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CHRISTOPHER J. ALPHEN, ESQ.  
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January 31, 2019

**Hand Delivered**

Housing Appeals Committee  
100 Cambridge St  
Suite 300  
Boston, MA 02114

RE: **Initial Pleading Upon Grant of a Comprehensive Permit with Conditions  
Cascade Wayland – Boston Post Road, Wayland**

Dear Sir/Madam:

Enclosed for filing pursuant to 760 CMR 56.06(1)(c) please find enclosed the Applicant's Initial Pleading Cover Sheet, Initial Pleading Upon Grant of a Comprehensive Permit with Conditions, accompanying exhibits, Zoning Board of Appeal's Decision and filing fee.

Please do not hesitate to contact me with any questions.

Very truly yours,

Christopher J. Alphen, Esq.  
Paul J. Haverty, Esq.

Enclosures

INITIAL PLEADING COVER SHEET

HOUSING APPEALS COMMITTEE

(PER 760 CMR 56.00)

Developer/Applicant (Name/Address): Eden Management, Inc. 80 HOPE AVE STE 512 WALTHAM, MA 02453 USA	Chairman/Zoning Board (Name/Address): Jonathan Sachs, Chairman Wayland Zoning Board of Appeals Town of Wayland 41 Cochituate Road, Wayland, MA 01778
Developer/Applicant's Attorney (Name/Address/Phone/Fax/Email): Paul J. Haverty, Esq. Blatman, Bobrowski & Haverty, LLC 9 Damonmill Square, Suite 4A4 Concord, MA 01742 (978) 371-2226 (telephone) / (978) 371-2296 (facsimile) Paul@bbhlaw.net	Zoning Board's Attorney (Name/Address/Phone/Fax/Email): Amy E. Kwesell, Esq. KP   LAW 101 Arch Street, 12th Floor Boston, MA 02110 O: (617) 654 1811 / F: (617) 654 1735 akwesell@k-plaw.com

Project Name: Cascade Wayland  
 Address: 113 and 115 Boston Post Road, Wayland, MA

Type of Development: Rental  Ownership  Mixed

Funding Agency/Program: New England Fund Program

Site Approval/Project Eligibility: Yes  No  Date: September 23, 2016

Total No. Units Appealed to H.A.C.: 60 No. Affordable (subsidized) Units: 15

ZBA Decision: Denial  Grant  Grant With Conditions  Constructive Grant   
 Constructive Denial  Other

Date ZBA Decision Filed With Municipal Clerk: January 15, 2019

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



[Signature] January 31, 2019  
 Developer's Attorney's Signature and Date

FOR DOCKET CLERK USE ONLY

Standard Fee Amount: \$ \_\_\_\_\_  
 Full Standard Fee enclosed with Initial Pleading?  Yes  No  
 Motion on Fee enclosed with Initial Pleading?  Yes  No  
 Minimum Fee of \$1,500 enclosed with Initial Pleading?  Yes  No

Motion on Fee:  Granted  Denied  
 on (date) \_\_\_\_\_  
 Additional Fee beyond \$1,500 Minimum Fee paid as per Ruling on Motion on Fee:  
 amount: \$ \_\_\_\_\_  
 on (date): \_\_\_\_\_

Docket #: \_\_\_\_\_ Case # \_\_\_\_\_ HAC Appeal Date: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOUSING APPEALS COMMITTEE

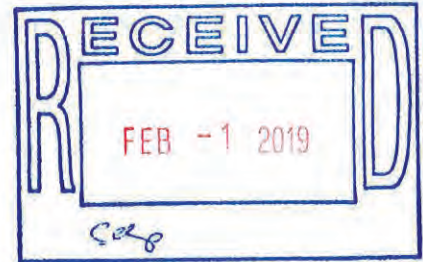
EDEN MANAGEMENT, INC.,

Appellant,

v.

WAYLAND BOARD OF APPEALS,

Appellee



**INITIAL PLEADING UPON GRANT OF A COMPREHENSIVE PERMIT WITH  
CONDITIONS**

**INTRODUCTION**

1. This is an appeal brought pursuant to G. L. c. 40B, §§ 20-23 and 760 CMR 56.06(4) brought by the Appellant/Applicant Eden Management, Inc., (the “Applicant”) from a decision of the Wayland Board of Appeals (the “Board”) approving a comprehensive permit, with conditions that render the Applicant’s project uneconomic.

