

FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

Comprehensive Permit No: 120-16

Applicants: LITTLE POND PLACE LLC of Boston, MA

Property Address: 0 Spring Bars Road, Falmouth, Massachusetts

Property Owner: Town of Falmouth
59 Town Hall Square, Falmouth, MA 02540

Assessor's Map: Map 39, Section 15, parcel 047, Lot 001

Date Hearing Opened: December 15, 2016

Summary: Granted with Conditions

Voting Members: Chairman Kimberly Bielan, Clerk, Terrence Hurrie, Member Edward Van Keuren, Member Paul Murphy

Zoning: Light Industrial A

Overlay District(s): Little Pond Coastal Pond Overlay District

PROCEDURAL HISTORY

1. On November 10, 2016, Little Pond Place LLC, 33 Union Street, Boston, MA 02108 (hereinafter referred to as the "Applicant"), submitted a complete Comprehensive Permit application with exhibits attached (listed herein) pursuant to M.G.L. c. 40B and 760 CMR 56.00 40B Guidelines. Waiver dated November 17, 2016, signed by Applicant's representative (Linda Clark, Director of Falmouth Housing Corp.), to extend the opening of the hearing process is in the file. The Applicant is applying for a Comprehensive Permit from the Zoning Board of Appeals of Falmouth (hereinafter referred to as the "Board") to construct forty (40) affordable housing rental units to be located at what is known currently as 0 Spring Bars Road, Falmouth, Massachusetts. The Applicant proposes to construct 40 apartment units within 3 buildings, as well as a fourth building to hold a community center within a Development to be known as Little Pond Place. Of the 40 units proposed, 36 (90%) of the units will be made available to households meeting the income requirements of up to 80% Median Income for Barnstable County, and 4 of the units (10%) will be made available to households meeting the income requirements of up to 100% Median Income. The site where the development is proposed consists of 11.39 acres of Light Industrial A zoned land. The Development site is located within the Little Pond Coastal Pond Overlay District. The Development site is not located in a Water Resource Protection District. The Applicant has entered into a 'Land Development Agreement' with the Town of Falmouth and will lease the property from the Town of Falmouth by way of long-term lease.

2. The Developer of the proposed Little Pond Place project is Little Pond Place, LLC, the principals and members of which are Affirmative Investments of Boston, MA and Falmouth Housing Corporation of Falmouth, MA.
3. Attorney Laura Moynihan of Falmouth, Massachusetts represented the Applicant through the hearing process.
4. A departmental meeting for application review was held on November 22, 2016 at 10:00 AM in the 'Old Water Room' on the first floor of Town Hall. Minutes of said meeting are submitted to the file. Meeting was held as required pursuant to 760 CMR 56.00.
5. A duly advertised public hearing was opened on December 15, 2016 at 6:00 PM and continued to January 19, 2017 at 6:00 PM and February 9, 2017 at 6:00 PM (rescheduled to 2/16/17). All public hearings and open meetings of the Board were held in the Selectmen's Meeting Room in Town Hall wherein testimony and public comment was made. Minutes of all hearings are submitted to the file and on file with the Town Clerk of Falmouth.
6. The public hearing was closed on February 16, 2017. Based on the proposed Comprehensive Permit, information submitted and testimony given at hearings, the Board voted 4 – 0 at this meeting to approve the Comprehensive Permit with Conditions.
7. The Board received documents and exhibits during the public hearing which are on file in the office of the Board of Appeals located in Town Hall, and as noted below:

Application with Attachments

11/10/2016 Application submitted – pages 1 through 11; Addendum to Application for Comprehensive Permit; Site Approval Letter dated November 3, 2016 from Department of Housing & Community Development; Evidence of Site Control – Development Agreement signed by Town of Falmouth Board of Selectmen, Linda Clark, President and Director of Falmouth Housing Corporation (FHC) and David M. Ennis, President of Affirmative Investments, Inc.; list of Development Team Members; Affirmative Fair Housing Marketing and Tenant Selection Plan; Site Conditions Report; Traffic Impact Report; Coastal Overlay Map; Limited Dividend Organization Qualification and Operating Agreement; a 21E Assessment on subject property; Lottery Process for Development; and fee for application.

