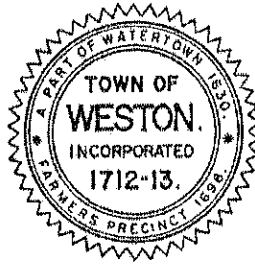


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**TOWN OF WESTON  
MASSACHUSETTS  
BOARD OF APPEALS**

COMPREHENSIVE PERMIT UNDER M.G.L. 40B

APPLICANT: WESTON BPR LLC

LANDOWNER: Stephen G. Carter, as Trustee of Woodleigh Farms Nominee Trust, a Massachusetts nominee trust, and Bradley R. Cook and Douglas P. Gillespie, as Trustees of Steer Pasture Realty Trust, a Massachusetts nominee trust

SUBJECT PROPERTY: 0, 751 and 761 Boston Post Road, Weston, Massachusetts

DISPOSITION: The Application for a Comprehensive Permit for the Project, as amended, is granted conditioned by the findings, conclusions, requirements and statements contained within this Comprehensive Permit read in its entirety.

RECORD OF PROCEEDINGS: There having been presented to the Zoning Board of Appeals ("Board") a request dated May 20, 2019 by the Applicant, WESTON BPR LLC, for a Comprehensive Permit, the Board decided to hold a public hearing on said petition on Monday, June 10, 2019 at 7:30 P.M. and caused the following notice to be published in The Town Crier, a newspaper of general circulation in Weston:

**TOWN OF WESTON  
MASSACHUSETTS  
BOARD OF APPEALS  
Hearing Notice**

Notice is hereby given that the Board of Appeals of the Town of Weston will hold a public hearing on Monday, June 10, 2019 in a Conference Room of the Weston Town Hall on an application by MCRT Investments LLC, an affiliate of Mill Creek Residential c/o Lars Unhjem, 200 Summit Drive, Suite 450, Burlington, MA, 01803 as to 751 and 761 Boston Post Road (Map 25, Lot 24, Map 26 Lot 2, Map 26 Lot 3 and Map 26 Lot 4) requesting a Comprehensive Permit under M.G.L. Ch. 40B for one hundred and eighty (180) rental housing units, forty-five (45) of which will be restricted as affordable under the terms of the Comprehensive Permit Guidelines. The petition and plans on above application with said Board of Appeals are available for public inspection in the

office of the Board of Appeals on Monday through Friday, from 9 A.M. to 4:30 PM and also at <https://www.weston.org/1359/751-761-Boston-Post-Road>

Board of Appeals of the Town of Weston  
By: Winifred I. Li, Chair

The Board also mailed the foregoing notice postage prepaid to the parties in interest deemed by the Assessor's Office to be all of the persons affected by said petition as they appear on the most recent tax list, Board of Appeals Members Li, Sawyer, and Larocque, plus the Planning Boards of Lincoln, Natick, Newton, Waltham, Wayland and Wellesley.

On May 20, 2019, the Board of Appeals issued a letter to the Board of Selectmen, Board of Health, Building Inspector, Conservation Commission, Historical Commission, Housing Partnership, Council on Aging, Planning Board, Public Works Department, Fire and Police Departments, requesting them to consider and comment on the petition and plans.

Pursuant to the foregoing notice, the Board opened a public hearing on Monday, June 10, 2019 at 7:30 P.M. Following the June 10, 2019 hearing, the Board conducted continued public hearing sessions on July 8, 2019, August 12, 2019, September 23, 2019, October 23, 2019, December 10, 2019, January 27, 2020, March 4, 2020, March 12, 2020, April 2, 2020, May 12, 2020, May 27, 2020, June 16, 2020, July 21, 2020, August 11, 2020 and September 16, 2020, each duly noticed. Following the close of the public hearing, the Board conducted deliberations on September 22, 2020, September 28, 2020, September 29, 2020, October 5, 2020, October 6, 2020, October 9, 2020, October 19, 2020, October 21, 2020, October 22, 2020, October 23, 2020, October 26, 2020, October 30, 2020, November 2, 2020, November 9, 2020, November 10, 2020, November 12, 2020, November 13, 2020 and November 23, 2020.

The following members were present for all public hearing sessions:

Winifred I. Li, Chair  
Stephen J. Larocque  
Natalie B. Sawyer, Acting Secretary

## I. BACKGROUND

1. The instant Comprehensive Permit Application (together with the revisions set forth below, the "Application") was filed by WESTON BPR LLC (the "Applicant") on May 20,

2019 and seeks a comprehensive permit to build “a luxury rental apartment home community featuring 180 large-format, one, two and three-bedroom apartments in flat and townhome layouts with covered parking. [C]ommunity amenities will be crafted into and around three existing structures and will include a club room, a premium 24-hour fitness center, multiple work-from-home offices, and a conference room. [The project] will feature an outdoor heated pool, outdoor fireplace, and grills” (the “Project”). Not less than 45 of the 180 units will be restricted as “affordable,” calculated as reserved for households with incomes of less than 80% of the area median income. The remaining 135 units will have no restriction. The Project is proposed to be located at 0, 751 and 761 Boston Post Road in Weston.

2. The Applicant, and its consultants, submitted the following plans and materials to the Board (collectively the “Plan of Record”):

<b>Document Date</b>	<b>Document Name</b>
3/8/2019	Comprehensive Permit ZBA Application for Modera Weston
3/8/2019	Comprehensive Permit Application Existing Conditions
3/8/2019	Comprehensive Permit Application Waiver List
3/8/2019	Comprehensive Permit Town GIS Map
3/8/2019	Comprehensive Permit Drawings
3/8/2019	Comprehensive Permit Architectural Drawings
4/2019	Traffic Impact Assessment by Vanasse & Associates
4/4/2019	Existing Conditions Plan by Feldman Surveyors
5/14/2019	Preliminary Geotechnical/Environmental Study by GZA
5/17/2019	Project Eligibility Letter from MassHousing
5/20/2019	Comprehensive Permit Application Cover Letter
6/10/2019	Revised Building Design Exhibits
6/26/2019	Civil Engineering Drawings - Permit Set
6/26/2019	Grading and Drainage Plans
6/28/2019	Site Landscape Plan
7/1/2019	Modera Weston Response to Planning Board Letter
7/17/2019	Stormwater Report with Attachments
7/25/2019	Landscape Plans
9/12/2019	Peer Review Comment Responses
9/12/2019	Drainage Calculations
10/23/2019	Hydrogeologic Study by GZA
10/30/2019	Revised Stormwater Report
10/31/2019	Civil Engineering Plans

11/15/2019	Landscape Plans
11/19/2019	Memo from Goulston & Storrs - Town Rights Elliston Rd
11/22/2019	Layout and Materials Plan
11/22/2019	Revised Civil Engineering Plans
11/22/2019	Revised Stormwater Report
11/27/2019	Proposed Sampling Plan by GZA
12/3/2019	Modera Weston Update Letter
12/3/2019	Architectural Drawings
12/4/2019	Construction Management Plan
12/8/2019	GZA Response to Arcadis on Sampling Plan
12/9/2019	Modera Weston - Presentation to ZBA
12/10/2019	Modera Weston - Presentation to ZBA
1/14/2020	Lighting & Fixtures Plan
1/22/2020	GZA Soil Sampling Results
1/22/2020	Construction Management Plan
1/23/2020	Stormwater Management System: O&M, Long Term Pollution Prevention Plan
1/23/2020	Revised Civil Engineering Plans
1/27/2020	Modera Weston - Presentation to ZBA
2/2/2020	Invasive Management Plan
2/13/2020	Site Landscape Plan
2/20/2020	GZA Proposed Soil Management and Remediation Plan
3/3/2020	GZA Response to Proposed Conditions for Permitting
3/3/2020	Updated Waivers List
3/5/2020	Updated Site Landscape Plan
3/11/2020	Proposed Trail Grading Plan
3/19/2020	Mill Creek Response March 16, 2020 Letter
4/21/2020	Revised Compensatory Floor Storage Design
5/7/2020	Revised NOI Site Plans
5/29/2020	Response to Transportation Peer Review
6/16/2020	Presentation to ZBA
7/10/2020	List of Changes, Final Plans and Documents
7/30/2020	COVID Preparedness Documents
8/2020	Mill Creek's Comments on Draft Order – Aug 2020

3. Additional documents in the file include:

<b>Document Date</b>	<b>Document Name</b>
6/18/2019	Affordable Housing Trust Letter to ZBA
6/19/2019	Planning Board Comments
6/28/2019	Transportation Peer Review Comments
7/1/2019	Traffic Volume Comparison by Vanasse & Associates
7/6/2019	Historical Commission Comments
8/12/2019	MetroWest Engineering Peer Review
10/15/2019	Cambridge Water Department Comments on the Wetlands Permit
12/2/2019	Historical Commission Comments
12/3/2019	MetroWest Engineering Peer Review
12/3/2019	Response to Transportation Peer Review Comments by Vanasse & Associates
12/9/2019	Arcadis Review of Environmental Site Assessment
1/22/2020	Weston Fire Department Letter to ZBA
1/22/2020	CMR Fire Codes
1/27/2020	MetroWest Engineering Peer Review
1/27/2020	Arcadis Peer Review Soil Sampling
2/12/2020	Conservation Commission Order of Conditions
2/18/2020	Road Safety Audit: Rt 20 at Highland St and Love Ln
2/26/2020	DEP Appeal of Conservation Commission Order of Conditions
3/3/2020	Cambridge Water Dept Comments Re: Soil Remediation
3/3/2020	Cambridge Water Dept Comments Operations & Maintenance Stormwater Plan
3/4/2020	Arcadis Proposed Conditions of Permit
3/9/2020	Revised Arcadis Proposed Conditions for Permitting
3/12/2020	Revised Road Safety Audit: Rt 20 at Highland St and Love Ln
3/12/2020	Agreement for Extension of Public Hearing
3/16/2020	Revised Arcadis Proposed Conditions for Permitting
4/29/2020	Road Safety Audit - Wayland
4/29/2020	Road Safety Audit - Weston
5/8/2020	Transportation Peer Review Comments
5/11/2020	MetroWest Engineering Peer Review Memo
5/28/2020	Transportation Peer Review Comments
8/8/2020	ZBA Draft 40B Order
9/1/2020	Metrowest Engineering's Proposed Site Conditions
9/1/2020	Affordable Housing Trust Memo
9/16/2020	Planning Board Comments to ZBA