**I. PRIOR PROCEEDINGS – 760 CMR 56.04(a)(1)**

2. On September 26, 2016, MassHousing issued a Project Eligibility Letter to the Applicant, authorizing the construction of sixty (60) rental units in a single residential structure (with garage-under) with associated office and leasing space located at 113 and 115 Boston Post Road, Wayland, Massachusetts (the “Property”). The Property consists of approximately 6.49 acres.

3. On July 25, 2017, the Applicant filed an application for a comprehensive permit with the Board, seeking the construction of sixty (60) rental units in a single

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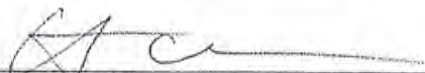
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 January 31, 2019  
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Standard Fee Amount: \$ \_\_\_\_\_

Full Standard Fee enclosed with Initial Pleading?  Yes  No

Motion on Fee enclosed with Initial Pleading?  Yes  No

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Case #: \_\_\_\_\_

HAC Appeal Date: \_\_\_\_\_

Motion on Fee:  Granted  Denied

on (date) \_\_\_\_\_

Additional Fee beyond \$1,500 Minimum  
 Fee paid as per Ruling on Motion on Fee:

amount: \$ \_\_\_\_\_

on (date): \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOUSING APPEALS COMMITTEE

EDEN MANAGEMENT, INC.,

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WAYLAND BOARD OF APPEALS,

Appellee

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**I. PRIOR PROCEEDINGS – 760 CMR 56.04(a)(1)**

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3. On July 25, 2017, the Applicant filed an application for a comprehensive permit with the Board, seeking the construction of sixty (60) rental units in a single

residential structure on the Property. A copy of the initial application submitted to the Board is included herewith as Exhibit 1.

4. The Board opened the public hearing on August 22, 2017, but did not take testimony from any party because the number of residents present in opposition to the Project exceeded the maximum capacity for the hearing room. The Applicant agreed to continue the hearing, and agreed to extend the 180-period to close the public hearing by thirty (30) days.

5. During the course of the public hearing, the Board retained consultants to review the site design, drainage, wetlands, septic and other areas of concern. The Board retained Sean Reardon of Tetra Tech for general civil engineering peer review, The Engineering Corp. ("TEC") for traffic peer review, and Clifford Boehmer, AIA from Davis Square Architecture for architectural review.

6. The Board was also represented by Joseph Peznola, P.E. of Hancock Associates, as a technical consultant under the technical review program sponsored by Massachusetts Housing Partnership. Town Counsel Amy Kwesell of KP Law was also present at all hearings.

7. The Applicant provided detailed information from its civil engineer Daniel M. Feeney, P.E. of Beals and Thomas, by its architects Rebecca L. Berry and Tony Hsiao of Feingold Alexander Architects, by its traffic consultant Robert Nagi, P.E., of VHB, by its wastewater consultant David Formato, P.E., of On-Site Engineering, and by its hydrogeological consultants Raymond Talkington, Ph.D of Geosphere Environmental Management, Inc.

8. The Board held numerous sessions of the public hearing, and the Applicant granted multiple extensions of the 180-day deadline contained in 760 CMR 56.05(3), to allow the Board to conduct a thorough review of the issues of concern.

9. During the course of the public hearing, in response to concerns raised by the Board, the Board's consultants, and abutters, the Applicant agreed to conduct a hydrogeological study on the Property, the scope of which was agreed-to in advance with the Board, after consultation and agreement by the Wayland Board of Health.

10. On October 31, 2017 the Board of Health (BoH) received a proposed Hydrogeological Scope from the Applicant. The BoH approved this scope on November 13, 2017. At the further insistence of the Board of Health the performance of the necessary field work and resulting hydrogeological report was delayed until after April 2018, which pushed back the completion date further than originally anticipated. In the interim the Board of Health received additional material from the Applicant. This material included an update October 26, 2017, HydroGeo Memo December 5, 2017 and a Septic Design Memo February 6, 2018.

11. The Board closed the public hearing on October 16, 2018.

12. In the spirit of cooperation, the Applicant agreed to extend the forty (40) day period for the Board to issue its decision until January 15, 2019.

