



# South Shore Tri-Town Development Corporation

*Board of Directors*  
Gerard Eramo, Chairman  
Joseph A. Connolly, Vice Chairman  
James W. Lavin, Clerk  
John R. Ward, Director  
Jeffrey D. Wall, Director

*Chief Executive Officer*  
Kevin R. Donovan

*Chief Financial Officer*  
James A. Wilson

## SPECIAL PERMIT GRANTING AUTHORITY

### DECISION ON REVISIONS TO APPLICATION FOR DEVELOPMENT PLAN APPROVAL

APPLICANT: LNR South Shore, LLC, a Delaware limited liability company ("Applicant")

PROPERTY LOCATION: Portion of Phase 1A, Southfield, comprising land in Weymouth, Massachusetts shown as Lot R6, Lot R7 and Lot R8 (collectively, the "Premises") on the Definitive Subdivision Plan entitled "Southfield-Phase 1A," dated April 6, 2007, by Kimley-Horn and Associates, Inc.; LNR South Shore, LLC, applicant, recorded with the Norfolk County Registry of Deeds (the "Registry") in Plan Book 569, Page 1, as amended by (i) revisions to the definitive subdivision plan entitled "SouthField-Phase 1A" dated June 27, 2008, by Kimley-Horn and Associates, Inc.; LNR South Shore, LLC, applicant, recorded with the Registry in Plan Book 589, Page 1, (ii) revisions to the definitive subdivision plan entitled "SouthField-Phase 1A", dated September 3, 2010 by Kimley-Horn and Associates, Inc.; LNR South Shore, LLC, applicant, recorded with the Registry in Plan Book 603, Page 17, (iii) revisions to the definitive subdivision plan entitled "SouthField-Phase 1A", dated November 24, 2010 by Kimley-Horn and Associates, Inc.; LNR South Shore, LLC, applicant, recorded with the Registry in Plan Book 606, Page 1, (iv) revisions to the definitive subdivision plan entitled "SouthField-Phase 1A", dated May 25, 2011 by Kimley-Horn and Associates, Inc.; LNR South Shore, LLC, applicant, recorded with the Registry in Plan Book 608, Page 65, and (v) revisions to the definitive subdivision plan entitled "SouthField-Phase 1A", dated January 26, 2012 by Kimley-Horn and Associates, Inc.; LNR South Shore, LLC, applicant, recorded with the Registry in Plan Book 612, Page 77 (as amended, the "Subdivision Plan"). The Premises are also shown as Tax Parcel 90-597-41 (Lot R6), Tax Parcel 90-597-42 (Lot R7) and Tax Parcel 90-597-43 (Lot R8) on the South Shore Tri-Town Development Corporation's Tax Maps.

Reference is made to a Decision on Application for Development Plan Approval issued by the South Shore Tri-Town Development Corporation (the "Corporation"), dated August 23, 2007, recorded with the Registry in Book 25184, Page 27, as amended by (i) Decision on Revisions to Application for Development Plan Approval issued by the Corporation, dated August 25, 2008, recorded with the Registry in Book 26182, Page 315, (ii) Decision on Revisions to Application for Development Plan Approval issued by the Corporation, dated August 9, 2010, recorded with the Registry in Book 28000, Page 301, (iii) Decision on Revisions to Application for Development Plan Approval issued by the Corporation, dated September 17, 2010, recorded with the Registry in Book 28172, Page 126, and (iv) Decision on Revisions to Application for Development Plan Approval issued by the Corporation, dated November 2, 2011, recorded with the Registry in Book 29396, Page 417 (as amended, the "Existing Phase 1A").

Development Plan Approval”), and the Amended and Restated Memorandum of Understanding dated October 12, 2010, recorded with the Registry in Book 28172, Page 142 (as affected by all Releases recorded with the Registry, the “Amended Memorandum of Understanding”). The Existing Phase 1A Development Plan Approval also included Lots R1, R2A, R2B, R2C, R2D, R2E, R3A, R3B, R3C, R3D, R3E, R5A, R5B, R9, R10, R11, R12, C1 and C2 on the Subdivision Plan.