4. Correspondence and other communications from residents and other interested parties include:

Document Date	Document Name
6/12/2019	Email from N. Karalis to J. Field
6/24/2019	Email from R. Brody & P. Brody to V. Geary
7/21/2019	Email from M. Shaw to J. Field
8/7/2019	Email from J. Hagger to V. Geary
8/7/2019	Email from J. Hagger to V. Geary
8/9/2019	Letter from B. Tymann to ZBA
8/22/2019	Letter from C. Scott to ZBA and Conservation Commission
8/23/2019	Letter from C. Scott to ZBA
8/24/2019	Letter from C. Scott to ZBA
12/6/2019	Letter from C. Scott to ZBA and Conservation Commission
12/9/2019	Letter from M. Duffy to ZBA
2/26/2020	Letter from C. Scott to ZBA
3/4/2020	Email from L. Steel to J. Field
3/10/2020	Letter from C. Scott to ZBA
6/10/2020	Letter from M. Duffy to ZBA
6/15/2020	Email from K. McGovern to W. Li
6/24/2020	Letter from F. Caine et al to ZBA
7/14/2020	Letter from K. McGovern et al to ZBA
7/21/2020	Email from M. Sikes to V. Geary
8/10/2020	Email from D. Chaplin to J. Field and V. Geary
8/11/2020	Letter from K. McGovern et al to ZBA
8/16/2020	Letter from M. Halloran to ZBA
8/17/2020	Letter from C. Scott to ZBA
8/19/2020	Email from F. Flynn to V. Geary
9/11/2020	Letter from M. Duffy to ZBA
9/12/2020	Email from D. Chaplin to V. Geary
9/16/2020	Email from M.J. Sarocco and P. Sarocco to V. Geary

## II. PUBLIC HEARING AND COMMENT

5. The Board held 16 public hearing sessions, duly advertised, on the following dates: June 10, 2019, July 8, 2019, August 12, 2019, September 23, 2019, October 23, 2019, December

10, 2019, January 27, 2020, March 4, 2020, March 12, 2020, April 2, 2020, May 12, 2020, May 27, 2020, June 16, 2020, July 21, 2020, August 11, 2020 and September 16, 2020 (collectively, the “Public Hearing”).<sup>1</sup>

6. On September 16, 2020, the Public Hearing was timely closed. Following the close of the Public Hearing, the Board conducted deliberations on September 22, 2020, September 28, 2020, September 29, 2020, October 5, 2020, October 6, 2020, October 9, 2020, October 19, 2020, October 21, 2020, October 22, 2020, October 23, 2020, October 26, 2020, October 30, 2020, November 2, 2020, November 9, 2020, November 10, 2020, November 12, 2020, November 13, 2020 and November 23, 2020.

*(a) Comments and Input of Local Boards and Committees*

7. The Board solicited advice and input from local boards and committees of the Town of Weston (“Town”). In response to that solicitation, the Applicant met separately with several local boards and committees and made representations in support of the Application to those boards. As described in further detail below, representatives of local boards and committees appeared at the Public Hearing and provided comment. In addition, local boards, committees and a Town working group submitted written comments, which are referenced above. As a result of this input, the Applicant revised the Application in accordance with many of the comments.

*(b) Comments and Input of Peer Reviewers*

8. The Board sought and obtained the assistance of the peer reviewers. Consultants of the Applicant met separately with the peer reviewers and made representations in support of the Application to those peer reviewers. As described in further detail below, the peer reviewers appeared at the Public Hearing and provided comment. In addition, the peer reviewers have submitted written comments, which are referenced above. As a result of this input, the Applicant revised the Application in accordance with the comments of the peer reviewers.

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<sup>1</sup> The Applicant granted waivers of the time to close the Public Hearing, through and including April 7, 2020. Thereafter, the time to close the Public Hearing and deliberate was further extended by emergency legislative action.

*(c) Comments and Input of Residents*

9. The Board sought and obtained the input of members of the public. Each session of the Public Hearing was well-attended by members of the public, including abutters, other members of the neighborhood, and interested Town residents. Attendees provided robust public comment and raised meritorious concerns about the health and safety impacts of the Application. In addition, the Board encouraged and accepted written comments from members of the public. As a result of this input, the Applicant revised the Application in accordance with certain comments and safety concerns of residents.

III. STANDARD OF REVIEW

10. The Massachusetts Comprehensive Permit Law (“40B”), M.G.L. c. 40B, §§ 20-23, requires a local Zoning Board of Appeals to grant a “comprehensive” single permit to an eligible developer proposing low- or moderate-income housing under certain circumstances. In so doing, 40B permits override of local requirements and regulations that are inconsistent with affordable housing needs if environmental and planning concerns have been addressed. The override of local requirements, however, is not unfettered. The Board is required to make a determination of whether the requested comprehensive permit is “consistent with local needs.” The determination is a balancing test; assessing the regional need for low- and moderate-income housing versus the need to protect the health and safety of the occupants of the proposed housing and the residents of the town.

11. This Board has taken great care to review the Application issue by issue, and at each juncture attempted to formulate solutions that are tailored to permit the Project to proceed but mitigate the impact of the development in the interests of community safety. For each issue, the Board has carefully evaluated the evidence, listened to all perspectives, and given the Applicant an opportunity to respond and propose solutions. As a result, the below findings constitute the Board’s determination, after applying a thorough balancing test, of conditions which are necessary to avoid substantial harm to occupants of the proposed housing and residents of the Town and, therefore, allow for the issuance of a comprehensive permit which is consistent with local needs.



12. A tremendous amount of time and effort has been dedicated by the Applicant, residents, local boards and committees and consultants and peer reviewers throughout this process. These parties have all provided the Board with a very large amount of information, have been thorough in their presentations to the Board, and have worked (both separately and collaboratively) to identify potential solutions to relevant concerns. It is as a result of these efforts that the Board, as intended by the statute, has been able to craft this Comprehensive Permit, which tailors conditions to address meaningful safety concerns while supporting the need for low- and moderate income housing.

#### IV. DECISION

13. Following the close of the Public Hearing, and after due and open deliberation, the Board voted 3-0 to adopt each of the Findings and Conditions set forth herein - with the exception of the Condition set forth in Paragraph 176, which was adopted by a vote of 2-1. The Board voted 3-0 to GRANT the requested Comprehensive Permit as so conditioned. In addition, the Board acts on the requested Waivers, as further set forth below.

##### *a. Findings*

14. Upon review of the Application as revised (including the documents, plans, representations and other evidence), input from local boards and committees, input from Town experts and peer reviewers, input from residents and other interested parties, and other information submitted both in favor of and in opposition to the Project, the Board makes the following findings:

- a. The subject property is located on approximately 61.8 acres, known as Woodleigh Farms ("Subject Property").
- b. The Subject Property is currently owned by Stephen G. Carter, as Trustee of Woodleigh Farms Nominee Trust, a Massachusetts nominee trust, and Bradley R. Cook and Douglas P. Gillespie, as Trustees of Steer Pasture Realty Trust, a Massachusetts nominee trust, and is subject to a purchase and sale agreement with the Applicant.
- c. A Project Eligibility Letter for the proposed project was issued by MassHousing on May 17, 2019.
- d. The Project does not comply with certain zoning bylaw provisions. As provided in Chapter 40B, the Applicant has requested waivers from these provisions.

- e. The Applicant proposes to build 180 units of multi-unit rental housing (including common areas and communal spaces) on an approximately 14 acre portion of the Subject Property ("Site"). The proposed units consist of one-, two, and three-bedroom apartment homes spread among ten townhome buildings and two flat-style apartment buildings over covered parking. A clubhouse with pool and outdoor amenities is located at the rear of the Site. Historic structures (repurposed as leasing/reception offices, work-from-home spaces, and a guest suite) are located near the entrance to the property along Boston Post Road (Route 20).
- f. Given the regional need for affordable housing and limited availability of affordable rental housing for families in Weston, as described in the Town's Housing Production Plan, at least 25% (or 45) of the 180 rental units shall remain permanently affordable and shall be marketed and rented to eligible households whose annual income may not exceed 80% of area median income ("AMI"), adjusted for household size, as published annually by the United States Department of Housing and Urban Development ("HUD"), and, subject to the approval by the Massachusetts Department of Housing and Community Development ("DHCD"), all of the units in the Project, not only the Affordable Units, shall be eligible to be included in the Town's Subsidized Housing Inventory, as maintained by DHCD.
- g. Multiple historic structures are located on the Site, including structures known as the Mark Sibley/Mary Rice House, Mirick/Farnsworth House, Eleanor Raymond House and the Mark Sibley Barn.
- h. The southerly portion of the Site contains open space in the vicinity of the main driveway and residence. The remainder of the Subject Property is primarily forested with considerable areas of wetlands. Wetland resources include Cherry Brook and associated riverfront area, bordering vegetated wetlands and associated 100-foot buffer zone, bordering land subject to flooding, and a vernal pool.
- i. Elevated lead and arsenic concentrations are present on the Site, in soil in an area formerly utilized as an orchard, and elevated lead concentrations in soil adjacent to a barn. The lead and arsenic concentrations in the orchard area have been attributed to the former use of lead arsenate pesticides; the lead concentrations in the barn area have been attributed to the presence of lead-based paint from the barn siding.
- j. The concentration of lead and arsenic are over the Massachusetts Contingency Plan ("MCP") 310 CMR 40:000 clean up standards. However, for releases of contaminants due to former pesticide use or lead paint the MCP provides an exemption to notification to Massachusetts Department of Environmental Protection in Sections 310 CMR 40.0317(8)(c) and 310 CMR 40.0317(8)(a), respectively.