13. The Board filed its decision with the Wayland Town Clerk on January 15, 2019.

## **II. OBJECTIONS TO FINDINGS OF FACT**

13. The Applicant has no objection to Finding of Fact No. 1, Jurisdictional Requirements.



14. The Applicant has no objection to Finding of Fact No. 2, Statutory Minimum for Low and Moderate Income Housing.

15. The Applicant has no objection to Finding of Fact No. 3, Affordable Housing.

16. The Applicant objects to Finding of Fact No. 4, Pine Brook and Associated Wetland Resource Areas. The Applicant disputes the Board's characterization of the hydrogeological study performed by the Applicant's consultant. The Applicant also objects to the Finding as it relates to impacts from phosphorous, both factually and because it cites no local, state or federal requirements relating to phosphorous

that the project design does not comply with.

17. The Applicant objects to Finding of Fact 5, Cooperation of Applicant/Reasoning of Decision. This Finding is simply a determination that the Applicant refused to drastically reduce the number of units at the request of the Board and the unusually active and vocal neighborhood opposition group. The Applicant responded to the concerns raised during the hearing process by conducting a significant revision to the proposed design of the Project to reduce impervious area and protect environmental resources. The Applicant also spent considerable time and money conducting a hydrogeological study demanded by the Board and abutters, despite such study going well beyond the "preliminary plans" required under Chapter 40B. The scope of such study was agreed-to in advance by the Board, with input from the Wayland Board of Health. The Applicant's cooperation was rewarded by the Board determining as part of its decision that the scope of the hydrogeological study was not sufficient. The

Applicant also objects to the Board's Finding that the conditions imposed in the decision are "not economically prohibitive[.]"

18. The Applicant objects to Finding of Fact No. 6, Drainage/Stormwater Management. The Applicant objects to the Board's finding that the stormwater management system is undersized. The Applicant agrees that compliance with DEP Stormwater Management Regulations, via the issuance of an Order of Conditions (or Superseding Order of Conditions) under the Wetlands Protection Act is required.

19. The Applicant objects to Finding of Fact No. 7. The statement in the Board's decision that "[t]he Applicant refused to provide details or specifications of the septic system to the Board or the Board of Health during the pendency of the public hearing[.]" In fact, the Applicant provided details regarding the proposed location of the septic system, and even offered to provide enhanced treatment above and beyond Title 5 requirements. The Board of Health deliberated a public hearing submission by the Applicant on January 25, 2018 which provided a full conceptual review of the I/A Septic system. The Board of Health also received a Hydrogeological Memo on December 5, 2017 and Septic Design Memo on February 6, 2018 written by the wastewater engineer. The Applicant did decline to provide a fully-engineered septic design, and did decline to file an application for a Disposal Works Permit during the pendency of the comprehensive permit application. The Applicant was not required to obtain Title 5 approval during the course of the comprehensive permit hearing, nor could the Board properly condition the decision on the failure to file for such permit. The Applicant submitted far more information to the Board than what was required under 760 CMR 56.05(2).

20. The Applicant objects to Finding of Fact No. 8, Traffic/Safety/Access.

While the Applicant did indicate that it would consider contributing to the planning and design for future improvements of the Boston Post Road/Old Connecticut Path/Plain Road intersection, this was expressly contingent upon the Board not issuing a decision that rendered the Project uneconomic. This was further conditioned upon the donation being proportionate with the Project's effect on the subject intersection.

21. The Applicant objects to Finding of Fact No. 9. The Applicant disputes

that a parking ratio of 1.75 spaces per unit is necessary for a rental development in the location of the Project. The Applicant maintains that a parking ratio of 1.5 spaces per unit is sufficient to satisfy parking demand for the Project. This was evidenced by the Applicant's Traffic Engineer submitting a sampling of lower parking ratios for comparable properties.

22. The Applicant objects to Finding of Fact No. 10, Riverfront and Flood

Zone. The Applicant disputes that finding that the Project does not comply with the riverfront standards contained in 310 CMR 10.58. The Applicant agrees that Base Flood Elevation must be established prior to the issuance of any building permits for the Project.

