

LIST OF REQUESTED WAIVERS
FROM APPLICABLE TOWN OF SOUTHBOROUGH BYLAWS AND REGULATIONS
Comprehensive Permit – 250 Turnpike Road, Southborough

Property: **250 Turnpike Road,
Southborough, MA (Parcel ID
M/B/L: 27-0-46-0)**

Zoning Districts: Residence A

TOWN OF SOUTHBOROUGH ZONING BYLAWS

	Regulation Reference	Regulation	Waiver Request and Justification for Granting Waiver
1.	§ 174-6, Applicability.	No land in any district shall hereafter be used or occupied and no building or structure shall hereafter be occupied, used or erected or the use of buildings and land altered except as set forth in the following Schedule of Use Regulations or as specifically regulated or provided otherwise under other sections hereof, provided that the accessory uses and buildings not enumerated in the schedule but necessarily or customarily incidental to a principal use, including the signs otherwise allowed, shall be deemed to fall into the same category as such principal use. Streets and easements for public services are a permitted use in all districts, except the Wetland and Floodplain Districts.	The Applicant seeks a waiver from this section as the proposed development will be in the Residence A district, which does not allow multifamily dwellings. The purpose of M.G.L. ch. 40B is to allow the construction of multifamily dwellings where local zoning does not necessarily permit it.
2.	§ 174-8, Schedule of Use Regulations.		
	§ 174-8(A)	No building or structure shall be constructed and no building, structure or land or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located or set forth as permissible by special permit in said district and so authorized.	The Applicant seeks a waiver from this section as the proposed development will be in the Residence A district, which does not allow multifamily dwellings. The construction of multifamily dwellings is the purpose of M.G.L. ch. 40B.
	§ 174-8(B)	Further, no building shall be constructed and no building, structure or land or any part thereof shall be used and no lot shall be changed in size or shape unless in conformity with the dimensional regulations set forth for each district.	The Applicant seeks a waiver from this section as the proposed development intends to have zoning nonconformities. Zoning nonconformities are expected

			and are routinely accepted as the purpose of M.G.L. ch. 40B is to construct multifamily dwellings in areas where zoning typically would not allow. The proposed development is nonconforming as to rear and side setbacks, but there are other nonconformities throughout the site, which are more specifically detailed in the remainder of this waivers list.
3.	§ 174-8.7, RA Residence A District.		
	§ 174-8.2(C)	Prohibited uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.	The Applicant seeks a waiver from this section as multifamily dwelling use is not allowed in the Residence A District. Zoning nonconformities are expected and are routinely accepted as the purpose of M.G.L. Ch. 40B is to construct multifamily dwellings in areas where zoning typically would not allow.
	§ 174-8.2(D)	Development standards are as follows:	
	§ 174-8.2(D)(3)(b) § 174-8.2(D)(3)(c) § 174-8.2(D)(5)	Minimum setbacks: Rear: 50 feet. Side: 25 feet. Maximum floor area ratio: 0.18.	The Applicant seeks a waiver from this section to allow a 24-foot rear setback and a 2-foot side setback. The site consists of 32 townhomes, which have been placed in very specific locations so that the Applicant can utilize the entirety of the site. The locations of the proposed townhomes shall have no adverse effect on neighboring lots. The Applicant further seeks relief from a maximum floor

			area ratio of 0.18 and proposes a floor are ratio of 0.40.
5.	§ 174-11, Signs.		
	§ 174-11(C)(2)(d)	No sign may be illuminated between 10:00 p.m. and 6:00 a.m. except signs identifying police or fire stations or businesses open to serve the public on site.	The Applicant seeks a waiver from this section as the Applicant seeks to have the proposed development's sign remain illuminated daily after 10 P.M. The location of the sign related to the proposed development would not disturb any residential abutters and is required for residents, guests and first responders to find the property during dark evening and nighttime hours.
	§ 174-11(E)(1)	The Board of Appeals shall consider requests for special permits in accordance with §§ 174-9, 174-11 and 174-25 of this Zoning Bylaw. The Board of Appeals may grant a special permit for a sign not meeting limitations of sign height, maximum number of signs allowed, illuminations of signs, maximum area of signs allowed and minimum setback; provided, however, that the sign is otherwise in compliance with the provisions of this section.	The Applicant seeks a waiver from this section to the extent a special permit is required for any proposed sign nonconformity. The purpose of M.G.L. ch. 40B is to allow zoning conformities for the purposes of building affordable multifamily housing.
7.	§ 174-13, Landscaping.		
	§ 174-13(B)(10)	Plantings shall consist of at least one tree per 40 linear feet of planting area length, except one tree per 20 linear feet of street planting area abutting Route 9, and at least one shrub per three feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area and shall be located wholly within the lot.	The Applicant seeks a waiver from this section to allow for reduced number of trees and shrubs in lieu of the 40' tree spacing and 3' shrub spacing. The Applicant proposes landscaping in accordance with this section throughout the proposed development. To the extent there are other "planting areas" on the site, the Applicant seeks a waiver from this section.
	§ 174-13(B)(9)	A permanent water supply system, or other acceptable watering method, shall be provided for all planting areas. In order to protect the Town's water supply, and	The Applicant seeks a waiver from this section to the extent a permanent water supply is required. The Applicant shall