- k. While the contaminants found in the soil are exempt from notification to the Massachusetts Department of Environmental Protection ("MassDEP"), the potential health risks for the associated lead and arsenic from the pesticides and lead paint are no different than if lead and arsenic were from sources that are regulated by the MCP.
- l. In addition to the impacted soil removal, the Project may require the removal of between 160,000 to 96,000 cubic yards of soil to achieve the desired grades for the development. Such a large volume of soil removal in a residential area can present hazards due to traffic, noise and dust.
- m. Residents of Boston Post Road (Route 20) and nearby cross-streets provided first-hand accounts of the residential nature of the surroundings, large population of children and, therefore, the sensitivity and safety risk associated with soil contaminants during construction.
- n. The Site is located on Boston Post Road (Route 20), an east/west arterial owned and maintained by the Massachusetts Department of Transportation and considered a Scenic Road by the Town.
- o. Single-family residences primarily line Boston Post Road (Route 20) to the south of the Subject Property except for Highland Meadows, an age-restricted condominium community with access off Boston Post Road (Route 20). Single-family residences abut the Subject Property to the west near Boston Post Road (Route 20). The northerly portion of the Subject Property includes primarily wooded areas and wetlands. The northerly portion of the Subject Property is adjacent to the Mass Central Rail Trail, a multi-use recreational path located within inactive Boston and Maine Railroad property. The easterly portion of the Subject Property is bounded by Cherry Brook and residential properties.
- p. The Site is located approximately 0.4-mile west of the point at which Boston Post Road and Route 20 both merge and intersect with Highland Street, and 0.3-mile east of the intersection of Boston Post Road (Route 20) and Love Lane. There are no crosswalks or bicycle facilities on Boston Post Road (Route 20), Highland Street or Love Lane.
- q. No public transportation is available within the vicinity of the Site.
- r. Residents of Boston Post Road (Route 20) and nearby cross-streets provided first-hand accounts of vehicle crashes and existing traffic safety issues in the vicinity of the Site.
- s. A Road Safety Audit for the intersections of Route 20 at Highland Street and Boston Post Road and Boston Post Road (Route 20) at Love Lane was conducted by Toole Design, 2 Oliver Street, Suite 305, Boston, MA 02109, for the Massachusetts Department of Transportation, and a final report ("Weston RSA Report") dated April 29, 2020 was submitted to the Board. The Weston RSA Report identified safety issues and suggested potential enhancements that could improve the safety issues

at the intersections of Route 20 at Highland Street and Boston Post Road and Boston Post Road (Route 20) at Love Lane.

- t. A Road Safety Audit for the intersections of Boston Post Road (Route 20) at Old Connecticut Path and Boston Post Road (Route 20) at Plain Road was conducted by Toole Design, 2 Oliver Street, Suite 305, Boston, MA 02109, for the Massachusetts Department of Transportation, and a final report (“Wayland RSA Report”) dated April 29, 2020 was submitted to the Board. The Wayland RSA Report identified safety issues and suggested potential enhancements that could improve the safety issues at the intersections of Boston Post Road (Route 20) at Old Connecticut Path and Boston Post Road (Route 20) at Plain Road.
- u. Findings of Fact were issued by the Weston Conservation Commission (“WCC”) in an Order of Conditions for File Number MADEP 337-1369 on February 7, 2020, and are incorporated in full in this Comprehensive Permit, except as noted herein.
- v. Legitimate local safety concerns with the Project exist. The Conditions set forth in this Comprehensive Permit mitigate the adverse impact of this Project, while representing solutions which will permit the Project to proceed.
- w. In accordance with Board regulations, the Board determined that it required technical advice unavailable from municipal employees. As a result, the Board employed the following outside consultants (each a “Peer Reviewer”) to review the submissions of the Applicant and its consultants:
  - i. MetroWest Engineering, Inc., 75 Franklin Street, Framingham, MA
  - ii. Arcadis Design & Consultancy, 30 Braintree Hill, Suite 105, Braintree, MA
  - iii. MDM Transportation Consultants, Inc., 28 Lord Road, Suite 280, Marlborough, MA
  - iv. KDTurner Landscape Architecture, 27 High Street, Newburyport, MA

The Peer Reviewers provided assistance to the Board in plan review, impact analysis, project feasibility and other technical matters necessary to ensure compliance with relevant laws and regulations prior to action by the Board. The Peer Reviewers also provided advice and recommendations for conditions, which are incorporated below. All Peer Reviewers were selected and retained by the Board, with the actual and reasonable costs for the services paid by the Applicant. In addition, the Board employed Town Counsel, KP Law, P.C., 101 Arch Street,

Boston, Massachusetts, for necessary legal assistance associated with the review of the Application and to ensure compliance with all applicable laws and regulations.

*b. Conditions*

15. In light of the information received, the findings as set forth above, and after due and open deliberation, the Board determined that the following Conditions are appropriate and necessary to avoid substantial harm to occupants of the proposed housing and residents of the Town:

*(1) General Conditions*

16. This Comprehensive Permit is issued for the Project, as amended and revised as referenced herein, and with the conditions as set forth herein (“Conditions”). This Comprehensive Permit shall be recorded at the Middlesex South Registry of Deeds. Proof of recording shall be forwarded to the Board and the Building Inspector prior to issuance of a building permit or the start of construction.

17. This Comprehensive Permit is issued to the Applicant, WESTON BPR LLC, or an affiliate of the Applicant and as otherwise provided by 760 CMR 56.05(12)(b) et.seq. Any subsequent transfer of this Comprehensive Permit to a person or entity other than WESTON BPR LLC shall require notice to the Board and written confirmation from MassHousing, pursuant to 760 CMR 56.05(12)(b), that the transferee meets the project eligibility requirements in 760 CMR 56.04(1) and shall be confirmed to the Board in writing.

18. The provisions and Conditions of this Comprehensive Permit shall be binding upon the Applicant and any and all successor(s) or assign(s) of the Applicant, and the authorizations and obligations hereunder shall run with the land. No changes or modifications may be made to the Plan of Record or the obligations contained with this Comprehensive Permit absent a further determination of the Board. Any instrument for sale or transfer of rights or interests in all or any part of the Subject Property shall include a condition that all successors and assigns are bound by the terms and conditions of this Comprehensive Permit.

19. Revised plans reflecting all of the Conditions of this Comprehensive Permit, and including a summary of all changes, shall be prepared and submitted to the Board within 30 days

of the date this Comprehensive Permit becomes final and all appeals have been exhausted. To the extent the Board determines additional peer review is necessary, the Applicant shall bear the reasonable cost of the reviewer.

20. The Project shall be limited to a maximum of 180 rental units, containing a maximum of 316 bedrooms, as proposed by the Applicant on the amended plans referenced as the Plan of Record. As a Condition of any approval hereunder, at least 25% of the 180 units shall remain affordable ("Affordable Units") and shall be marketed and rented to eligible low and moderate income households whose annual income shall not exceed 80% of Area Median Income ("AMI") adjusted for household size, as published by the United States Department of Housing and Urban Development ("HUD") pursuant to section 3 of 42 U.S.C. 1437 (the Housing Act of 1937), subject to the approval by the Subsidizing Agency. All rental units, not only the Affordable Units, shall be eligible to be included in the Town's Subsidized Housing Inventory ("SHI"), as set forth in Section II.A.2.b(1) of the "Guidelines G.L. c.40B Comprehensive Permit Projects Subsidizing Housing Inventory" MA Department of Housing and Community Development (as in effect as of the date hereof, the "Guidelines") in perpetuity. Any increase in the number of units, number of bedrooms, total number of rooms, or size of any building exterior envelope (as reflected in the Plan of Record, including the approved floorplans) is a violation of the Zoning By-law and this Comprehensive Permit. The Applicant shall not permit any room to be used as a bedroom unless designated in the floorplans contained in the Plan of Record as a bedroom.

21. The Applicant shall notify the Town Manager of Weston when building permits and occupancy permits are issued for the Affordable Units and shall cooperate with the preparation of the "Subsidized Housing Inventory: Request New Units Form" or notice to DHCD of Safe Harbor to add all of the rental units to the Town's SHI as provided for under 760 CMR 56.03(2). The 45 Affordable Units shall remain permanently affordable for so long as the Project would not be in compliance with the Town's Zoning By-law but for this Comprehensive Permit, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under M.G.L. ch. 40B, §§20-23.

22. The Applicant shall not take any action, or fail to take action, such that the Project would be brought out of compliance with M.G.L. c. 40B, this Comprehensive Permit, or applicable DHCD Regulations and Guidelines.

23. The construction or renovation and occupancy of the Project shall be in conformity with the Plan of Record, as modified to be consistent with this Comprehensive Permit, and there shall be no further division or subdivision of the Subject Property (except with respect to the potential transfer to WFTA, as further discussed below), or the creation of additional housing units or any other structures or infrastructure, without further approval of the Board in the form of an amendment to this Comprehensive Permit and pursuant to statutory requirements applicable at the time and in accordance with the terms and conditions of this Comprehensive Permit.

24. Because of the acute need for additional affordable housing in the Town, the Applicant shall work diligently to provide local preference to Town residents and employees of the Town (collectively the "Local Preference Recipients"). To the extent allowed by the Subsidizing Agency and state and federal law, preference for renting up to 50% of the Affordable Units shall be given to Local Preference Recipients, as defined in Section III.D.3. Local Preferences of the "Guidelines". To the extent the Subsidizing Agency requires evidence be provided in support of the Local Preference, it shall be the responsibility of the Town to provide such evidence, but the Applicant shall assist the Town in the gathering of the necessary evidence. The Condition set forth in this Paragraph shall become void if the Subsidizing Agency does not approve this Local Preference requirement prior to such time as the Affordable Units are ready to be marketed, or shall be voidable by the Board if the preference would preclude the Affordable Units from being included on the Town's SHI. The Applicant and such other designee approved by MassHousing shall make a diligent effort to locate eligible persons who meet the necessary qualifications as well as the applicable income requirements. To the extent allowed by the Subsidizing Agency, any additional costs to the Town associated with establishing and monitoring a lottery system for the Affordable Units shall be borne by the Applicant.