23. The Applicant has no objection to Finding of Fact No. 11, Zoning Bylaw.

### **III. OBJECTION TO CONDITIONS OF APPROVAL**

#### **A. ADMINISTRATIVE**

24. The Applicant objects to Conditions of Approval Section A(1), to the extent that it requires compliance with all other conditions contained in the Decision.

25. The Applicant has no objection to Conditions of Approval Section A(2).

26. The Applicant objects to Conditions of Approval Section A(3) as it infringes upon the jurisdiction of the Subsidizing Agency in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010).
27. The Applicant objects to the Conditions of Approval Section A(4), to the extent that it requires compliance with all other conditions in the Board's Decision.
28. The Applicant objects to the Conditions of Approval Section A(5)(j), to the extent that it requires compliance with all other conditions in the Board's Decision. The Applicant also objects to the requirement for a bus shelter, as this is reflected in the plans and may not be appropriate for the site.
29. The Applicant has no objection to Conditions of Approval Section A(6).
30. The Applicant objects to the Conditions of Approval Section A(7), to the extent that requires an Order of Conditions to be issued consistent with all of the conditions contained in the Board's decision.
31. The Applicant objects to the Conditions of Approval A(8) to the extent that it is not consistent with the requirements of 760 CMR 56.05(11).
32. The Applicant objects to the Conditions of Approval A(9) to the extent that prevents the Applicant to take an immediate appeal of a determination that a proposed modification is substantial, as allowed by 760 CMR 56.05(11)(d).
33. The Applicant has no objection to Conditions of Approval A(10).
34. The Applicant objects to Conditions of Approval A(11), as the requirement that any request for an extension of the permit must be filed at least thirty (30) days prior to the expiration of the permit is inconsistent with the provisions of 760

CMR 56.05(12)(c), which allows for extension requires to be filed any time before the expiration of the comprehensive permit.

35. The Applicant has no objection to Conditions of Approval A(12).

36. The Applicant objects to Conditions of Approval A(13), as it is inconsistent with the requirements of 760 CMR 56.05(12)(b), which requires no approvals for transfer of the permit after substantial completion of the Project.

37. The Applicant objects to Conditions of Approval A(14), to the extent it requires the submittal of Final Plans within thirty (30) days of the expiration of the applicable appeal period. Because the Applicant has not completed the permitting processes with the Wayland Board of Health or the Wayland Conservation Commission, submittal of Final Plans within thirty (30) days after the comprehensive permit becomes final is premature, and subjects the Applicant to unnecessary expense.

38. The Applicant has no objection to Conditions of Approval A(15).

39. The Applicant objects to Conditions of Approval A(16) Approval of the As Built Drawings is an imposition upon the Project that are not imposed on unsubsidized housing developments in Wayland, in violation of G. L. c. 40B, § 20.

40. The Applicant objects to Conditions of Approval A(17), as it subjects the Applicant to unequal treatment pursuant to G. L. c. 40B, § 20, and the imposition of such additional peer review fees contributes to rendering the Project uneconomic.

41. The Applicant objects to Conditions of Approval A(18), as it improperly requires the Applicant to pay for the Board's legal review, which is inconsistent with the provisions of 760 CMR 56.05(5)(a).

42. The Applicant has no objection to Conditions of Approval A(19).

43. The Applicant objects to Conditions of Approval A(20), as it infringes upon the jurisdiction of the Subsidizing Agency in violation of as it infringes upon the jurisdiction of the Subsidizing Agency in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010).

44. The Applicant objects to Conditions of Approval A(21). The project will be Control Construction, therefore the additional oversight required by this condition subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20, and contributes to rendering the Project uneconomic.

45. The Applicant objects to Conditions of Approval A(22) as it, in the aggregate with all of the other conditions and waiver decisions imposed by the Board, renders the Project uneconomic.

**B. Housing**

45. The Applicant does not object to Conditions of Approval B(23).

46. The Applicant does not object to Conditions of Approval B(24).

47. The Applicant objects to Conditions of Approval B(25), as it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20.

48. The Applicant objects to the Conditions of Approval B(26), to the extent that it refers to the sale of the affordable units, as the Project is a rental development. The Applicant also objects to Conditions of Approval B(4) to the extent that it could be interpreted to apply beyond the initial rent-out of the Project, as the imposition of a local preference requirement on the renting of individual units would violate Fair Housing requirements.

