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FROM: George Preble, P.E., Beals and Thomas, Inc.
David Johnson, AICP, Beals and Thomas, Inc.

DATE: February 3, 2009

REFERENCE: Revised List of Waivers
Shovel Shop Square
Easton, Massachusetts
BTI Project No. 2006.02

PURPOSE: This memorandum is intended to summarize a list of exceptions and/or waivers from the local bylaws, regulations, permits and fees for the proposed Shovel Shop Square development, as a component of a Comprehensive Permit Application. This list is based on the current site plan with a revision date of January 30, 2009 attached hereto, the current building schedule of 165 dwelling units and the Memorandum from MDM Transportation Consultants, Inc. dated November 24, 2008; and supersedes the previous List of Waivers prepared by Beals and Thomas, dated May 15, 2008.

COMPREHENSIVE PERMIT WAIVER REQUEST

Presented herein is a list of the requested exceptions or waivers from local bylaws, regulations, permits and fees that the Applicant has identified as applicable to the proposed Shovel Shop Square Development at the time of the filing of the Comprehensive Permit. However, the Applicant reserves the right to amend this request to reflect any exceptions and/or waivers that may be identified or as a result of revisions to the plan as the review and permitting process advances.

REQUESTED WAIVERS FROM THE ZONING BYLAW

SECTION II. DEFINITIONS

1. A waiver of the area requirements (200 sf/space required) contained in the zoning definition of "Parking Space" is requested. The typical 9' x 18' space proposed represents 162 sf per space provided. Many communities across the Commonwealth have adopted the 9' x 18' stall size as an appropriate requirement for a parking space. This parking space is generally recognized as an acceptable design standard that is both safe and accessible. As a point of context, the "Final Draft Smart Growth Overlay District (SGOD) Design Standards"

associated with Queset Commons, dated March 24, 2008, promulgate parking stalls of 9' x 18' and compact car parking spaces may be 8.5' x 16'.

SECTION V. USE REGULATIONS

2. Sections 5.3.A.: Apartments, multiple or attached dwellings are not a permitted use within the Industrial District. A waiver is requested to allow the development of multifamily residential units within an Industrial Zoning District. The subject property is zoned Industrial reflecting its historic use as a manufacturing site. However, by current planning policy the site may be more appropriately used as a location for "smart growth" development. The site exhibits the following principles for sustainable development contained in current state policy.
 - Concentrate Development and Mix Uses – Support the revitalization of city and town centers and neighborhoods by promoting development that is compact, conserves land, protects historic resources, and integrate uses. Encourage remediation and reuse of existing sites, structures, and infrastructure rather than new construction in undeveloped areas. Create pedestrian friendly districts and neighborhoods that mix commercial, civic, cultural, educational, and recreational activities with open spaces and homes.
 - Use Natural Resources Wisely – Construct and promote developments, buildings, and infrastructure that conserve natural resources by reducing waste and pollution through efficient use of land, energy, water and materials.
 - Expand Housing Opportunities – Support the construction and rehabilitation of homes to meet the needs of people of all abilities, income levels, and household types. Build homes near jobs, transit, and where services are available. Foster the development of housing, particularly multifamily and smaller single-family homes, in a way that is compatible with a community's character and vision and with providing new housing choices for people of all means.
3. Section 5-4 C. 4.: Packaged sewage treatment plants are prohibited within the Aquifer Protection District.

The sewage treatment plant requires a Groundwater Discharge Permit to be issued by the Massachusetts Department of Environmental Protection. The data and analysis required in order to perform a hydrogeological study for this permit will insure the protection of The Town of Easton's groundwater resources. Therefore, a waiver of this regulation is requested.

4. Section 5-4 D.: Residential dwellings shall be permitted only a density not greater than that allowed in Section 6-3.

The use of a sewage treatment plant mitigates the residential density issue within the Aquifer Protection District as the effluent from the system is treated to enhanced reclaimed water standards. Furthermore, Aquifer Protection District issues notwithstanding, the location is appropriate for the density proposed. Therefore, a waiver of this regulation is requested.