25. To the extent allowed by the Subsidizing Agency as provided for under M.G.L. c. 40B, an affordable restriction and regulatory agreement shall be signed with the Subsidizing Agency and shall be recorded at the Middlesex Registry of Deeds. As required by law and the Subsidizing Agency, the Applicant shall be a limited dividend organization and comply with the

limited dividend requirements of M.G.L. c. 40B, §20 and otherwise limit its profits as required under M.G.L. c. 40B (as determined by the Subsidizing Agency) and any excess profits shall forthwith be paid by the Applicant and distributed as required by the Subsidizing Agency and in accordance with applicable law, regulations and/or guidelines. Applicant shall contemporaneously provide the Board with copies of all annual reports required by, and submitted to, the Subsidizing Agency.

26. If and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency, the Applicant shall give written notice to the Town, as set forth in 760 CMR 56.05(13), that the Subsidy, as defined in 760 CMR 56.02, will expire, and prior to the expiration of the Subsidy, the Applicant shall enter into a permanent Regulatory Agreement (the "Town Regulatory Agreement") with the Town and which shall be executed and recorded prior to expiration of any existing Regulatory Agreement, and shall remain effective for so long as the Project exists. The Town Regulatory Agreement shall contain the same terms and conditions as the Regulatory Agreement, except that the Town shall be substituted for the Subsidizing Agency. The Applicant shall enter into the Town Regulatory Agreement to continue the restrictions and obligations contained within the Regulatory Agreement, and the terms of the Town Regulatory Agreement shall be consistent with the terms of this Comprehensive Permit. At a minimum, the Town's Regulatory Agreement shall require: (i) that the Project shall remain 25% affordable in perpetuity; (ii) that 25% of the units in the Project shall be affordable and rented to low and moderate income households as that term is defined in G.L. c. 40B, §§ 20-23 as set forth in Condition #21; and (iii) annual monitoring and reporting to ensure compliance. The Town Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the Town. The Applicant shall provide the Town with a reasonable annual fee to cover the costs of such monitoring and enforcement.

27. The Project shall comply with all applicable rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Environmental Policy Act ("MEPA") to the extent that MEPA review is required, compliance with which shall be a condition precedent to the commencement of work authorized under this Comprehensive Permit, and no grading, land disturbance, issuance of any building permit or



construction of any structure or infrastructure shall commence until any applicable requirements of MEPA have been complied with in full.

28. The Project shall comply with all applicable rules, regulations, filing and permit requirements and certifications required by regulations issued pursuant to the Massachusetts Wetlands Protection Act and the Massachusetts Endangered Species Act, compliance with which shall be a condition precedent to the commencement of work authorized by this Comprehensive Permit - no grading, land disturbance, issuance of any building permit or construction of any structure or infrastructure shall commence until any applicable permits under both Acts have been obtained.

29. The Project shall comply with all applicable rules, regulations, filing and permit requirements and certifications of the Massachusetts Department of Environmental Protection ("MassDEP"), compliance with which shall be a condition precedent to the commencement of work authorized by this Comprehensive Permit - no grading, land disturbance, issuance of any building permit or construction of any structure or infrastructure shall commence until any and all permits required by MassDEP have been obtained.

30. The Applicant shall forthwith, and within 14 days of receipt, copy the Board and the Building Inspector on all testing results, official filings and other permits issued for the Project by any governing entity. Nothing in this Paragraph, or the submissions contemplated herein, may be construed as a waiver, assent or other action on behalf of the Building Inspector, Board or Town.

31. With the exception of the portion of the Subject Property which may be transferred to a division of the Town, as set forth below, nothing herein may be construed as transferring responsibility for the Subject Property to the Town. The internal roadways, utilities, drainage systems, wastewater collection, and all other infrastructure shown in the Plan of Record shall remain private, and the Town shall not have, now or ever, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and trash collection.

32. No grading, land disturbance, or construction shall commence until the Applicant or MassHousing has supplied the Board with a copy of Final Approval from MassHousing. The

responsibilities of this Condition are non-transferable and non-assignable. This Comprehensive Permit shall lapse and become void and shall be considered without force or effect if the Applicant or MassHousing does not timely supply the Board with such written correspondence.

33. Prior to the issuance of any building permit, the Applicant shall certify in writing to the Building Inspector and the Board that it has complied with the below, and has fulfilled all other requirements which, pursuant to this Comprehensive Permit or other applicable laws or regulations, must be met in advance of a building permit:

- a. That it has final written approval from the Subsidizing Agency;
- b. That it has delivered to the Board and the Building Inspector final architectural drawings for all buildings shown on the Plan of Record providing a scaled depiction of the front, rear and side elevations, duly sealed and signed by an architect registered in the Commonwealth of Massachusetts;
- c. That it has delivered to the Board and the Building Inspector full and detailed landscaping plans duly sealed and signed by a landscape architect registered in the Commonwealth of Massachusetts that show suitable and conforming on-site landscaping and screenings, shade trees as well as the type and number, size and location of all proposed landscaping materials;
- d. That it has delivered to the Board and the Building Inspector final and detailed utilities plans and profiles including properly labeled drainage components and all site utilities; electric, gas, water supply wells, water supply lines, wastewater disposal systems, heating, ventilating and air conditioning and appurtenances and dwelling unit connections thereto, and to the detail required to obtain a building permit in accordance with the State Building Code;
- e. That it has delivered to the Board and the Building Inspector final and detailed plans, profiles and calculations prepared and duly sealed and signed by a licensed structural engineer. Final plans and calculations shall be delivered to the Building Inspector for review to determine if they are in conformance with this Comprehensive Permit and after any necessary peer review paid for by Applicant prior to issuance of building permits. Copies of the final approved plans shall be filed with the Board;
- f. That it has delivered, together with its final plans, a summary letter identifying any and all changes or deviations from the plans referenced herein in this Comprehensive Permit. The submission of the summary letter shall not relieve the Applicant of its obligation to seek Board review of changes and/or modification of this Comprehensive Permit,

nor shall it cure the violation of any Condition contained herein or waive any rights of the Board or Town;

- g. That it has delivered to the Board a written submission describing all easements and covenants affecting the use of the Subject Property, if any, and referring to such covenants and locating such easements on a site plan. The Applicant shall submit any written or recorded instruments granting or agreeing to such easements and covenants;
- h. That it has delivered to the Town Fire Department a fire access plan for review and approval by the Fire Department as required under 527 CMR 18. A copy of the fire access plan shall be delivered to the Board;
- i. That it has delivered to the Board and the Building Inspector a final Construction Management Plan;
- j. That it has delivered to the Board and the Building Inspector a construction and permitting schedule and has provided all associated information which may have been reasonably requested by the Town;
- k. That it has delivered to the Board, Building Inspector and the Town's Licensed Site Professional the Remediation and Soil Management Plan and Hazardous Waste Material Survey described below, and has received written approval of same from the Town's Licensed Site Professional;
- l. That it has delivered to the Board, Building Inspector and the Town's Licensed Site Professional, and received written approval of, a Communication Plan which shall include, at a minimum, a meeting schedule and notification procedures to municipal officials including but not limited to Town Police, Fire, Board, WCC, Board of Health and Cambridge Water District, a process for the delivery of meeting minutes following each meeting, and the address for the Project Construction Web Site (as further described below);
- m. That it has delivered to the Board and the Board of Health an Infectious Disease Preparedness Plan;
- n. That it has included this Comprehensive Permit in all construction contracts, subcontracts, and specifications dealing with the work proposed, provided that this Comprehensive Permit shall supersede any conflicting contract requirements, and will ensure that all contractors, subcontractors and other personnel (individually and collectively "Contractor") performing the permitted work are fully aware of this Comprehensive Permit's terms and conditions; and
- o. That it has completed the traffic mitigation Conditions set forth in Paragraphs 174 and 175 below.

34. At least one week prior to starting any work under this Comprehensive Permit, a preconstruction meeting will be held and shall include the Building Inspector, Town Engineer, Department of Public Works representative, Project General Manager, Site Superintendent, Site Work Contractor, the WCC or its representative, the City of Cambridge Water Department, and any consultants to the Board designated to represent the Board. The preconstruction meeting shall include a review of the requirements in order to ensure compliance with this Comprehensive Permit.

35. The Applicant shall develop and maintain a Project Construction Web Site that will provide area residents and the public with important project information, including a weekly schedule of projected site activities, a complaint log, and key personnel contact information.

36. Prior to starting any work under this Comprehensive Permit, the Applicant shall provide to the Building Inspector:

- a. The company affiliation, name, address and business telephone number of the construction superintendent who shall have overall responsibility for construction activities on site, as well as a list of all other key personnel and contacts (including key sub-contractors);
- b. A copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Subject Property have been paid;
- c. Certification from the Applicant that all required federal, state and local licenses and permits have been obtained;
- d. A copy of the final plans and permit from MassDEP for the Wastewater Treatment Plant;
- e. A copy of the final Storm Water Pollution Prevention Plan ("SWPPP") and proof of coverage under the EPA NPDES Program, including appropriate certifications on the SWPPP by the Applicant, the Contractor and key sub-contractors;
- f. Detailed specifications for any permanent electrical generators proposed for the project including location, capacity and sound levels. Sound attenuation shall be provided as necessary so that noise produced by the generator will not exceed the 90 percent ambient, pre-construction sound level by more than 10 decibels;
- g. Final design plans for all retaining walls to the Building Inspector and the WCC. All walls with an exposed height of 4-feet or more shall be designed by a structural engineer;

- h. Certification from the Applicant that the design of the water distribution system has been reviewed and approved by the Weston Water Department;
- i. Proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work; and
- j. Proof that street signage is in place to ensure that emergency personnel can locate the Site to provide emergency services to protect and secure the Site and construction personnel.