By application (“Application”) dated January 12, 2012, filed with the filing clerk of the Corporation, the Applicant petitioned the Corporation, as the Special Permit Granting Authority (as defined in the Zoning and Land Use By-Laws for NAS South Weymouth (the “By-Laws”)), for (i) approval of revisions to the Existing Phase 1A Development Plan Approval, pursuant to Article 5 of the Administrative Rules and Regulations for NAS South Weymouth (the “Administrative Regulations”) and Article 13 of the By-Laws, and (ii) a finding pursuant to Section 5.5(D) of the By-Laws that the proposed use of a lot having an area between 1,500 and 2,500 square feet for a single detached residential unit is sufficiently similar to the Townhouse-2 Building Form that is expressly permitted by the By-Laws and that such use should be regulated in accordance with the requirements applicable to the Townhouse-2 Building Form.

#### REQUEST FOR REHEARING

The Corporation previously considered the Application at a public hearing on March 12, 2012. At the public hearing, the Application failed to receive the necessary four affirmative votes, and the Application was denied without prejudice. On March 16, 2012, the Applicant filed a request for a rehearing (the “Request for Rehearing”).

Pursuant to MGL Ch. 40A, § 16, the Corporation may not rehear an application within two years of an unfavorable decision on the application unless at least four of the five Board members of the Corporation (i) consent to the resubmission of the Application and (ii) find that there are specific and material changes in the conditions on which the Corporation’s prior action was based.

Notification and public advertisement of the Request for Rehearing was conducted according to the provisions of MGL, Ch. 40A, § 11. In addition, notification and public advertisement was conducted according to the provisions of MGL, Ch. 40A, § 11 for a rehearing of the Application (the “Rehearing”) in the event the Corporation favorably ruled on the Request for Rehearing.

The Request for Rehearing was held at the Corporation’s offices on April 2, 2012 at 9:25 a.m. Corporation Board Members Gerard Eramo, Joseph Connolly, James W. Lavin Jeffrey D. Wall and John R. Ward were present at the Request for Rehearing. Also present at the Request for Rehearing were Kevin R. Donovan, Chief Executive Office of the Corporation, the Corporation’s Project Manager, James Young, and the Corporation’s legal counsel, Beth H. Mitchell, Esq. of Nutter, McClennen & Fish, LLP. Paul Hickey of LNR South Shore, LLC and Ed Hershfield of Brown Rudnick, LLP appeared on behalf of the Applicant.

At the Request for Rehearing, the Corporation was informed that the Corporation could approve the Application with appropriate conditions to address the Corporation's concerns regarding the phasing of commercial and residential development and the Corporation's concerns regarding whether the Applicant had taken sufficient steps towards obtaining the necessary approvals to discharge wastewater from the proposed uses and development. In addition, the Applicant has prepared an application to MassDEP for a sewer extension permit for 187,000 gallons per day of wastewater flow, which flow is intended to be sufficient for all development contemplated within Phase 1 of the Reuse Plan, including the proposed uses and development. The application is currently being reviewed by the Town of Weymouth and will be submitted to MassDEP once the Town of Weymouth executes the application.

As documented in the Corporation's meeting minutes for April 2, 2012, no public comments were received.

The Request for Rehearing was closed on April 2, 2012.

#### DECISION ON REQUEST FOR REHEARING

At a public meeting on April 2, 2012, the Corporation (i) voted to consent to the resubmission of the Application, (ii) found that the Corporation acted upon misinformation in denying the prior Application as the Corporation did not understand that a decision on the Application could be appropriately conditioned to address the Corporation's concerns regarding the phasing of commercial and residential development and the Corporation's concerns regarding whether the Applicant had taken sufficient steps towards obtaining the necessary approvals to discharge wastewater from the proposed uses and development, (iii) found that the Applicant has taken steps to secure the approvals necessary to discharge wastewater from the proposed uses and development and (iv) found that such misinformation and additional information were specific and material changes to the conditions surrounding the Application.