		encourage sound landscaping practices, the Town of Southborough recommends sustainable watering systems, such as: rainwater recycling systems, automatic shut-off devices, drought-tolerant native plant material, and careful irrigation scheduling, among others.	use drought-resistant and sun-tolerant plantings to protect the Town's water supply.
	§ 174-13(B)(10)(c)	Invasive plants, as defined by the Massachusetts Invasive Plant Group, are "plants that have spread into native or minimally managed plant systems in Massachusetts. These plants cause economic or environmental harm by developing self sustaining populations and becoming dominant and/or disruptive to those systems." (Under this definition all synonyms, species, subspecies, varieties, forms, and cultivars of that species are included unless proven otherwise by a process of scientific evaluation.) The Town of Southborough encourages the use of native species in all landscaping plans. Please note that many of the invasive species listed below have native counterparts that could be considered.	The Applicant seeks a waiver from this section as to the use of native species. The Applicant proposes plantings that are not native, but better suited for the proposed development.
	§ 174-13(D)	Side and rear line planting area. A landscape buffer strip a minimum of 10 feet in width shall abut all side and rear property lines.	The Applicant seeks a waiver from this section. To the extent there are areas in the proposed development with less than 10-feet of rear and side buffer, the Applicant proposes vegetative buffers and screening.
	§ 174-13(E)(2)	Required trees shall be located within or adjacent to parking lots as tree islands, medians, and at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a tree.	The Applicant seeks a waiver from this section to eliminate the requirement of tree planting within 60' of every parking space. The proposed development will be within a heavily forested area which provides ample screening and buffer from neighbors.

**TOWN OF SOUTHBOROUGH WETLANDS REGULATIONS – CHAPTER 170,
WETLANDS PROTECTION, ADOPTED JANUARY 2, 2002, AS AMENDED, UPDATED
OR REVISED**

	Regulation Reference	Regulation	Waiver Request and Justification for Granting Waiver
1.	Chapter 170, Wetlands Protection.*		
	§ 170-2, Jurisdiction.	Except as permitted by the Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon, degrade, discharge into or otherwise alter the following resource areas or within 20 feet of their borders: any freshwater wetland, bordering vegetated wetland, marsh, wet meadow, bog or swamp, any bank, beach, lake, river, pond, stream or any land under said waters, any vernal pool, any land subject to flooding or inundation by groundwater, surface water or storm flowage (collectively, "the resource areas"). Any proposed work which falls within 100 feet (the "buffer zone") of the previously mentioned resource areas must be approved by the Conservation Commission.	The Applicant seeks a waiver from this section as the proposed development will disturb areas within 20 feet of the borders of resource areas and will disturb. Specifically, proposed units 2, 29, 30, 31, and 32 are within the 20-foot no disturb zone. Additional impact to the 20' Buffer Zone will be due to raising the parking lot elevation; the existing paved parking lot and lawn area adjacent to the paved area will be altered and restored back to pre-existing land cover conditions, i.e. paved parking area and lawn.