In addition, the Applicant shall provide the Building Inspector with at least 48 hours written notice prior to restarting work if activity on the Site ceases for longer than one month.

37. Prior to the occupancy or use of the buildings constituting the Project, the Applicant shall certify in writing to the Building Inspector and the Board that it has complied with the below, and has also fulfilled all other requirements which, pursuant to this Comprehensive Permit or other applicable laws or regulations, must be met in advance of a certificate of occupancy:

- a. That it has delivered to the Board and the Building Inspector "As-Built Plans" showing all pavement, buildings, drainage structures, landscaping, and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. The As-Built Plans shall be duly sealed and signed by a registered land surveyor or civil engineer certifying that the Project as built conforms and complies with the conditions of this Comprehensive Permit;
- b. That it has delivered to the Board and Town Engineer accurate as-built utilities plans and profiles, showing actual in-ground installation of all utilities, copies of which shall be submitted by the Applicant to the Weston Department of Public Works after completion of construction;
- c. That it has delivered the signed Operation and Maintenance Plan to the Building Inspector;
- d. That it has submitted recycling vendor protocols to the Weston Sustainability Committee and provided an opportunity for that committee to review and provide recommendations;
- e. That it has completed and complied with all Conditions set forth below, with the exception of Conditions which have been specifically designated as "post-construction" Conditions;
- f. That it has delivered to the Board and the Town's Licensed Site Professional the Final Report with Risk Assessment, as described below and including a risk assessment posed by residual impacted soil to future residents and has received written approval of same by the Town's Licensed Site Professional;

- g. That it has delivered to the WCC and the Building Inspector the maintenance log of the stormwater management system;
- h. That it has performed, or caused to be performed, each of the traffic mitigation requirements and obligations set forth in Section IV(b)(10) below;
- i. That it has delivered to the Board evidence of the deed restriction and continued access/easement, or transfer to the WFTA, of the Northern 48 Acres, as described below, and that such restriction and continued access/easement, or transfer to the WFTA, has been duly recorded.
- j. If the project is to be delivered in phases, the completion of Affordable Units shall be (at a minimum) proportionate to the phasing, such that approximately 25% of the total completed units shall be affordable at the completion of each phase and prior to the issuance of each certificate of occupancy.

If portions of this Project are built in a phased manner, no occupancy permit shall be issued for any phase or individual building<sup>2</sup> unless the corresponding as-built plans have been submitted to the Building Inspector and all building operation, site utilities, building access and building life safety systems are fully operational and accepted by the Building Inspector and any other regulatory authorities having jurisdiction. This includes, but is not limited to: (i) site related components, such as roadways (including emergency vehicle access in and about the site as well as access points from Elliston Road); (ii) parking (proportionate quantities of parking per the housing units built, including striping); (iii) septic systems (including pumping and other systems infrastructure); (iv) in-building fire suppression (including fire pump systems, emergency generator power systems for same, and assemblies); (v) erosion and sediment control; (vi) site drainage (including finished site grading and installation of all site drainage structures); (vii) accessibility (as defined by state and federal authorities); and (viii) landscaping (including all plantings within the locus of that phase to accomplish the design-intent screening). Likewise, all wetlands protection requirements and guidance provided in this Comprehensive Permit must be completed as prescribed for any such phase or individual building, as verified, in writing, by the WCC and Building Inspector. No occupancy permit shall be issued for the final building containing residential units until and unless all requirements set forth in this Condition have been satisfied.

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<sup>2</sup> For the purpose of this Comprehensive Permit, buildings are defined as residential structures, parking garages, amenity buildings and utility support structures.

38. The Applicant shall allow the Building Inspector, members of the Board, and Town staff (acting in their capacity as a member of the Board or other Town official) to enter and inspect the Project at will during construction upon reasonable notice to the Applicant.

39. This Comprehensive Permit shall lapse if the Applicant does not commence construction within 3 years of the date that this Comprehensive Permit becomes final and all appeals have been exhausted. In the event of extenuating circumstances, or other good cause, the Applicant may request that the Board extend this deadline prior to expiration.

40. This Comprehensive Permit shall lapse if the Applicant does not complete construction within 5 years of the date that this Comprehensive Permit becomes final and all appeals have been exhausted. In the event of extenuating circumstances, or other good cause, the Applicant may request that the Board extend this deadline prior to expiration.

41. This Comprehensive Permit, the Final Order of Conditions (as issued by either the WCC or MassDEP) and a copy of the approved drawings and plans shall be available at the project site at all times for easy reference.

42. Violation of any Condition contained herein may result in Enforcement Action and/or a Stop Work Order.

43. Work shall be halted at the site if the Building Inspector and Zoning Enforcement Officer, an agent of WCC or MassDEP determines that any of the work is not in compliance with this Comprehensive Permit.

*(2) Architectural and Civil Conditions*

44. The Applicant has represented, and the Board has considered as a part of the Application, all architectural and civil changes as set forth in the updated and revised Plan of Record referenced above and including, but not limited to, the Architectural and Civil changes set forth in the Summary of Changes submitted to the Board on July 10, 2020.<sup>3</sup>

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<sup>3</sup> The Summary of Changes is appended as Exhibit A.

45. Applicant shall install NFPA 13, 13 R, 13D fire sprinkler system throughout Buildings A, B and the parking garage, and shall also install additional fire department stand pipe connections in all stairways.

46. The Weston Fire Department will have ladder access on the front of the buildings and at the parking garage entrance/exits.

47. Applicant shall design and install a gated secondary emergency access road off Elliston Road to access the property, and shall give the Town's Fire and Police Departments the ability to open the gate. *See, 527 CMR 1, 18.2.3.3.* The sole purpose of the access road shall be for emergency access.

48. Applicant shall install a secondary 8-inch water main to service the property for fire protection from Elliston Road.

49. All exterior lighting shall be California Title 24 Dark-Sky compliant. No exterior spotlights, floodlights, or up-lights shall be allowed at the perimeter of the property (from outside face of buildings to the property line).

50. In order to promote sustainability by reducing energy consumption and reducing individual tenant electric bills, the Applicant shall:

- a. Use LED Lighting, or more efficient technology, throughout the entire Project;
- b. Use Energy Star, or other similarly recognized and equivalently efficient, rated appliances;
- c. Use occupancy and vacancy sensors for lighting in internal public areas. Minimal lighting required by code for safety and/or egress is allowed to stay on; and
- d. Employ best practices to reduce individual usage, which may include providing individual unit electric meters and billing on individual usage.

51. In order to promote sustainability by reducing water consumption and reducing individual tenant water bills, the Applicant shall:

- a. Install Low Flow fixtures, including low consumption water closets;



- b. Install on-demand water heating for individual unit washing and bathing; and
- c. Employ best practices to reduce individual usage, which may include installing individual unit water sub-meters to individual units and billing on individual usage.

52. The Applicant shall provide and, to the extent of the land owned by the Applicant, maintain the bike and pedestrian connection on the east side of the Subject Property from the Site to the Central Mass Rail Trail to provide access to Site residents. In addition, the Applicant shall perform any and all work necessary to relocate the trail to conform to the Proposed Trail Grading Plan submitted by the Applicant on March 11, 2020.

*(3) Construction Conditions*

53. The Applicant has represented, and the Board has considered as a part of the Application, all construction changes as set forth in the updated and revised Plan of Record referenced above and including, but not limited to, the Construction, Operations and Maintenance changes set forth in the Summary of Changes submitted to the Board on July 10, 2020.

54. The Board expressly conditions the Comprehensive Permit upon compliance with the changes referenced in the foregoing paragraph. The Conditions and obligations set forth in this Section are in addition to, and not in lieu of, the obligations set forth in Sections (5) and (7) below.

55. The hours of operation for any construction activities on-Site shall be consistent with Article III, Section 13 of the Town of Weston General By-laws.

56. The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the construction of the Project. No vehicle associated with the construction of the Project shall park or remain standing or idling on adjacent public roadways. All construction worker parking shall be located on site or at an off-site, remote location. No parking is allowed on Boston Post Road, Elliston Road, Love Lane or on any residential private or public streets.

57. Soil export from the Site and material deliveries to the Site shall be prohibited during the following periods: From 7:00 AM to 9:00 AM on weekdays when public schools are in session and from 8:00 AM to 9:00 AM on weekdays when public schools are not in session.

58. Construction vehicles traveling through the Town to access or egress the Site will be restricted to Boston Post Road (Route 20) via I-95, or Boston Post Road (Route 20) via Routes 30 and 27. No construction vehicles shall travel over Love Lane, Winter Street, Pine Street or Highland Street.

59. Trucks delivering materials to the Site or removing materials from the Site shall be covered or otherwise protected to prevent dust and/or debris from leaving the truck.

60. Police details shall be employed, at the Applicant's cost, as necessary to facilitate the integration of construction vehicles entering and exiting the site with existing traffic on Boston Post Road (Route 20) to ensure that all turning movements are performed safely with a minimal disruption of passenger vehicles on Boston Post Road (Route 20). The Applicant, in consultation with the Building Inspector and the Weston Police Department, shall evaluate the need for police details on a weekly basis based upon anticipated activities at the Site. The Building Inspector shall have the authority to require the use of police details based upon traffic issues that may arise during peak periods of site activity.

61. Trucks exiting the Site shall have their wheels inspected for mud and silt prior to entering Boston Post Road (Route 20). A wheel wash station will be provided in the vicinity of Boston Post Road (Route 20) and truck tires shall be cleaned as needed to prevent the tracking of mud and silt onto Boston Post Road (Route 20).

62. Street sweeping using a vacuum sweeper will be performed along Boston Post Road (Route 20) any time that sediment is tracked off the Site. A street sweeper will be available on a daily basis for street cleaning as needed.

63. Trucks, earth moving equipment and other motorized equipment shall comply with all applicable laws and regulations regarding idling.

64. No materials of any type shall be stored or stockpiled within 50-feet of the boundary of site work, as identified in the Plan of Record.

