown on the Approved Plans.
- 5.3.4 This Decision permits the construction, use, and occupancy of forty (40) single family homes each on a separate lot on the Site. The construction and use of the Site shall be in conformity with the Approved Plans, and there shall be no further subdivision of the Site, or the creation of additional single family homes or any other structures or Infrastructure except that which is shown on the Approved Plans, without further approval by the Board in the form of an amendment to this Decision.
- 5.3.5 If construction authorized by this Comprehensive Permit Decision has not commenced within three (3) years of the date on which the permit becomes final, the permit shall lapse. The permit shall become final on the date that the written decision is filed in the office of the town clerk if no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of. The Board may grant an extension of the three-year lapse date for good cause shown, which shall include without limitation delay (notwithstanding the Applicant's diligent efforts) in the issuance of a governmental permit or approval or delay occasioned by a third party appeal of a governmental permit or approval required for the Project. Any request for extensions shall be made at least thirty (30) days prior to expiration. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension.
- 5.3.6 In the event a typographical error renders this Decision and the Final Approved Plans inconsistent as to the number of single family homes, number of bedrooms, or similar objective characteristic of the Project, the provisions of the final Approved Plans shall control on the point of inconsistency. Otherwise this decision shall be given full force and effect on its terms, unless amended by the Board in writing.
- 5.3.7 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this Comprehensive Permit with or without a public hearing upon the request of the Applicant, its designees or assigns, pursuant to 760 CMR 56.05 (11).

6 APPEALS

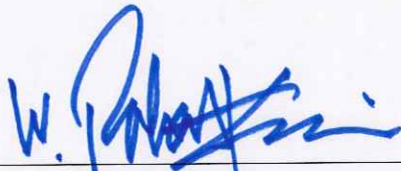
- 6.1 Any person aggrieved by the issuance of this Comprehensive Permit has the right to appeal pursuant to M.G.L. Ch. 40A, § 17 and shall file such appeal within 20 days after the date of filing this decision with the Town Clerk.
- 6.2 The Applicant shall have the right to appeal the issuance of this Comprehensive Permit to the Housing Appeals Committee pursuant to M.G.L. Ch. 40B, § 22 and shall file such appeal within 20 days after the date of filing this decision with the Town Clerk.

VOTES AND SIGNATURES

Mr. McNulty made a **MOTION** to close the Public Hearing FY 23-07 for 354 Douglas Street. **MOTION SECONDED** by Mr. Blackburn passed unanimously by **VOTE** of 3-0-0.

Mr. McNulty made a **MOTION** to **APPROVE** the **COMPREHENSIVE PERMIT** and issue a decision as drafted by the Applicant on April 14, 2023, reviewed by Town Counsel and before the Board.

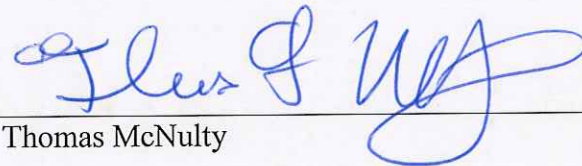
MOTION SECONDED by Mr. Blackburn passed unanimously by **VOTE** of 3-0-0.



Robert Knapik

4.24.2023

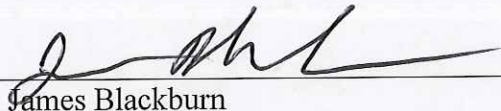
Date



Thomas McNulty

4/24/2023

Date



James Blackburn

4/20/2023

Date

Appeals, if any, from this decision shall be made pursuant to M.G.L. Chapter 40 A, Section 17 and filed within 20 days after the date of the filing in the Office of the Town Clerk.

I hereby certify that twenty (20) days has elapsed from the file date and no appeal has been filed in this office.

A true copy: ATTEST

Town Clerk, Kelly Dumas or
Assistant Town Clerk

Date

Town Seal

****THE APPLICANT IS REMINDED OF THEIR RESPONSIBILITY TO RECORD THIS
DECISION AT THE REGISTRY OF DEEDS PER THE CERTIFICATE OF GRANTING.
NO PERMITS SHALL BE ISSUED UNTIL THE PERMIT IS RECORDED. ****

Copies furnished:

*Applicant -
certified mail #*

Town Clerk

Fire Chief

Water Supply District of Uxbridge

Conservation Commission

Building Department

Engineering Department

Planning Department

Police Chief

Municipal Properties

Town Counsel

Board of Health

Assistant Assessor

Town Manager

Owner

Board of Selectmen