The vote of each member was as follows:

<u>Member</u>	<u>Vote</u>
Gerard Eramo	Approve
Joseph Connolly	Deny
James W. Lavin	Approve
Jeffrey D. Wall	Approve
John R. Ward	Approve

#### REHEARING

The Corporation then opened the Rehearing, which was held at the Corporation's offices on April 2, 2012 at 9:35 a.m. Corporation Board Members Gerard Eramo, Joseph Connolly, James W. Lavin Jeffrey D. Wall and John R. Ward were present at the Rehearing. Also present at the Rehearing were Kevin R. Donovan, Chief Executive Office of the Corporation, the Corporation's Project Manager, James Young, and the Corporation's legal counsel, Beth H.

Mitchell, Esq. of Nutter, McClennen & Fish, LLP. Paul Hickey and Kevin Chase of LNR South Shore, LLC, and Brian Brewer of Kimley-Horn and Associates, Inc. appeared on behalf of the Applicant.

At the Rehearing, the Applicant described the revisions to the Existing Phase 1A Development Plan Approval and the requested finding proposed in the Application.

The Application proposes the following proposed uses and development on the Premises:

<u>Use</u>	<u>Development Program</u>
Townhouse-1	24 Units
Townhouse-2	31 Units

The filing clerk of the Corporation received the requisite number of copies of the Application, including all required submissions, and forwarded the Application package to the Corporation.

The Applicant did not request the issuance of any Special Permit under Article 11 of the By-Laws nor did the Applicant request Site Plan approval under Article 12 of the By-Laws. As noted above, the Applicant requested a finding pursuant to Section 5.5(D) of the By-Laws.

The Application only relates to the Premises, and the revisions to the Existing Phase 1A Development Plan Approval for the Premises, and the requested finding pursuant to Section 5.5(D) of the By-Laws. The Premises are located entirely within the Central Redevelopment Area (as defined in the By-Laws).

The Application included all of the “Basic Information” as defined and specified in Section 5.3 of the Administrative Regulations.

As documented in the Corporation’s meeting minutes for April 2, 2012, public comments were received from Martin Pillsbury of the Advisory Board, Robert Rizzi, President of the Quincy and South Shore Building Trades Council, Ron Pompeo of Rudy V. Pompeo, Inc., and Dominic Galluzzo of Weymouth.

The Rehearing was closed on April 2, 2012.

STANDARD OF REVIEW

In reviewing the Application, the Corporation applied the standards and criteria set forth in Section 13.5 of the By-Laws and Section 5.6 of the Administrative Regulations.

## FINDINGS

The Corporation hereby makes the following findings and determinations with respect to the Application, as required by Section 13.6 of the By-Laws and Section 5.7 of the Administrative Regulations:

- A. Application and Information Supplied is Complete. The Application is complete and contains all information required and necessary to make the findings and determinations set forth below.
- B. Consistency with Reuse Plan. Provided the requirements of the Reuse Plan with respect to commercial development are satisfied as a condition to additional residential development, the proposed uses and development program for the Premises are in general conformity to the Reuse Plan (as defined in the By-Laws) containing a mix of uses consistent with “smart growth” principles and are consistent with the goals and objectives of the Reuse Plan, taking into account all other development within NAS South Weymouth for which building permits and special permits have been issued. This is a revision to the Existing Phase 1A Development Plan Approval, which was the first and only development plan submitted for any development within NAS South Weymouth.
- C. Consistency with Purposes.
- The proposed uses and development program are consistent with the general purposes of the By-Laws.
  - The proposed uses and development program are consistent with the applicable purposes and objectives set forth in the various Articles of the By-Laws and the Regulations (as defined in the By-Laws) and as set forth for the zoning districts in which the proposed uses and development program are to be located.
- D. Consistency with Other Developments. This is a revision to the Existing Phase 1A Development Plan Approval, which was the first development plan submitted for any development within NAS South Weymouth. Therefore, with the exception of development under the Existing Phase 1A Development Plan, there is no adjacent development within NAS South Weymouth and no building permits, special permits or development plans have been approved or issued for property that is not part of the Existing Phase 1A Development Plan..
- E. Compliance with Standards for Development Plans.
- The proposed uses and development program comply fully with the standards and criteria set forth in Article 13 of the By-Laws and in the Regulations (as defined in the By-Laws).