65. Trees along Site boundaries or on adjacent properties shall be protected from root and/or limb damage and the Applicant shall be responsible for any damage to trees owned by project abutters.

66. Stockpiled earth materials shall be protected against both water and wind erosion. The base of all stockpiles shall be protected with silt fencing, filter socks or other means to prevent the transport of sediment. Stockpiles shall be moistened as necessary to prevent airborne suspension of particulates. Earth material stockpiles that will be stored for 30-days or more shall be stabilized with temporary vegetative covering such as an annual rye grass or other such vegetative cover to prevent soil erosion of the stockpile slope.

67. Installation of all drainage systems will be coordinated with the Building Inspector and any designated consultant representing the Board. The Board consultant shall inspect the bottom of excavation for all infiltration systems prior to installation of any drainage systems components including stone and chambers.

68. In order to reduce construction waste and minimize construction times and the associated impacts to the neighborhood as well as deliver needed housing in the most efficient manner, the Applicant shall construct the mid-rise buildings using panelized construction. The Applicant shall review the construction procedures, including typical panels, delivery and construction phasing, with the Building Inspector prior to commencement of construction.

69. The Applicant shall submit a construction and permitting schedule to the Building Inspector prior to the commencement of construction and shall update the schedule on a quarterly basis as construction proceeds, or more frequently as appropriate or upon request by the Building Inspector. Said schedule will include all requirements set forth in Paragraph 87 below.

70. The Applicant shall be responsible for ensuring that nuisance conditions do not exist in and around the Site during the construction operations. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area and to maintain security at the Site during construction. In particular, the Applicant shall implement measures to ensure that noise from Project construction activities does not exceed acceptable levels, as set forth by Federal and State regulatory agencies. The Applicant shall cease any excessively loud activities when directed by the Building Inspector.

71. The Applicant shall be responsible to ensure that all public ways are maintained and kept free from construction debris. The Applicant and its Contractor, employees and agents shall perform cleanup of all construction debris caused by Site construction activity. The Applicant

shall be responsible for prompt repair of any damage caused to roadways or any public infrastructure.

72. Applicant shall comply with all laws and regulations applicable, or related, to construction activities including, but not limited to, 527 CMR 1, sec. 16 Safeguarding Construction, Alternations and Demolition Operations, and all safety and fire protection requirements contained therein.

*(4) Operations and Post-Construction Conditions*

73. The Conditions and obligations set forth in this Section are in addition to, and not in lieu of, the obligations set forth in Section (5) below. The Stormwater Management System for the Project will be strictly maintained in accordance with the submitted Operation and Maintenance Plan (OMP) as modified herein.

74. The Applicant shall submit a signed copy of the OMP to the Building Inspector.

75. The OMP will be modified to include annual maintenance of the water quality treatment device (WQU-9 on site plan) used to treat stormwater from the catch basin located on Boston Post Road (Route 20) just east of the westerly property boundary of the Project.

76. An annual inspection of the drainage system(s) will be performed by a Massachusetts Registered Professional Engineer with expertise in stormwater management and drainage systems. The results of the annual inspection will be documented in a summary report that documents annual maintenance activities, the results of the inspection and provides for recommendations for any follow up measures. The report shall be provided annually to the Building Inspector and the WCC.

77. The maintenance or repair of all stormwater management structures/components, other than those in the public way shall be the responsibility of the Applicant. The design capacity, storm water management treatment capacity and structural integrity of these facilities must be maintained and inspected as detailed in the OMP. This condition shall remain in perpetuity.

78. Regular maintenance and/or upgrades of the wastewater facility shall be limited to Monday through Friday, 7:00 a.m. to 6:30 p.m. and on Saturdays from 7:00 a.m. to 5:00 p.m. Emergency repairs shall not be limited by this condition.

79. The Applicant shall prepare and submit to the Building Inspector and the Board a site-specific Infectious Disease Preparedness Plan prior to the issuance of a building permit. The Infectious Disease Preparedness Plan shall provide a detailed description of measures which will be implemented by the Applicant in the event of an incident, such as COVID-19, which poses an immediate safety risk to occupants of the housing and/or to the community as a result of "community spread." The Infectious Disease Preparedness Plan shall further identify the experts and resources consulted in preparation of the Plan, and shall comply with all local, state and/or federal law, regulations and/or guidelines regarding infectious disease prevention best practices for multi-unit housing. Prior to submission, the Applicant shall provide the Infectious Disease Preparedness Plan to the Board of Health and provide an opportunity for review and recommendations. The Applicant shall be responsible for ongoing review, updates and implementation of the Infectious Disease Preparedness Plan, and shall provide plan updates to the Building Inspector, Board and Board of Health at least every 5 years or upon any revision or modification of the Infectious Disease Preparedness Plan.

80. A modification of this Comprehensive Permit shall be required to repurpose the use of any space which has been identified in the Plan of Record for a particular use including, but not limited to "work from home office spaces."

*(5) Conservation Conditions*

81. MassDEP has issued a Superseding Order of Conditions ("SOC") which changed some of the proposed work and restoration approved by the Weston Conservation Commission ("WCC") in its Order of Conditions ("OC") issued on February 7, 2020, as follows:

- a. Work involving Bordering Land Subject to Flooding ("BLSF"). *(MODIFIED)* The OC allowed the alteration of 3,813 cubic feet of BLSF. In the SOC proceedings, the Applicant reduced the alteration amount to 3,224.1 cubic feet as described in a memo prepared by LEC entitled "Revised Compensatory Flood Storage Design" and dated April 21, 2020. The compensatory flood storage area ("CFSA") has been relocated to a field located within the northern portion of the site (see sheet C3.03). A section of the field will be lowered in elevation by 0 to 2.9 feet, with an average grade reduction of roughly 0.7 feet, resulting in a relatively subtle change compared to existing conditions.

- b. All work in Bordering Vegetated Wetlands. (*ELIMINATED*) Due to the relocation of the CFSA, there is no longer a requirement for an open channel across the cart path to the D-series wetland, and that component has been eliminated from the Project. Accordingly, the temporary alteration 127 square feet of Bordering Vegetated Wetlands (“BVW”) associated with the open channel creation also is eliminated.
- c. Approved Restoration of historically filled buffer zone area. (*SAME AS ORIGINAL OC*) Despite the reduction in floodplain filling and change in the location of the compensatory flood storage, the Applicant remains committed to removing the historic fill and restoration efforts adjacent to the D-series wetland as approved in the OC. The work involves removing 4,400 square feet of historic fill as shown on Sheet L1.00 and restoring it with appropriate native vegetation as shown on sheet L1.01d.
- d. Approved Work and Restoration of Buffer Zone. (*SAME AS ORIGINAL OC*) The WCC allowed the alteration of 2.8 acres of buffer zone (17% of the buffer zone located on the Subject Property) and required the Applicant to restore the 1,790 square feet of buffer zone down-gradient of the retaining wall (as shown on the approved plan).

Accordingly, the conditions of the OC are restated and adopted as enforceable conditions of this Comprehensive Permit, except as amended herein for consistency between the WCC approved plans and the SOC (“Conservation Conditions”). The work associated with, and necessary for, compliance with the Conservation Conditions shall hereinafter be referred to as the “Conservation Work.”

#### General Conservation Conditions

82. The findings of fact in the OC are incorporated as a special condition and given equal status as a special condition of this Comprehensive Permit except to the extent modified herein.

83. This Comprehensive Permit shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The Applicant shall assure that all contractors, subcontractor and other personnel performing the permitted work are fully aware of the Comprehensive Permit's terms and conditions, but shall remain responsible for ensuring compliance with all Conditions set forth herein.

84. This Comprehensive Permit and a copy of approved drawings and plans shall be available at the project site at all times for easy reference.

85. Work shall be halted on the site if an agent of the WCC or the Building Inspector determines that any of the work is in violation of the Conservation Conditions. The Applicant shall remedy the violation as confirmed by the agent of the WCC and/or Building Inspector, prior to the resumption of work.

86. The WCC shall have the right to require additional conditions if deemed necessary as the work proceeds in order to protect resource areas and interests as defined in M.G.L. c. 131, § 40 and 310 CMR 10.00.

#### Conservation Conditions Prior to Construction

87. The Applicant shall submit a construction schedule/timeline for the Conservation Work which includes, at a minimum, the following anticipated dates:

- a. Erosion control installation and installation of proper construction entrance;
- b. Pre-construction Conservation Work meeting;
- c. Land clearing and site preparation;
- d. Timing of the retaining wall specification submission (to the WCC) and anticipated construction; and
- e. Timing of the Compensatory Flood Storage creation, and restoration of the Buffer zone.

88. Prior to commencement of any Conservation Work, the Applicant shall submit to the Building Inspector and WCC for review and approval, a copy of the Stormwater Pollution Prevention Plan.

89. Prior to commencement of work, the OMP shall be modified to ensure that the swimming pool discharge is directed toward a nearby catch basin which does not discharge to a wetland resource area (i.e. drain man hole #50 which discharges to subsurface infiltration 11A which has no overflow pipe).

90. Prior to commencement of work, the OMP shall be modified to specify how herbicides and pesticides are restricted or minimized, as requested by the Cambridge Water Department in their written comments dated October 15, 2019.