**Note: The Applicant has filed a Notice of Intent with the Town's Conservation Commission in relation to this project and intends in complying with the bylaws of Chapter 170, except for that of § 170-2, Jurisdiction.*

**SOUTHBOROUGH SUBDIVISION REGULATIONS – CHAPTER 244, SUBDIVISION
OF LAND, ADOPTED AUGUST 18, 1986, AS UPDATED OR REVISED**

	Section Reference	Section	Waiver Request and Justification for Granting Waiver
	Chapter 244, Subdivision of Land.		
1.	§ 244-4, Jurisdiction.	No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement for sale of lots in a subdivision, or the construction of ways, or preparation therefor, or the installation of utilities and municipal services therein, unless and until a definitive plan of such subdivision has been submitted and approved by the Planning Board as hereinafter provided.	The Applicant seeks a waiver from this section to the extent approval is required by the Planning Board. Under M.G.L. Chapter 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.
2.	§ 244-6, Limit one dwelling on a lot.	Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lots in a subdivision, or elsewhere in the Town, without the consent of the Planning Board. Such consent may be conditional upon the provision of adequate ways furnishing access to each such building and adequate improvements in the same manner as otherwise required for lots within a subdivision.	The Applicant seeks a waiver from this section to the extent consent is required by the Planning Board. Under M.G.L. c. 40B, the Zoning Board of Appeals has the authority to grant all of the approvals that would otherwise trigger separate applications under local bylaws or ordinances.

SOUTHBOROUGH STORMWATER AND EROSION CONTROL REGULATIONS –
CHAPTER 154, ADOPTED MARCH 25, 2023

	Section Reference	Section	Waiver Request and Justification for Granting Waiver
1.	§ 154-3, Applicability.	<p>This bylaw shall be applicable to all new development and redevelopment, including, but not limited to, site plan applications, subdivision applications, grading applications, land use conversion applications, any activity that will result in an increased amount of stormwater runoff or pollutants flowing from a parcel of land, or any activity that will alter the drainage characteristics of a parcel of land, unless exempt pursuant to § 154-4 of this bylaw. After April 10, 2006, the Commission shall not approve any application for development or redevelopment if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance. A development shall not be segmented or phased in a manner to avoid compliance with this bylaw.</p>	<p>Applicant seeks a waiver from this section to the extent the proposed development shown on the Plans is not in compliance with the Zoning Bylaw and to the extent such Stormwater and Erosion Control regulations are more restrictive than those prescribed in M.G.L. c. 40B §§ 21-23 and 760 CMR 56.00 and other applicable state and federal laws including, without limitation, those prescribed by the Massachusetts Department of Environmental Protection and The Massachusetts Stormwater Management Handbook.</p>

**TOWN OF SOUTHBOROUGH COMPREHENSIVE PERMIT REGULATIONS AND
GUIDELINES**

	Section Reference	Section	Waiver Request and Justification for Granting Waiver
1.	§4.0 Filing, Time Limits and Notice.		
	§4.1.2	A complete financial pro forma, detailing the projected costs and revenues of the proposed project shall be submitted.	<p>The Applicant seeks a waiver from this section as 760 CMR 56.05(6), “Review of Financial Statements” requires:</p> <p>(a) A Board may request to review the pro forma or other financial statements for a Project only after the following preconditions have been met:</p> <ol style="list-style-type: none"> 1. <i>other consultant review has been completed;</i> 2. <i>the Applicant has had an opportunity to modify its original proposal to address issues raised;</i> 3. <i>the Board has had an opportunity to propose conditions to mitigate the Project’s impacts and to consider requested Waivers; and</i> 4. <i>the Applicant has indicated that it does not agree to the proposed condition(s) or Waiver denial(s) because they would render the Project uneconomic. A Board may not conduct review of a pro forma in order to see whether a Project would still be economic if the number of dwelling units were reduced, unless such reduction is justified by a valid health, safety, environmental, design, open space, planning, or</i>

		<p><i>other local concern that directly results from the size of a project on a particular site, consistent with 760 CMR 56.07(3).</i></p> <p>The Applicant and the proposed Development and Application is not subject to the financial pro-forma requirement under the Town's Comprehensive Permit Regulations and Guidelines because the prescribed pre-conditions have not yet been met. In addition, the Applicant already has prepared and shared with MassHousing and the Town financial pro formas regarding the project.</p>
	§4.1.3.13	<p>Plan shall show location and results of soil, percolation and water table tests using the Department of Environmental Protection Soil Evaluation procedures under Title V.</p>
		<p>The Applicant seeks a waiver from this section as the proposed wastewater treatment facility and associated leach field will be reviewed and approved by the Board of Health and Board of Appeals pursuant to the Massachusetts Ground Water Discharge Permitting Program pursuant to 314 CMR 5.00 <i>et seq.</i> The Applicant has excavated and logged deep test holes in the areas proposed for infiltration.</p>

The requested waivers set forth herein are those of which the Applicant is aware as of November 26, 2024. The Applicant will continue to update this list if necessary during the Board's consideration of the application.