E-Mail Messages/Letters from Abutters or Interested Parties

None

Letters/E-mails from Applicant/Representative

11/21/2016 Holmes & McGrath, Inc. – project engineer – submitted a copy of a 'Checklist for Stormwater Report' for subject development

- 11/22/2016 Holmes & McGrath, Inc. submitted a copy of a 'Notice of Intent' application filed with Conservation Commission for proposed development – State Wetland Regulations and a 'Sight Distance Analysis'
- 11/28/2016 Holmes & McGrath, Inc. submitted a revised 'Sight Distance Analysis'
- 11/30/2016 Letter submitted to the file by Falmouth Housing Corporation dated November 30, 2016 informing the Board of Appeals that Attorney Laura Moynihan will be representing the Applicant
- 12/07/2016 Holmes & McGrath, Inc. submitted a letter dated December 7, 2016 to Town Engineering Department in response to referral for proposed project
- 12/08/2016 Holmes & McGrath, Inc. submitted a letter dated December 7, 2016 to Conservation Commission regarding report from Town of Falmouth Engineering Department regarding drainage design for proposed project
- 12/12/2016 Letter (with attachments) from Holmes & McGrath, Inc. to Town of Falmouth DPW/Engineering Division dated December 12, 2016 in response to Engineering Division review letter of 12/1/2016
- 12/14/2016 E-mail from Attorney Laura Moynihan with attached letter from Holmes & McGrath dated December 14, 2016 in response to referral from Cape Cod Commission
- 12/15/2016 Submitted at hearing by applicant: information on number of vehicles at other Falmouth Housing Corporation's affordable projects; Detail Sheet information with floor plans and elevations of buildings and playground equipment
- 12/23/2016 Letter from Holmes & McGrath, Inc. dated December 23, 2016 to Board of Appeals – with attachments – regarding site visit on 12/21/16 by Town engineers and project engineers
- 12/23/2016 Attorney Moynihan submitted a letter from the Office of Town Counsel dated December 23, 2016 to Ms. Moynihan as representative of Little Pond Place regarding engineering peer review (from 3rd party) funded by the Town of Falmouth
- 01/04/2017 Letter from Holmes & McGrath, Inc. dated December 23, 2016 regarding alteration to coastal storm flooding calculations on subject property
- 01/12/2017 Letter and attachments dated January 11, 2017 submitted to the file by Holmes & McGrath, Inc. as additional information requested by peer review firm CEI for proposed drainage and stormwater on subject property
- 01/12/2017 Letter submitted to the file from Attorney Laura Moynihan dated January 11, 2017 to the Board of Appeals regarding 40B Regulations relative to 'local

zoning' authority under a Comprehensive Permit and an additional waiver request from local bylaws

- 01/19/2017 Letter submitted to the file by Attorney Laura Moynihan dated January 19, 2017 to the Board of Appeals requesting the Board to approve the proposed development with suggested conditions
- 01/23/2017 E-mail from Holmes & McGrath, Inc. with attached letter to the Board of Appeals dated December 23, 2017 regarding Town Engineering Department comments and with e-mails of January 17, 2017 between Town Engineer and Holmes & McGrath, Inc.
- 02/01/2017 Letter from Holmes and McGrath, Inc. to Town of Falmouth Engineering Division dated January 30, 2017 regarding CEI review (15 pages) – submitted by Holmes and McGrath, Inc.
- 02/01/2017 Holmes and McGrath, Inc. submitted to the file a 'Checklist for Stormwater Report' dated January 30, 2017
- 02/02/2017 Holmes and McGrath, Inc. submitted a letter dated February 2, 2017 in explanation of revised plans submitted to the file on 02/01/2017
- 02/03/2017 Letter submitted to the file from Attorney Laura Moynihan dated February 2, 2017 to the Board of Appeals for an additional waiver request from local bylaws
- 2/15/2017 Letter submitted from Attorney Moynihan dated February 14, 2017 to Town Engineer, Jim McLoughlin regarding CEI peer review

Referrals/Letters from Town Departments

- 12/01/2016 Referral submitted to the file from the Town Engineering Department – several comments and concerns
- 12/07/2016 Referral letter submitted to the file from Department of Public Works dated December 6, 2016 with comments relative to the proposed project
- 12/06/2016 Office of the Town Manager & Selectmen submitted a letter to the file dated December 5, 2016 in support of the proposed project
- 12/13/2016 Letter submitted to file from Town Manager Suso dated December 13, 2016 confirming Town Meeting vote to appropriate funds for remediation of soil on subject property
- 12/15/2016 Letter from the Planning Board as a referral – dated December 14, 2016 with comments and concerns regarding proposed project