91. An outside consultant will be hired by the WCC to ensure the Project, including the Conservation Work, complies with the Conservation Conditions herein, and the performance standards of the Wetlands Protection Act. The WCC voted to hire Patrick Garner of Patrick C. Garner Company, Inc. Mr. Garner's scope of work and cost of services initially amounts to \$7,000.00 which shall be paid by the Applicant prior to commencement of the Conservation Work. The WCC shall have the right to require additional outside consultant funds from the Applicant during the construction of the Project, and to hire a suitable replacement should Mr. Garner be unavailable at the time needed for engagement. The outside consultant shall be present as deemed necessary by the WCC and for at least one visit during the following specific tasks:

- a. Attend Preconstruction Conservation Work meeting and initial erosion control inspection;
- b. Review final specifications of the retaining wall;
- c. Oversee the first day of construction of the retaining wall;
- d. Conduct occasional site visits during Conservation Work as requested by the WCC;
- e. Oversee the first day of Compensatory Flood Storage creation work;
- f. Conduct a site visit during the restoration plantings of the historically filled buffer zone restoration area and the Buffer Zone restoration associated with the retaining wall work;
- g. Review seasonal monitoring reports prepared by the Applicant's Wetland Scientist;
- h. Conduct a final site visit once work is completed within the Compensatory Flood Storage Area and the Buffer Zone restoration area;
- i. Review information submitted for the Request for Certificate of Compliance to ensure the project as built satisfactorily complies with the conditions of the OC as adopted in this Comprehensive Permit; and
- j. Provide the WCC with site visit monitoring reports and recommendations.

92. The Applicant shall designate an environmental monitor ("Monitor"), acceptable to the WCC, for this Project who will be available on a 7-day a week, 24-hour a day basis to address any emergency situations related to the construction and wetland resources at the Subject



Property. The Monitor shall also perform inspections on a weekly basis and within 24 hours of all storm events with 0.5-inches or more of rainfall in a 24-hour period. The Monitor shall keep a log book, on site, of the site conditions during construction, the condition of erosion control devices, and daily climatic conditions.

93. Prior to any Conservation Work, the Applicant shall submit final details regarding the retaining wall specifications to ensure the excavation needed to construct said wall will not impair the functions and values of the down-gradient wetland.

94. Prior to the installation of erosion and sedimentation controls, (and any other Conservation Work), the Applicant shall install stakes delineating the location of the approved erosion control barrier line within the 100-foot buffer zone. Any previously installed stakes, which do not represent the final plans, shall be removed. The WCC agent and outside consultant shall be contacted to inspect the stakes prior to any actual placement of the erosion control barrier.

95. Prior to the commencement of any earthmoving activity, an erosion barrier shall be properly installed as shown on the Plan of Record. Where siltation fence is used, it shall be placed on the down-gradient side of the other erosion control barriers, installed by the toed-in trench method and firmly entrenched 4 to 6-inches in depth and well supported by stakes. Minimal disturbance of shrubs and herbaceous plants shall be allowed prior to the Pre-Construction Conservation Work Meeting if absolutely necessary in order to place erosion controls where required.

96. No activity, with the exception of installation of erosion controls, shall take place within an area subject to protection under the Wetlands Protection Act until a Pre-Construction Conservation Work Meeting is held.

97. The WCC will be notified one week prior to commencement of any Conservation Work to allow for a Pre-Construction Conservation Work Meeting. The following people shall be present for the Pre-Construction Conservation Work Meeting: the Conservation Agent, the WCC's outside consultant, Cambridge Water Department, the Applicant or their representative, the Applicant's Contractor, the Applicant's Environmental Monitor, and the individual responsible for erosion control monitoring. The purpose of the Pre-Construction Conservation Work Meeting and site visit shall be to review the Conservation Conditions, inspect the erosion controls, discuss

erosion control monitoring, and to collect the names and numbers of individuals responsible for the daily activities and erosion control at the site.

#### Conservation Conditions During Construction

98. Erosion Control and Sedimentation barriers shall serve as the limit of work unless another limit of work line is otherwise approved. Construction equipment is prohibited beyond the installed siltation barrier.

99. All Erosion Control and sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or waterbody. During construction, the Applicant or the Applicant's designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The Applicant shall immediately control any erosion problems that occur at the Subject Property and shall also immediately notify the WCC, which shall have the right to require additional erosion and/or damage prevention controls it may deem necessary.

100. All existing and proposed catch basins and oil traps on the Site or on the streets adjacent to the Project shall be protected by silt sacks to prevent sediment from entering the drainage system. Silt sacks shall be maintained and regularly cleaned of sediments until all areas associated with the work permitted by this Comprehensive Permit have been permanently stabilized and the WCC has formally approved their removal.

101. Work shall not commence in the BLSF approved to be altered until the required CFSA is excavated to the proposed base grade.

102. Planting of the CFSA shall be completed within 12 months of construction commencement and conducted only during the growing season (mid-April through mid-October). The WCC may consider allowing for a planting extension if the planting installation is affected by seasonal constraints. Work associated with creating the hydrological connection for the CFSA shall be done during dry conditions.

103. Planting of the Buffer Zone Restoration Areas shall be completed within 12 months of the completion of the retaining wall (between Buildings A and B as shown on the Plan of

Record) and conducted only during the growing season. The WCC may consider allowing for a planting extension if the planting installation is affected by seasonal constraints.

104. Prior to construction, the Applicant's Contractor shall designate a construction staging area, located outside all resource areas and buffer zones. All construction trailers, portable sanitary facilities, material storage and overnight parking of equipment shall be in the staging area. The perimeter of the staging area shall be protected as necessary with silt fence and the ground surface shall be protected with washed stone or another suitable non-erosive material.

105. An area for cleanup and or maintenance of construction equipment shall be designated prior to construction.

- a. Any runoff resulting from the washing of trucks or construction equipment shall neither be directed to, nor dumped in, any on-site drainage system or in any area subject to protection under the Wetlands Protection Act. Any such washing shall occur in a designated area, protected by washed stone, outside of all resource areas and buffer zones. All construction vehicles exiting the property shall be cleaned of soil prior to traveling on public streets within the Town.
- b. Any leakage or spillage of oil, hydraulic fluid, gasoline, or other pollutants must be cleaned up immediately and disposed of offsite. All fueling of equipment shall be performed outside of wetland resource areas and buffer zones. The WCC shall be notified immediately in the event of any spillage.
- c. Prior to commencing any work on the Site, the Applicant shall install a stone construction entrance (tracking pad) not less than 20' wide and not less than 50' in length of a stone size on average of 1" to 4".
- d. All construction equipment employed in the resource areas or buffer zones thereto shall be properly maintained and precautions shall be taken to prevent any leakage or spillage of oil, gasoline, hydraulic fluids, etc.
- e. No fuel, oil, trash dumpsters or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this Comprehensive Permit.

106. The Applicant shall initiate soil stabilization immediately on portions of the Subject Property, including soil stockpiles, where construction activity has temporarily or permanently ceased and will not resume for 14 days. Temporary stabilization methods may include, but not be limited to, rye grass, hydro-seeding, straw mats, jute netting, sod, or other WCC-approved method.

107. If unforeseen problems occur during construction which may affect the statutory interests of the Wetlands Protection Act or regulations promulgated thereunder, the WCC shall immediately be notified, and an immediate meeting shall be held between the WCC or its Agent, the Applicant, and other concerned parties to determine the correct measures to be employed. The Applicant shall then act to correct the problems using the corrective measures agreed upon. Subsequent to resolution, the activity and resulting actions shall be documented in writing.

108. If dewatering proves to be necessary, a dewatering plan shall be submitted to the WCC for review and approval. Dewatering activities shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward wetland resource areas. No discharge of water is allowed directly into an area subject to jurisdiction of the Wetlands Protection Act.

109. All debris, fill, topsoil or other materials shall be stockpiled at least 50 feet away from designated wetlands, and at a location to prevent sediment from surface runoff entering the wetlands. At no time shall any debris or other material be buried or disposed of within the Buffer Zone, other than such fill as is allowed by this Comprehensive Permit and as shown on the Plan of Record. All materials that are stockpiled or stored shall be protected from erosion with haybales, silt fence, or mulch.

110. All waste products (grubbed stumps, slash, construction materials, etc.), shall be deposited at an approved landfill and shall not be in any manner incorporated into the Subject Property with the exception of the reduction of stumps and slash to mulch.

111. Rip-rap material shall be clean and free of trash, tree stumps, roots and other deleterious material. An engineering plan, showing size, location and method of installing rip-rap must be approved by the WCC prior to work.

#### Compensatory Flood Storage Creation, and Buffer Zone Restoration Conditions

112. The Applicant must restore the historically filled buffer zone area as shown on the Plan of Record. Failure to adequately comply with this requirement shall be deemed to be a violation of this Comprehensive Permit.

113. The Applicant must restore 1,790 square feet of buffer zone down-gradient of the retaining wall.

114. The Applicant, or its Contractor, will provide the WCC and outside consultant 5 business days' notice before the start of Conservation Work to allow adequate notice so that the WCC consultant can be present.

115. The Compensatory Flood Storage, Buffer Zone and historically filled wetland restoration shall be performed in accordance with the approved plans and documents.

116. A qualified Wetland Scientist acceptable to the WCC shall be retained by the Applicant to supervise Flood Storage Creation and Buffer Zone restoration and monitor progress of these areas until they meet the requirements of this Permit. The name, e-mail address and cell phone number of the qualified Wetland Scientist shall be provided to the WCC upon such retention.

117. The siltation barriers shall serve as the limit of work delineation for Project activities. No disturbance to adjacent wetland resource areas resulting from work on the Project shall occur during or after construction of the restoration area.

118. The WCC and their outside consultant shall be given 5 business days' notice prior to the beginning of compensatory flood storage and restoration work.

119. Prior to excavation of the proposed CFSA, proposed grades shall be staked by a licensed land surveyor, indicating cuts necessary to achieve grades as shown on the Plan of Record. The extent of cut should include necessary over-excavation to allow for backfill of high organic mineral soils or clean loam materials.

120. Restoration activities must be supervised by a qualified Wetland Scientist acceptable to the WCC who shall be a professional with experience in wetland replication, wetland hydrology and a working knowledge of botany.

121. The restoration area shall be constructed as described in the approved plans and documents and in the following manner:

- a. The area shall be excavated and graded to a sufficient depth below the proposed contours shown on the site plan to enable the required depth of topsoil to be added;
- b. The adjacent slopes shall be graded as shown on the plan with the topsoil stockpiled;
- c. Grades must be verified by a licensed land surveyor;
- d. High organic mineral soils shall be placed in the restoration areas after grades have been verified by a licensed land surveyor; and
- e. Planting or seeding shall occur after final grades are surveyed by a licensed land surveyor to ensure that grades have been achieved as shown on the Plan of Record.