49. The Applicant has no objections to the Conditions of Approval B(27).

50. The Applicant has no objections to the Conditions of Approval B(28) to the extent that such condition is an acknowledgement that the execution of the Regulatory Agreement is within the exclusive jurisdiction of the Subsidizing Agency.

51. The Applicant objects to the Conditions of Approval B(29), as the express terms of the Regulatory Agreement are within the exclusive jurisdiction of the Subsidizing Agency, as set forth in as it infringes upon the jurisdiction of the Subsidizing Agency in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010).

52. The Applicant has no objections to Conditions of Approval B(30).

53. The Applicant objects to Conditions of Approval B(31), as it infringes upon the exclusive jurisdiction of the Subsidizing Agency, in violation of as it infringes upon the jurisdiction of the Subsidizing Agency in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010).

54. The Applicant objects to Conditions of Approval B(32), as it infringes upon the exclusive jurisdiction of the Subsidizing Agency, in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010). See also HD/MW Randolph Avenue, LLC v. Milton Bd. of Appeals, No. 2015-03, slip op. at 53-54 (Mass. Housing Appeals Comm., December 20, 2018).

55. The Applicant objects to Conditions of Approval B(33), as it infringes upon the exclusive jurisdiction of the Subsidizing Agency, in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010). See also HD/MW Randolph Avenue, LLC v. Milton Bd. of Appeals, No. 2015-03, slip op. at 53-54 (Mass. Housing Appeals Comm., December 20, 2018).

56. The Applicant has no objection to the requirement in Conditions of Approval B(34) requiring the provision of information provided to the Subsidizing Agency.

57. The Applicant objects to Conditions of Approval B(35), as it infringes upon the exclusive jurisdiction of the Subsidizing Agency, in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010). See also HD/MW Randolph Avenue, LLC v. Milton Bd. of Appeals, No. 2015-03, slip op. at 53-54 (Mass. Housing Appeals Comm., December 20, 2018).

56. The Applicant has no objection to the requirement in Conditions of Approval B(36).

57. The Applicant has no objection to the requirements in Conditions of Approval B(37).

58. The Applicant has no objection to the requirements in Conditions of Approval B(38).

**C. Construction**

59. The Applicant has no objection to the requirements in Conditions of Approval C(39).

60. The Applicant objects to the requirements contained in Conditions of Approval C(40) to the extent it requires review and approval of the provisions of the Regulatory Agreement by Town Counsel, in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010).

61. The Applicant has no objections to the requirements contained in Conditions of Approval C(41).



62. The Applicant has no objections to the requirements contained in Conditions of Approval C(42).

63. The Applicant objects to Conditions of Approval C(43), as it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20.

64. The Applicant objects to the requirements contained in Conditions of Approval C(44) to the extent they refer to the “sale of dwellings”, as the Project is a rental development.

65. The Applicant has no objections to the requirements contained in Conditions of Approval C(45).

66. The Applicant has no objections to the requirements contained in Conditions of Approval C(46).

67. The Applicant objects to the requirements contained in Conditions of Approval C(47), as they go beyond what is required under state blasting regulations, and subject the Applicant to unequal treatment in violation of G. L. c. 40B, § 20.

68. The Applicant has no objections to the requirements contained in Conditions of Approval C(48).

69. The Applicant objects to the requirements contained in Conditions of Approval C(49), as the Project will be Controlled Construction, and thus the imposition of additional review constitutes unequal treatment in violation of G. L. c. 40B, § 20.

70. The Applicant has no objections to the requirements contained in Conditions of Approval C(50).

71. The Applicant has no objections to the requirements contained in Conditions of Approval C(51).

72. The Applicant objects to the requirements contained in Conditions of Approval C(52) as beyond the authority of the Board to impose, and in violation of the unequal treatment provision of G. L. c. 40B, § 20.

73. The Applicant has no objection to the requirements contained in Conditions of Approval C(53).

74. The Applicant objects to the requirements contained in Conditions of Approval C(54), to the extent that it allows the Board to approve the form of surety, as the choice of surety is left solely to the Applicant pursuant to G. L. c. 41, § 81U. Additionally, the requirement of a twenty-five percent (25%) contingency is excessive, and unreasonably burdensome, and contributes to rendering the Project uneconomic.