- 12/23/2016 E-mail from Town Manger Julian Suso Board of Selectmen regarding proposed project and peer review for engineering from third party – requires Board of Selectmen approval
- 01/10/2017 Memorandum from Associate Town Counsel Harris to Administrators of Board of Appeals and Conservation Commission dated 01/09/2017 in explanation of Wetland Regulations application to the Comprehensive Permit, ConComm and ZBA

Referrals/Comments from Outside Boards and Towns

- 12/12/2016 Attorney Moynihan forwarded an e-mail with a Letter of referral from Cape Cod Commission dated December 12, 2016 for submission to the file with comments on proposed project – Original letter received via US Postal on 12/14/2016
- 01/06/2017 Letter submitted to the file by Town Engineer McLoughlin from Comprehensive Environmental Incorporated (CEI) dated December 29, 2016 – CEI is third party peer review for engineering aspects of project (stormwater and drainage) – this is proposed scope of work
- 01/09/2017 Letter submitted to the file by Town Engineer McLoughlin from CEI dated December 29, 2016 as a Letter of Understanding (LOU) to review aspects of proposed project for stormwater and drainage
- 01/10/2017 Letter from CEI to Town Engineer McLoughlin dated January 9, 2017 as a Revised Proposal for peer review
- 01/19/2017 Letter submitted to the file by Zoning Board staff from CEI to Town Engineer McLoughlin dated January 19, 2017 regarding peer review of subject property relative to stormwater and drainage (under wetland regulations)
- 01/24/2017 Letter submitted to the file by Zoning Board staff from CEI to Town Engineer dated January 23, 2017 with findings through peer review for subject property and proposed development
- 02/09/2017 Letter submitted to the file by Zoning Board staff from CEI dated February 10, 2017 to Town Engineer McLoughlin regarding technical review and updated information for peer review

Plans and Drawings Submitted by Applicant

“Overall Site Plan Little Pond Place” prepared for Falmouth Housing Corporation Spring Bars Road in Falmouth, MA drawn by Holmes and McGrath, Inc. – Sheet 1 of 6, stamped and signed by Michael B. McGrath, PLS – plan dated November 14, 2016 with a final revision date of 1/16/17 and with a Board date ‘received’ stamp of February 1, 2017;

“Site Plan Little Pond Place” prepared for Falmouth Housing Corporation Spring Bars Road in Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 2 of 6, stamped and signed by Michael B. McGrath, PLS – plan dated November 29, 2016 with a final revision date of 1/27/2017

and a Board date 'received' stamp of February 1, 2017;

"Grading, Drainage & Utilities Plan Little Pond Place" prepared for Falmouth Housing Corporation Spring Bars Road in Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 3 of 6, stamped and signed by Michael B. McGrath, PLS – plan dated November 14, 2016 with a final revision date of 1/27/2017 and a Board date 'received' stamp of February 1, 2017;

"Erosion Control & Drainage Details Little Pond Place" prepared for Falmouth Housing Corporation Spring Bars Road in Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 4 of 6, stamped and signed by Michael B. McGrath, PLS – plan dated November 14, 2016 with a final revision date of 1/27/2017 and with a Board date 'received' stamp of February 1, 2017;

"Pavement & Utility Details Little Pond Place" prepared for Falmouth Housing Corporation Spring Bars Road in Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 5 of 6, stamped and signed by Raul Lizardi-Rivera, PE – plan dated November 14, 2016 with a final revision date of 2/1/2017 and with a Board date 'received' stamp of February 1, 2017;

"Water & Sewer Work Details Little Pond Place" prepared for Falmouth Housing Corporation Spring Bars Road in Falmouth, MA as drawn by Holmes and McGrath, Inc. – Sheet 6 of 6, stamped and signed by Michael B. McGrath, PLS – plan dated November 14, 2016 with a final revision date of 1/16/2017 and with a Board date 'received' stamp of February 1, 2017;

"Planting Plan" as drawn by TL Studio, Inc. – Drawing L1.0 dated January 18, 2017 and with a Board date 'received' stamp of January 18, 2017;

"Planting Plan" as drawn by TL Studio, Inc. – Drawing L1.0 dated January 18, 2017 with a Board date 'received' stamp of January 23, 2017; and