- The Corporation has imposed conditions and/or safeguards, enumerated below, to adequately ensure that the proposed uses and development program shall operate or continue to operate in conformity with required standards and criteria.
- F. Consistency with Zoning Standards. The proposed uses and development program comply fully with the By-Laws and the Regulations (as defined in the By-Laws), including all applicable zoning requirements (use, density, locational, dimensional, and design standards) and the specific standards of the zoning districts in which the proposed uses and development program are to be located. The Application included a Request for a Finding related to the Townhouse-2 units. The Corporation hereby issues a Finding that pursuant to Section 5.5(D) of the By-Laws, the use of a lot having an area between 1,500 and 2,500 square feet for an individual detached residential unit should be regulated in accordance with the requirements applicable to townhouses, including without limitation, that the Building Form Townhouse-2 shall be applicable to such use. This Finding only pertains to the future use of the parcels where Townhouse-2 units are proposed within the Application.
- G. Site and Area Compatibility. The proposed uses and development program are designed in a manner that is compatible with the existing natural features of the site and are compatible with the characteristics of the built environment and surrounding natural areas, including adjacent land uses.
- H. Modification of Density of Use. The proposed uses and development program do not have the potential to adversely impact the area surrounding its site due to its size and density. Accordingly, the Corporation is not requiring modification to the size of the proposed uses, structures, buildings or other improvements or the selection of different Building Forms (as defined in the By-Laws).
- I. Orientations of Vehicular/Pedestrian Access Ways and Ground Floor Uses. The Corporation has considered the context of the project site in terms of its locational attributes and the nature of abutting land uses, and established the degree of compatibility of proposed uses with adjacent existing or approved uses. However, in connection with approving the revisions to the Existing Phase 1A Development Plan, the Corporation is not requiring that the proposed vehicular and pedestrian access ways and/or the uses and occupancies of the ground floor of a building be physically situated and oriented to face adjacent streets or pedestrian ways. These issues will be subject to review and approval during Site Plan Review (as defined in the By-Laws).
- J. Signage. The revisions to the Existing Phase 1A Development Plan do not propose any signage. The location of, and controls for, the lighting of free-standing signs and any other allowable sign that would be visible from a

residential use, shall be in accordance with the provisions of the Regulations (as defined in the By-Laws) applicable to signs. All signs shall be subject to review and approval during Site Plan Review (as defined in the By-Laws).

- K. Documentation of Findings. The Corporation finds no need to require alteration or modification of proposed uses, structures, buildings, or other development under the standards and criteria of Article 13 of the By-Laws.
- L. Master Plan Conformity. Provided the requirements of the Master Plan adopted and approved by the Corporation on April 29, 2005, resubmitted to the Corporation with all approved revisions incorporated on December 1, 2005 with respect to commercial development are satisfied as a condition to additional residential development, the proposed use and development are in general conformity to the Master Plan, and are consistent with the goals and objectives of such master plan, taking into account all other development with NAS South Weymouth for which building permits, site plan approvals, special permits or development plans have been approved or issued.
- M. Regulatory Compliance. The proposed use and development are in compliance with all applicable provisions of the Regulations (as defined in the By-Laws) including, without limitation, the Architectural and Urban Design Standards, the Sustainable Design Standards and the Affordable and Workforce Housing Regulations (the "Housing Regulations").
- N. Plan Conformity. The proposed use and development are in substantial conformity with the applicable Street, Infrastructures and Utility, Landscape and Lighting Plans contained in the Subdivision Rules and Regulations of Naval Air Station (NAS) South Weymouth, except as modified or waived in the Subdivision Plan.

#### CONDITIONS

- A. The conditions imposed in the Existing Phase 1A Development Plan Approval are hereby incorporated by reference into this decision, and shall apply to all revisions proposed in the Application.
- B. The issuance of additional permits and approvals for the residential development shown on this plan is conditioned upon satisfaction of the requirements of the Reuse Plan and Master Plan with respect to commercial development.
- C. The Applicant shall obtain any and all necessary approvals, permits and/or licenses from all applicable regulatory agencies related to the proposed development and use of the Premises, including, without limitation, all approvals necessary to discharge wastewater from the proposed uses and development.