5. Section 5-4 G. 4.: Aquifer Protection District-Drainage. All runoff from impervious surfaces shall be recharged on the site, diverted towards areas covered with vegetation for surface infiltration to the extent possible.

A waiver of this section is requested to allow the collection, treatment and discharge of the runoff into an existing drainage outfall. The design will improve the existing conditions and will address DEP Stormwater Management Regulations to the maximum extent practicable as part of the re-development of this existing developed site.

SECTION VI. DIMENSIONAL AND DENSITY REGULATIONS

6. Section 6-1: No building or structure shall be built or shall any existing building or structure be enlarged except in conformance with the regulations of the Easton Zoning By-law as to lot coverage, lot area per dwelling unit, lot width, front, side and rear yards, and maximum height of structures...

A waiver is requested to allow the reuse and improvement of a previously developed site as proposed. While specific existing buildings on the site will be rehabilitated, the proposed project will also demolish and reconstruct buildings. Existing setbacks, although not in compliance with current requirements, will be maintained. The demolition of all of the buildings in order to comply with the current zoning setbacks would significantly alter the character of the property.

7. Section 6-2: If more than one building may lawfully be placed on any lot in single or common ownership, the distance between the nearest parts of such buildings shall be not less than 40 feet.

The existing buildings are not proposed to be appreciably enlarged. One (1) building is proposed to be demolished and reconstructed and requires a waiver to allow a separation distance of 30 feet.

8. Section 6-3: The Dimensional and Density Table requires the maximum lot coverage by structures to be not greater than 25%.

A waiver is requested to allow a lot coverage by structure on Lot 2 to be 27.3 % and represents substantial compliance with the requirement as well as a reduction of coverage from the existing conditions.

SECTION VII. SPECIAL PROVISIONS

9. Section 7-2: Apartments, multiple or attached dwellings.

The following waivers from Section 7-2, if determined to be applicable are requested:

- B) The maximum number of bedrooms per lot and the maximum number of bedrooms per building (10).

A waiver is requested to allow the following bedroom and unit per building count as proposed:

Building "A"	77 Units	24 – 1 Bedroom
		53 – 2 Bedroom
Building "B"	36 Units	9 – 1 Bedroom
		27 – 2 Bedroom
Building "C"	47 Units	18 – 1 Bedroom
		29 – 2 Bedroom
Building "D"	4 Units	4 – 2 Bedroom
Relocated House	1 Unit	1 – 2 Bedroom
TOTAL:	165 Units	51 – 1 Bedroom
		114 – 2 Bedroom

- C) Each dwelling unit shall have two separate exits.

A waiver is requested to allow the construction of apartment style units with one exit per unit in accordance with the requirements of the Massachusetts State Building Code.

- F) Two automobile spaces shall be provided for each dwelling unit and shall not be within 15 feet of any lot line.

A waiver of the 15' setback is requested to allow for a shared parking that is constructed over the lot lines and/or for existing parking areas. See Item 11 for a more detailed discussion of the waiver requested for parking spaces.

Memorandum

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G) A 20' wide screening and buffering strip along the side lot lines is required.

A waiver is requested to allow the buffering and screening as shown on the preliminary plans submitted or as may be further negotiated with the Zoning Board of Appeals.

10. Section 7-10: Site Plan approval by the Planning and Zoning Board including any and all requirements of the Planning and Zoning Board Site Plan Guidelines.

A waiver of this Section is requested as it is inconsistent with the Chapter 40B whereas the Zoning Board of Appeals is the review and permit granting authority for the development with the exception of the Board of Health and Conservation Commission.

SECTION VIII. OFF-STREET PARKING AND LOADING REGULATIONS

11. Section 8-6 2.: A waiver of the number of parking space required for the project (563 spaces) is requested in order to allow the 410 spaces proposed.