"Little Pond Place" architectural plans drawn by Davis Square Architects consisting of Drawing A100 'Building #1 – Apartment Building Floor Plans'; Drawing A101 'Building #2 – Townhouse Floor Plans'; Drawing A102 'Building #3 – Townhouse Floor Plans'; Drawing A103 'Community Building Floor Plan'; Drawing A200 'Building #1 – apartment Building Exterior Elevation'; Drawing A201 'Building #2 – Townhouse Exterior Elevations'; Drawing A202 'Building #3 – Townhouse Exterior Elevations'; and Drawing A203 'Community Building Exterior Elevations' – all plans dated 11/01/2016 and with a Board date 'received' stamp of November 22, 2016.

Public Comment at Hearings

12/15/2016 Sam Patterson, interested party and a Selectmen, spoke on stormwater runoff and drainage proposed.

01/19/2017 No public comment received

February 9, 2017: Board reviewed and discussed draft decision that they directed the Zoning Administrator to draft at the January 19, 2017 hearing.

Attorney Moynihan requested to have the hearing closed if the Board had no further questions.

Member Van Keuren made a motion to close the hearing. Member Murphy seconded the motion. Motion carried 4 – 0.

Member Van Keuren made a motion to Grant the Comprehensive Permit as drafted. Member Murphy seconded the motion. Motion carried 4 – 0.

FINDINGS

1. The Board finds based on information submitted by the Applicant that:
 - a. The Applicant is a “Limited Dividend Organization” as that term is used in M.G.L. c. 40B, s. 21 and 760 CMR 56.02 and 56.04;
 - b. The Applicant has secured an eligibility/site approval letter of the Department of Housing and Community Development dated November 3, 2016;
 - c. The Applicant has “control of site” by virtue of a ‘Land Development Agreement’ with the Town dated August 8, 2016 and proposed ground lease. The Town of Falmouth is owner of the subject property known as 0 Spring Bars Road, Falmouth, MA – Map ID # 39-15-047-001- Book 24617 / Page 069.

2. The Board finds that the Department of Housing and Community Development ‘Site Approval Letter’ dated November 3, 2016 states in first paragraph: *[This] approval indicates that the proposed plan is for 40 units, of which 38 (95%) are affordable at no more than 60% of area median income. The proposed development will consist of 14 one-bedroom units, 22 two-bedroom units and 4 three-bedroom units and the rental structure as described in the application is generally consistent with the standards for affordable housing to be included in the community’s Chapter 40B affordable housing stock.* The Board finds that the statement in this approval letter as to the affordability restrictions for the units (ie. “*of which 38 (95%) are affordable at no more than 60% of area median income*”) was preliminary and not final in terms of restrictions for the Project and the affordability restrictions and requirements for the units will be as set forth in this decision and as required by the Department of Housing and Community Development.

3. The Board finds that the Town of Falmouth, according to DHCD, has not achieved the statutory minimum set forth in M.G.L. c. 40B, s. 20 or 760 CMR 56.03(3) nor is affordable housing located on sites within the Town of Falmouth comprising one and one-half percent or more of the total land area zoned for residential, commercial or industrial use.

4. The Board finds that the Development was reviewed by the following municipal officers or agencies:

Fire Department
Planning Board
Board of Selectmen
Board of Health
Engineering Department
Water Department
Conservation Commission
Cape Cod Commission