DECISION

At a public meeting on April 2, 2012, the Corporation voted to approve the Application, subject to the above conditions. The vote of each member was as follows:

<u>Member</u>	<u>Vote</u>
Gerard Eramo	Approve
Joseph Connolly	Deny
James W. Lavin	Approve
Jeffrey D. Wall	Approve
John R. Ward	Approve

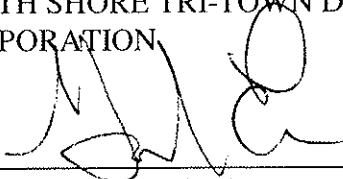
This written decision regarding the Application shall be filed with the official records of the Corporation and in the offices of the Town Clerk of Abington, the Town Clerk of Rockland and the Town Clerk of Weymouth within 14 days after the decision was rendered. Notice of the decision shall be mailed forthwith to the Applicant.

Appeals, if any, shall be made pursuant to Article 15 of the By-Laws that shall be filed within 20 days after the last date of filing of notice of this decision with the Corporation, the Town Clerk of Abington, the Town Clerk of Rockland and the Town Clerk of Weymouth.



IN WITNESS WHEREOF, the undersigned has executed this instrument under seal as of the date set forth below.


SOUTH SHORE TRI-TOWN DEVELOPMENT CORPORATION

By:   
Gerard Eramo, Chairman

By: \_\_\_\_\_  
Joseph Connolly

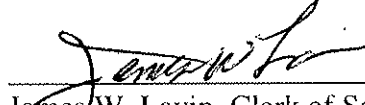
By:   
James W. Lavin

By:   
Jeffrey D. Wall

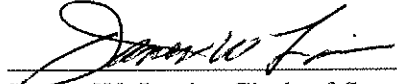
By:   
John R. Ward

Dated: April 3, 2012

I, James W. Lavin, Clerk of South Shore Tri-Town Development Corporation, hereby certify on behalf of South Shore Tri-Town Development Corporation that the foregoing is a true copy of the Decision of South Shore Tri-Town Development Corporation and that certified copies of the Decision have been filed with the official records of South Shore Tri-Town Development Corporation and in the offices of the Abington Town Clerk, the Rockland Town Clerk and the Weymouth Town Clerk.

  
James W. Lavin, Clerk of South Shore Tri-Town  
Development Corporation

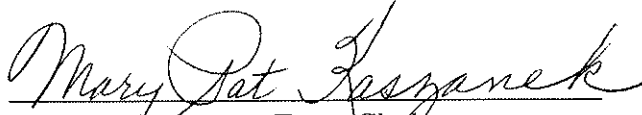
3<sup>rd</sup> Filed with the official records of South Shore Tri-Town Development Corporation on the day of April, 2012.

  
James W. Lavin, Clerk of South  
Shore Tri-Town Development Corporation

Filed with the office of the Abington Town Clerk on the 3<sup>rd</sup> day of April, 2012.

  
Linda C. Adams  
, Town Clerk

Filed with the office of the Rockland Town Clerk on the 3<sup>rd</sup> day of April, 2012.

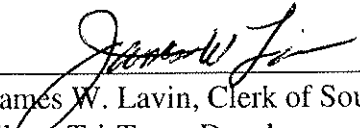
  
Mary Pat Kaszaneck  
, Town Clerk

Filed with the office of the Weymouth Town Clerk on the 3<sup>rd</sup>  
\_ day of April, 2012.

  
Edmund A. DeLee  
, Town Clerk

I, James W. Lavin, Clerk of South Shore Tri-Town Development Corporation, hereby certify that the foregoing is a true copy of the Decision of South Shore Tri-Town Development Corporation dated April 3, 2012 and filed with the official records of South Shore Tri-Town Development Corporation on April 3, 2012, with the Abington Town Clerk on April 3, 2012, with the Rockland Town Clerk April 3, 2012 and the Weymouth Town Clerk on April 3, 2012 and that twenty (20) days have elapsed after the latest date of such filing, without the filing of any appeal on such Decision.

Dated: April 24, 2012

  
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James W. Lavin, Clerk of South  
Shore Tri-Town Development Corporation

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