The overall proposed development includes a mixed use residential and office layout that includes demolition, rehabilitation and reuse, as well as new construction. The apartment complex 40B component consists of two (2)-bedroom units and one (1)-bedroom units. The proposed office development, while part of the overall project, is not part of the Comprehensive Permit application. However, the use of 84 spaces of shared parking on the adjacent commercial property is available to provide off-use parking for the residential units. Also, an additional 38 spaces under lease at an adjacent property are available to meet the parking required for the project.

The attached Memorandum prepared by MDM Transportation Consultants, Inc. evaluates the peak parking requirements for the proposed project as a whole. The conclusion of this study finds that *"the proposed onsite parking supply of 371 spaces (Note: the current plans show 372 onsite spaces) exceeds the peak parking demands generated by proposed uses based on well established shared parking characteristics and smart growth parking rates that are recognized under Easton's Zoning Bylaw. The additional 38 leased parking spaces, which have served commercial uses within the site since 1978, will also provide surplus capacity that will further support the site, resulting in a net reserve capacity of between 62 and 76 spaces at the site during peak weekday daytime parking periods"*. NOTE: The MDM study was based on 182 proposed dwelling units. The current building schedule has been reduced to 165 units and therefore additional surplus parking capacity will be provided. Based on this information, it is the Applicant's opinion that there is adequate parking available to service the development and justify the waiver requested.

12. Section 8-9, 11 requires all open air parking in the Industrial District to be at least 10 feet from any sidewalk or street line:

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The proposed setback from the sidewalk or street line is a minimum of 7 feet and is in substantial compliance with the standard. A waiver to allow this is requested.

SECTION XI. ENVIRONMENTAL PERFORMANCE STANDARDS

13. Section 11-2, Preparation of an Erosion and Sedimentation Plan approved by the Planning and Zoning Board.

A waiver of this Section is requested as it is inconsistent with the Chapter 40 B whereas the Zoning Board of Appeals is the review and permit granting authority for the development with the exception of only the Board of Health and Conservation Commission. An Erosion and Sedimentation Plan will be submitted to the Conservation Commission as part of the filing of a Notice of Intent for the construction of the project. In addition, a NPDES permit from EPA that includes an Erosion and Sedimentation Plan containing substantially the same information as required will be obtained prior to the construction of the proposed development.

REQUESTED WAIVERS FROM THE GENERAL BYLAWS

A waiver of the following local bylaws and regulations is requested and consistent with the requirements of Chapter 40B.

14. Wetlands Protection Bylaw-Chapter 227 and Wetlands Protection Regulations – Chapter 503. It is not practicable to undertake the proposed redevelopment with strict compliance to the local wetlands Bylaw and Regulations. Furthermore, given the existing and proposed conditions at the site, compliance with the Bylaw and Regulations is not necessary to protect the health or safety of the project occupants or residents of the town of Easton, nor is it necessary to protect the natural environment. Finally, the project will be required to be reviewed by the local Conservation Commission under the requirements of the Massachusetts Wetland Protection Act.

For further information on this waiver see the “Request for Waiver Easton Wetlands Protection Bylaw & Regulations”, prepared by Beals and Thomas, Inc., dated December 16, 2008 previously submitted to the Board of Appeals.

15. Demolition Review Bylaw. A waiver of this bylaw is requested since adequate advance notice has been provided to the Town of Easton as well as the general public at large of the Applicants intent to demolish certain buildings within the project as part of the Comprehensive Permit process. The review and delay of the proposed demolition of the buildings under the local bylaw would not serve to identify any additional issues that have

not been previously identified through the local permitting and public hearing process as well as the initial MEPA filing. Additionally, a new ENF will be required to be filed with MEPA and a certificate issued before any demolition or construction can begin. It is anticipated that the historic nature of the buildings will be a focus of their review.

REQUESTED WAIVERS OF PERMIT FEES

A waiver of the following fees as they relate to the permitting and construction of the affordable units within the project is requested and is consistent with the requirements of Chapter 40B. Relief from local permit fees for the affordable units will assist in continuing to make the project financially feasible particularly with consideration of the permitting and review expenses incurred to date.

16. Any and all building permit fees, including electrical, plumbing and gas permit fees.
17. Any and all fees associated with the connection to the public water system.

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