5. The Board finds that the lottery agent for the Little Pond Place Development shall be MCO Housing Services of Harvard, Massachusetts.
6. The Board finds that the application is in keeping with the Falmouth Affordable Housing Production Plan.
7. The Board finds that each apartment unit will be serviced by a public water supply and Town sewer.
8. The Board further finds that the development will have four (4) buildings described as follows:
 - a. Building #1: Apartment Building – 2 stories with 13 one-bedroom units, 11 two-bedroom units, 1 one-bedroom accessible unit and 1 two-bedroom accessible unit. Laundry facilities will be located on both first and second floor.
 - b. Building #2: Townhouse Building – 2.5 stories with 5 two-bedroom units, 1 three-bedroom unit, 1 two-bedroom accessible unit and 1 three-bedroom accessible unit. Laundry facilities for this building will be located in the community building (Building #4).
 - c. Building #3: Townhouse Building – 2.5 stories with 4 two-bedroom units and 2 three-bedroom units. Laundry facilities for this building will be located in the community building (Building #4).
 - d. Building #4 – Community Building – 1 story. This building will have bike storage and laundry facilities, two bathrooms, a work/storage area and a community room for residents on site.
9. The Board finds through testimony by the applicant’s representative and according to the “Site Plan for Little Pond Place”, Sheet 2 of 6, there will be a children’s play area for use by residents on site.
10. The Board finds that the required parking pursuant to Section 240-108 of the Code of Falmouth for the Development is 73 spaces. The Applicant has proposed 55 parking spaces (as shown on the “Site Plan” Sheet 2 of 6 noted herein), five (5) of which are handicap parking spaces.
11. The Board finds that the lighting, relative to the brightness or dimness of the development lighting, shall be controlled by the Applicant or its designee; and any lighting on the perimeter of subject property shall be low lighting so as not to impact any adjacent lot or roadway.
12. The Board finds through testimony by the Applicant’s representative that an ‘on site’ manager will reside in one of the units in Building #1 and shall be responsible to maintain a ‘debris free’ site and other responsibilities designated by the Applicant.
13. The Board finds that the Development appears to not endanger public health or safety, or the environment according to professional and technical evidence given through the hearing process, provided that the Development satisfies all of the conditions set forth below.

14. The Board finds that the subject property consists of one 11.39 acre parcel that is owned by the Town of Falmouth and the applicant has entered into a "Land Development Agreement" with the Town and the Applicant intends to enter into a long term ground lease with the Town of Falmouth with respect to the subject property. The parties signed the "Land Development Agreement" on or about August 8, 2016.
15. The Board finds that a 'Notice of Intent' application is before the Falmouth Conservation Commission relative to the State Wetlands Protection Act and Regulations. Any change in the plans submitted, reviewed and approved herein through approval process by the Conservation Commission will require Board of Appeals approval prior to any said change.
16. The Board finds that the units proposed for the Development will be restricted as to affordability in accordance with the requirements of the Department of Housing and Community Development (DHCD) by Regulatory Agreement between DHCD, the Applicant and the Town of Falmouth. The Board finds that, as represented to the Board by the Applicant, at least 36 of the forty (40) units will be rented to households earning up to 80% of median income for Barnstable County in perpetuity and no more than 4 units will be rented to households earning up to 100% of median income for Barnstable County in perpetuity.
17. The Board finds that the Applicant requested waivers of certain sections of Town Code in the application submitted to the Board and within subsequent correspondence during the hearings for the Project. The Board further finds that waivers requested are noted in the Conditions listed below and the grant of such waivers are consistent with local needs and necessary to the construction and operation of the project.

DECISION

Pursuant to M.G.L. c. 40B, the Zoning Board of Appeals of Falmouth, after public hearing and findings of fact, hereby grants a Comprehensive Permit to the Applicant to construct on subject property, consisting of an 11.39 acre site, forty (40) 1, 2 and 3 bedroom affordable housing dwelling units, 4 of which shall be handicap accessible, and distributed in three (3) buildings as noted herein and a fourth building that will be used as a community building for the residents on site. This approval shall include all infrastructure and improvements, including but not limited to connection and use of the municipal sewer and water systems, subject to the conditions as stated below. Unless otherwise indicated herein, the Board of Appeals may designate an agent or agents to review and approve matters set forth herein.

Conditions:

1. The Development, including but not limited to construction of four (4) buildings, drainage system, parking, landscaping, curb cut, setbacks, lot coverage and use, shall be constructed as represented to the Board and as shown on preliminary plans submitted and herein approved as:

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“Little Pond Place” architectural plans drawn by Davis Square Architects consisting of Drawing A100 ‘Building #1 – Apartment Building Floor Plans’; Drawing A101 ‘Building #2 – Townhouse Floor Plans’; Drawing A102 ‘Building #3 – Townhouse Floor Plans’; Drawing A103 ‘Community Building Floor Plan’; Drawing A200 ‘Building #1 – apartment Building Exterior Elevation’; Drawing A201 ‘Building #2 – Townhouse Exterior Elevations’; Drawing A202 ‘Building #3 – Townhouse Exterior Elevations’; and Drawing A203 ‘Community Building Exterior Elevations’ – all plans dated 11/01/2016 and with a Board date ‘received’ stamp of November 22, 2016.