75. The Applicant objects to the requirements contained in Conditions of Approval C(55) for the same reasons stated above for Condition C(54).

76. The Applicant objects to the requirements contained in Conditions of Approval C(56) for the same reasons stated above for Condition C(54).

77. The Applicant has no objection to the requirements contained in Conditions of Approval C(57) to the extent the work the work relates to Route 20.

78. The Applicant has no objection to the requirements contained in Conditions of Approval C(58).

79. The Applicant objects to the requirements contained in Conditions of Approval C(59) to the extent it imposes requirements upon the Project that are not imposed on unsubsidized housing developments in Wayland, in violation of G. L. c. 40B, § 20.

80. The Applicant objects to the requirements contained in Conditions of Approval C(60) as it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20.

81. The Applicant has no objection to the requirements contained in Conditions of Approval C(61).

82. The Applicant objects to the requirements contained in Conditions of Approval C(62) as they are not based upon any local rule or regulation, and subject the Applicant to unequal treatment pursuant to G. L. c. 40B, § 20.

83. The Applicant objects to the requirements contained in Conditions of Approval C(63) as they are not based upon any local rule or regulation, and subject the Applicant to unequal treatment pursuant to G. L. c. 40B, § 20.

84. The Applicant objects to the requirements contained in Conditions of Approval C(64) as they are not based upon any local rule or regulation, and subject the Applicant to unequal treatment pursuant to G. L. c. 40B, § 20.

85. The Applicant has no objection to the requirements contained in Conditions of Approval C(65).

86. The Applicant objects to the requirements contained in Conditions of Approval C(66) as they are not based upon any local rule or regulation, and subject the Applicant to unequal treatment pursuant to G. L. c. 40B, § 20. This condition also subjects the Applicant to liability if Board members or staff enter the property without notice during construction and such Board member or staff member suffers an injury.

87. The Applicant has no objection to the requirements contained in Conditions of Approval C(67).

88. The Applicant has no objection to the requirements contained in Conditions of Approval C(68).

89. The Applicant has no objection to the requirements contained in Conditions of Approval C(69).

**D. Infrastructure – General**

90. The Applicant has no objection to the requirements contained in Conditions of Approval D(70).

**E. Septic System**

91. The Applicant objects to Conditions of Approval E(71) to the extent that it does not grant waivers from local Board of Health requirements as requested by the Applicant. The failure to grant such waivers renders the Project uneconomic.

92. The Applicant objects to Conditions of Approval E(72), as it imposes obligations for further review in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010).

93. The Applicant objects to the Conditions of Approval E(73) which subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20.

94. The Applicant objects to Conditions of Approval E(74), as it imposes obligations for further review in violation of Zoning Bd. of Appeals v. Amesbury v. Housing Appeals Comm., 457 Mass. 748 (2010). The Applicant does not object to filing an application for a Disposal Works Permit pursuant to Title 5 that complies with all applicable submittal requirement under the state regulations.

95. The Applicant objects to Conditions of Approval E(75), as it imposes obligations upon the Project that are not imposed on unsubsidized housing project, in

violation of G. L. c. 40B, § 20. The Applicant also objects to this conditions as it is overly burdensome and expensive, thus contributing to rendering the Project uneconomic.

96. The Applicant has no objections to Conditions of Approval E(76).

**F. Flood Zone**

97. The Applicant does not object to Conditions of Approval F(77), as it agreed to provide the Base Flood Elevation prior to submitting a Notice of Intent, even though local rules do not require the submittal of such information until the submittal of a building permit application.

98. The Applicant objects to Conditions of Approval F(78) as an imposition upon the Project that are not imposed on unsubsidized housing developments in Wayland, in violation of G. L. c. 40B, § 20. The Applicant will provide information relating to Base Flood Elevation as required by applicable law and regulation.

99. The Applicant objects to Conditions of Approval F(79), as it imposes requirements upon the Project that are not imposed on unsubsidized housing developments, in violation of G. L. c. 40B, § 20.

**G. Stormwater Management**

100. The Applicant objects to Conditions of Approval G(80), to the extent that it requires compliance with all conditions contained in the comprehensive permit decision. The Applicant does not object to providing proof of compliance with the DEP Stormwater Management regulations, which may be done by providing a copy of an Order of Conditions (or Superseding Order of Conditions).