2. The term "Applicant" as set forth herein shall mean Little Pond Place LLC and their successors and assigns. The term "Town" shall mean the Town of Falmouth. The term "Board" shall mean the Zoning Board of Appeals. Unless otherwise indicated herein, the

Board of Appeals may designate an agent to review and approve matters set forth herein to be approved by the Board of Appeals subsequent to this Decision.

3. The Applicant shall comply at all times with the requirements of the Department of Housing & Community Development Letter of Project Eligibility dated November 3, 2016 (copy submitted to the file) as same may be amended by said Department.
4. The apartment units in the Development shall be limited to one (1) apartment building, Two (2) townhouse buildings and one (1) community building that have no more than forty (40) dwelling units and facilities as follows:
 - a. Building #1: Apartment Building – 2 stories with 13 one-bedroom units, 11 two-bedroom units, 1 one-bedroom accessible unit and 1 two-bedroom accessible unit. Laundry facilities will be located on both first and second floor.
 - b. Building #2: Townhouse Building – 2.5 stories with 5 two-bedroom units, 1 three-bedroom unit, 1 two-bedroom accessible unit and 1 three-bedroom accessible unit. Laundry facilities for this Building will be located in the community building (Building #4).
 - c. Building #3: Townhouse Building – 2.5 stories with 4 two-bedroom units and 2 three-bedroom units. Laundry facilities for this building will be located in the community building (Building #4).
 - d. Building #4 – Community Building – 1 story. This building will have bike storage and laundry facilities, two bathrooms, a work/storage area and a community room for residents on site.

There shall be no more than seventy (70) bedrooms allowed on subject property.

5. To the extent permitted by law and by the subsidizing agency (DHCD or Mass Housing Partnership), preference for the rental of seventy percent (70%) of the Affordable units in the initial round of rentals shall be given to: (a) persons or families who are Falmouth residents; and, (b) employees of the Town or those employed within the Town. The local preference shall be implemented by the Lottery Agent for the Project. Prior to conducting the Lottery, the Lottery agent shall submit a final Lottery plan to the Board of Appeals. All costs associated with the Lottery shall be exclusively borne by the Applicant.
6. There shall be no subletting of any of the affordable forty (40) dwelling units approved herein; and there shall be no seasonal renting of any of the forty (40) dwelling units approved herein.
7. This Comprehensive Permit shall be a master permit which shall subsume all local permits and approvals normally issued by local boards. All local boards shall issue all necessary permits and approvals after reviewing such plans only to ensure that they are consistent with the Comprehensive Permit and applicable state and federal laws.
8. At least 36 of the 40 units for the Project shall be rented in perpetuity to households earning up to 80% of median income for Barnstable County and no more than 4 units will be rented in perpetuity to households earning up to 100% of median income for Barnstable County.

9. This Comprehensive Permit shall not be transferred to any organization, person or entity other than the Applicant without the written approval of this Board. The Board of Appeals understands that the Land Development Agreement signed by all parties (including the Town of Falmouth) under Section 6.7 of said Agreement stipulates same and therefore will require approval by both the Board of Appeals and the Town of Falmouth Board of Selectmen for any assignment or transfer by the Applicant.
10. The applicant shall provide the Board with a copy of the audited cost certification of the Development within 180 days (one hundred and eighty) upon completion of construction.
11. All units shall have the kitchen equipped with a refrigerator and stove.
12. The Board of Appeals Zoning Administrator may administratively approve minor changes in landscaping, design and signage.
13. The Applicant shall secure an Order of Conditions approval pursuant to the Massachusetts Wetland Protection Act and regulations thereto for the Project prior to issuance of any building permit for the Project. A copy of said approval shall be submitted to the Board of Appeals prior to issuance of any building permit.
14. The Applicant shall secure an Order of Conditions approval for the stormwater management plan pursuant to the stormwater management regulations and requirements of the Massachusetts DEP Stormwater Management Regulations and Massachusetts Wetlands Protection Act. A copy of said approval shall be submitted to the Board of Appeals prior to issuance of any building permit.
15. The Applicant shall submit a foundation design prepared by a geotechnical or professional structural engineer for approval by the Building Commissioner, prior to or in conjunction with the application for issuance of a building permit.
16. During construction, the Applicant shall provide to the Board and Building Commissioner testing of fill materials and monitoring of fill placement in accordance with any recommendations of the geotechnical study referenced above in Condition 15.

Management Issues

17. The following aspects of the Development shall be and shall remain forever private, and that the Town of Falmouth, unless otherwise agreed, shall not have, now or ever, any legal responsibility for operation or maintenance of same:
 - All driveway and parking areas
 - Storm water management facility
 - Snow plowing
 - Landscaping
 - Trash removal
 - Property/Development lighting
18. The Applicant's registered professional engineer shall prepare guidelines for the operation and maintenance of the storm water management system, subject to the approval of the

Board of Appeals and or its designated agent. In the event a management company is engaged, such guidelines shall be incorporated by reference in the management contract. In the event that the Development or its agent fails to maintain the storm water management in accordance with such guidelines for operation and maintenance, the regulations of the Board of Health or the Town's Engineering Department, as applicable, shall govern the matter, and the Development shall convey any easement necessary to implement such regulations and Development shall reimburse the Town for any fee that may be assessed.

Construction

19. Prior to the issuance of any building permit, the Applicant shall submit the following final information/plans for approval by the Board of Appeals or its agent:
 - Lighting plan
 - Landscaping and planting plan
 - Grading plan
 - Erosion control plan
 - Utilities plan including water, gas, electric, cable
 - Signage plans, including but not limited to, any Stops signs and Private Drive signs and Development signs
 - Storm water management plan
 - Final architectural plan
20. During construction, the Applicant shall conform to all local, state and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence on any day before 7:00 a.m. and shall not continue beyond 7:00 p.m. There shall be no construction on any Sunday or state or federal legal holiday.
21. The Applicant shall conform to all requirements of the Americans with Disabilities Act in accordance with the current Massachusetts State Building Code.
22. Each building shall be fully protected with an automatic fire suppression system as well as a radio box fire alarm detection system for each building that shall be connected to the municipal fire alarm system.
23. Any Town inspections during the construction phase shall be conducted at the expense of the Applicant. The Board of Appeals may appoint an agent to conduct such inspections.
24. No certificate of occupancy for any building shall be issued until the improvements specified in this decision and set forth on the plans of record are constructed and installed so as to adequately serve said building or adequate security has been provided, reasonably acceptable to the Board of Appeals, to ensure such completion. Any such performance guarantee shall be approved as to form by the Board's legal counsel.

25. The Applicant has requested, and the Board of Appeals has granted, the waivers from local rules as follows as required to permit the construction and operation of the Project in accordance with M.G.L. Chapter 40B and regulations thereto, 760 CMR 56.00 et sec:

- Section 240-57. D. – “Special Permit Uses” - Multi-family housing on Light Industrial A zoned land.
- Section 240-70 – “Maximum building height” – applicant is proposing a height of 36 feet two and one-half stories for Building #2 and Building #3.
- Section 240-108 – “Table of Minimum Requirements” – parking requirements are 1.5 spaces for a two-bedroom or less unit and 2 spaces for units with two or more bedrooms.
- Falmouth Wetlands Regulations (“FWR”) – FWR 10.30 (7)(c) – the Applicant is proposing development on portions of man-made coastal banks created from the prior mining operations on the subject property with slopes greater than 4:1.
- FWR 2.07(0) – the Applicant is proposing a depth of two feet for the drainage forbay as required by Mass DEP stormwater design standards.

Comprehensive Permit Decision by Falmouth Zoning Board of Appeals continued:

Comprehensive Permit#: 120-16

Applicant: LITTLE POND PLACE LLC of Boston, MA

Subject Property: 0 Spring Bard Road, Falmouth, MA
Map 39, Section 15, Parcel 047, Lot 001

Action: The Board of Appeals, being verified by signature below, voted as follows for the above referenced Comprehensive Permit.


VOTE: Board voted 4 – 0 to Grant the Comprehensive Permit represented herein based on the Findings and subject to the Conditions stated above.

RECEIVED

FEB 17 2017

FALMOUTH TOWN CLERK

8:26 AM



Terrence J. Hurrie, Board Clerk

Date filed with Town Clerk



Notice is hereby given that any appeal from this Decision shall be made pursuant to Section 17 of M.G.L. Chapter 40A or Section 22 of M.G.L. 40B or 760 CMR 56.00, and shall be filed within twenty (20) days after the decision of the Board of Appeals.