101. The Applicant does not object to Conditions of Approval G(81).

102. The Applicant does not object to Conditions of Approval G(82), so long as compliance with DEP Stormwater Management Standards may be shown via the issuance of an Order of Conditions or Superseding Order of Conditions.

103. The Applicant does not object to Conditions of Approval G(83).

104. The Applicant objects to Conditions of Approval G(84) as it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20.

105. The Applicant does not object to Conditions of Approval G(85).

106. The Applicant objects to Conditions of Approval G(86) subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20, and because it contributes to rendering the Project uneconomic.

**H. General Conditions**

107. The Applicant does not object to Conditions of Approval H(87).

108. The Applicant does not object to Conditions of Approval H(88).

109. The Applicant objects to Conditions of Approval H(89), to the extent that waivers requested by the Applicant have not been granted.

110. The Applicant does not object to Conditions of Approval H(90).

111. The Applicant does not object to Conditions of Approval H(91).

112. The Applicant does not object to Conditions of Approval H(92)..

113. The Applicant objects to Conditions of Approval H(93) it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20, and it contributes to rendering the Project uneconomic.

114. The Applicant objects to Conditions of Approval H(94) it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20, and it contributes to rendering the Project uneconomic.

115. The Applicant does not object to Conditions of Approval H(95).

116. The Applicant does not object to Conditions of Approval H(96).

117. The Applicant does not object to Conditions of Approval H(97).

118. The Applicant does not object to Conditions of Approval H(98).

119. The Applicant does not object to Conditions of Approval H(99).

120. The Applicant objects to Conditions of Approval H(100) it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20, and it contributes to rendering the Project uneconomic.

121. The Applicant does not object to Conditions of Approval H(101).

122. The Applicant does not object to Conditions of Approval H(102).

123. The Applicant does not object to Conditions of Approval H(103).

124. The Applicant does not object to Conditions of Approval H(104).

125. The Applicant objects to Conditions of Approval H(105), to the extent that it seeks to subvert the process for determining that conditions, in the aggregate, render the Project uneconomic. All conditions impacting the economic viability of the Project must be stricken when such Project is determined to be uneconomic.

126. The Applicant objects to Conditions of Approval H(106), and states that the imposition of such condition renders the Project uneconomic.

127. The Applicant objects to Conditions of Approval H(107), as it subjects the Applicant to unequal treatment in violation of G. L. c. 40B, § 20.

128. The Applicant objects to Conditions of Approval H(108), as it subjects the Applicant to unequal treatment in violation of G. L. c. 40B, § 20.

129. The Applicant does not object to Conditions of Approval H(109).

**I. Waivers**

130. The Applicant objects to Conditions of Approval I(110), as the denial of waiver requests render the Project uneconomic.

131. The Applicant objects to Conditions of Approval I(111), to the extent that it is interpreted to eliminate waivers that have been granted, if such waivers are in conflict with conditions in the decision.

132. The Applicant objects to Conditions of Approval H(112) it subjects the Project to unequal treatment in violation of G. L. c. 40B, § 20, and it contributes to rendering the Project uneconomic.

133. The Applicant objects to Conditions of Approval I(113), to the extent that the Board has denied specific waiver requests may by the Applicant. The Applicant states that the failure to grant such waiver requests renders the Project uneconomic.

**IV. RELIEF SOUGHT**

134. The Applicant prays that the Housing Appeals Committee, after hearing, overturn the decision of the Board granting the Comprehensive Permit, with conditions, as not consistent with local needs, and ordering the issuance of a decision approving the Comprehensive Permit as requested by the Applicant, without the conditions listed above that are illegal, improper, or which render the Project uneconomic.

**VIII. NAME AND ADDRESS OF APPLICANT**

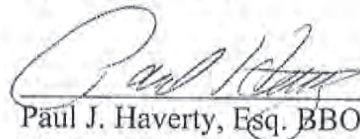
135. Eden Management, Inc.  
C/o Steven Zieff



80 Hope Avenue, Suite 512  
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Respectfully submitted  
Eden Management, Inc.  
By its attorneys,

Date: February 1, 2019



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