122. A weeding program must be implemented to maintain the restoration and replication areas. The goal of this program is to keep these areas free of weedy and invasive species. Species to be removed by hand shall include all species identified on the Invasive Species List distributed by the Massachusetts Division of Fisheries and Wildlife. In addition, cattails shall be considered an invasive species. The weeding program shall begin within one month of restoration installation and continue at a minimum of twice per growing season until a Certificate of Compliance is issued for the project.

123. Following construction of the replication area, the Applicant's qualified Wetland Scientist shall certify to the WCC and the Building Inspector that the area has been constructed in compliance with approved wetland replication plan(s), the Plan of Record and this Comprehensive Permit. Such certification shall be accompanied by a plan showing the limits of the replication area and final grades as surveyed by a licensed land surveyor, which meet grades shown on the plans approved in this Comprehensive Permit.

124. Seasonal monitoring reports shall be prepared for each of the replication and restoration areas by a qualified Wetland Scientist for a period of 3 additional years after installation. This monitoring program will consist of spring and fall inspections which will include photographs and documentation that details the vitality of the restoration and replication areas. Monitoring reports shall be submitted to the WCC within 30 days of each monitoring effort (i.e., by June 15<sup>th</sup> and by October 15<sup>th</sup>). Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the wetland replication/restoration areas with

respect to stability, soil characteristics, survival of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e. herb, shrub and tree layers).

125. Wetland regulation (310 CMR 10.55 (4)(b)(6)) requires that at least 75% of the surface area of the replacement area be re-established with indigenous wetland plant species within two growing seasons. If the restoration and replication areas do not meet the 75% re-vegetation requirement by the end of the second growing season after installation, the Applicant shall submit a remediation plan to the WCC for approval that will achieve, under the supervision of a qualified Wetland Specialist, replication/restoration goals. This remediation plan must include an analysis of why the areas have not successfully re-vegetated and how the Applicant intends to resolve the problem.

126. Any damage caused as a direct result of this Project to any wetland resource areas, except as permitted by this Comprehensive Permit, shall be the responsibility of the Applicant to repair, restore and/or replace. Sedimentation or erosion into these areas shall be considered damage to wetland resource areas. If sediment reaches these areas, the WCC shall be immediately contacted and a plan for abatement of the problem and proposed restoration/mitigation measures shall be submitted for WCC approval and Applicant implementation.

#### Stormwater Management Conditions

127. During construction, any down-gradient catch basins that might receive stormwater discharges from the Site must be protected with either haybales, wattles or siltation sacks or both. Protection must remain in place until permanent vegetative cover has occurred. These devices must be inspected on a weekly basis and after each storm event.

128. All post-construction stormwater management structures shall be installed in accordance with the plans and documents approved herein.

129. All infiltration systems shall include suitable access points, brought to finish grade, to provide for the inspection and cleaning of the infiltration system. Access ports shall have a minimum diameter of at least 8-inches. At a minimum, there shall be a port in the middle or end of each row.

130. The WCC and the Building Inspector shall be notified at the time of excavation for all infiltration systems.

131. A Registered Professional Engineer, or Registered Design Professional acceptable to the Building Inspector, retained and paid by the Applicant, shall inspect and certify as follows:

- a. That the bottom of excavation of all infiltration systems shall be inspected prior to the placement of any fill or any drainage structures;
- b. That there is at least a 2-foot separation between the bottom of the infiltration system and seasonal high groundwater and that photographs documenting the condition of the excavation have been provided;
- c. That sub-soils on which the infiltration system will be placed are consistent with the plan requirements and the assumptions of the hydrologic analysis;
- d. That any material used as fill beneath or along the sides of the infiltration system will conform with the requirements for septic system sand in accordance with the specification of 310 CMR 15.255(3). The engineer or design professional shall provide a certification as to the quality of any fill used;
- e. That any stone used beneath or along the sides of an infiltration system shall be in conformance with the specification for Base Aggregate as stipulated in 310 CMR 15.247(1). The engineer or design professional shall provide a written certification as to the quality of the stone;
- f. That the components of the infiltration basin shall not be backfilled until the engineer or design professional has confirmed the proper elevation of the bottom of the chamber and all associated inverts have been achieved.

132. Where plastic (PVC or ABS) pipe is used for connections to infiltration systems, magnetic tape shall be laid over the pipe prior to backfilling to allow for future location of the pipe.

133. An As-Built plan of the stormwater management system, identifying the location, diameter, length, invert elevation and type of all: piping, system components, drainage structures, covers, access and inspection ports and all roof drain connections, signed and certified by the Applicant's Registered Professional Engineer or Registered Design Professional, shall be submitted to the WCC and the Building Inspector. This As-Built plan shall include a certification statement that the stormwater management system has been constructed in compliance with the approved stormwater design plans and shall identify any deviations from the approved stormwater design plans.



134. The Applicant shall operate and maintain all stormwater BMPs in accordance with the design plans and the OMP in perpetuity.

135. The Applicant shall maintain an operation and maintenance log of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location).

136. Prior to issuance of the final Certificate of Occupancy, the Applicant shall submit to the WCC and the Building Inspector the maintenance log of the stormwater management system for the first year of operation after construction is complete. If the stormwater management system has been in operation for less than 1 year, the maintenance log for the period of operation shall be provided; and shall thereafter be supplemented to include 1 year of information.

137. Within 30 days of completion of construction on any given portion of the Project, all disturbed areas in the completed portion of the Site shall be permanently stabilized (immediately landscaped and stabilized, or loamed, seeded and mulched with a layer of mulch hay). Where necessary, the loam and seeding shall be held in place with jute netting. Outside of the growing season, exposed soil finish grade surfaces shall be stabilized with a layer of invasive-free mulch hay until climate conditions allow for seeding. Continued maintenance of these areas, in a manner which assures permanent stabilization and precludes any soil erosion, shall be the responsibility of the Applicant.

138. Prior to issuance of the final Certificate of Occupancy, once the Site has been stabilized, the Applicant shall remove and properly dispose of all erosion controls. Removal of said erosion controls shall be accomplished utilizing the least invasive means possible. The erosion tube may be sliced and scattered, but the siltation fence and stakes must be removed and disposed of properly.

#### Conservation Conditions in Perpetuity

139. The maintenance or repair of all stormwater management structures/components, other than those in the public way shall be the responsibility of the Applicant. The design capacity, storm water management treatment capacity, and structural integrity of these facilities must be maintained and inspected as detailed in the OMP, in perpetuity.

140. Discharges from swimming pool water (less than one ppm chlorine) is allowed provided that the water stand for one week prior to draining (or tested for chlorine levels with a pool test kit prior to draining), the discharge occur at least 50 feet from the edge of wetland, and the pool is drained in such a way as not to cause erosion and other impacts to wetland resource areas.

141. Maintenance of landscaped areas shall be performed in accordance with the Integrated Pest Management Plan (IPM) detailed in the OMP. Only low nitrogen content, slow release organic fertilizers shall be applied within wetland buffer zones. The use of herbicides and pesticides is prohibited in the riverfront area and within wetland buffer areas with the exception of annual applications of a broadleaf weed control and low toxicity grub control product (Merit or equal) on maintained turf areas. The use of Diazinon or Dylox is prohibited at this Property. This condition shall be reflected in the final storm water OMP.

142. Continued maintenance of all disturbed areas, in a manner which assures permanent stabilization and precludes any soil erosion shall be the responsibility of the Applicant.

143. There shall be no additional alterations of areas regulated by, or subject to, the Wetlands Protection Act without the required review and permit(s).

144. The Applicant has agreed to a low salt de-icing strategy (80:20 sand/salt; or the use of acetates (which do not contain chlorides). Calibrated salt spreaders will be used to ensure only a carefully controlled amount of salt is used on the roads.

*(6) Historic Preservation Conditions*

145. The Applicant has represented, and the Board has considered as a part of the Application, all historic preservation changes as set forth in the updated and revised Plan of Record referenced above and including, but not limited to, the Historical changes set forth in the Summary of Changes submitted to the Board on July 10, 2020.

146. The Board expressly conditions the Comprehensive Permit upon compliance with the changes referenced in the foregoing paragraph.

147. The Farnsworth House, Eleanor Raymond West Wing and Greek Revival House will remain on site as shown in the Plan of Record. The Applicant may repurpose these structures

so long as all historical character elements identified below remain, and so long as the Applicant remains in compliance with the additional Conditions set forth below. The Greek Revival House must remain in its current location.

148. The Applicant shall preserve and take the following actions with respect to the "Main Block" (the original 18th and early 19th C. construction) and the "Eleanor Raymond Wing", (a 20th century addition designed by this prominent Massachusetts architect) of the existing structure at 751 Boston Post Road:

a. Main Block Exterior:

- i. Replace aluminum gutters with molded eave fascias in profile matching existing remnants;
- ii. Install new copper trough gutters (and compatible downspouts) hung beneath the molded fascia elements;
- iii. Replacement clapboards to match existing adjacent material and weather exposure. New or wholesale replacement clapboards on an entire wall to match South elevation weather exposure;
- iv. New and replacement cornerboards and other trim to match existing material, dimensions and profile;
- v. Repair main entry door surround with matching materials and detailing;
- vi. New and replacement windows to be painted wood, single-glazed divided light, with storm sash;
- vii. New exterior doors and hardware to be compatible in style with comparable existing examples;
- viii. Modify rake fascia and cornerboard intersections to eliminate triangular end blocks;
- ix. New stone or brick masonry, and associated mortar, required for restoration or new construction to be compatible in color, size and composition with adjacent or similar installations;
- x. New foundation walls to be faced with aged fieldstone veneer matching the appearance of the original;
- xi. Install functional louvered shutters on pin hinges with keepers at all double-hung, nondormer windows;
- xii. New ground-mounted exterior mechanical equipment associated with the Main Block, Raymond Wing, and Connector, such as HVAC compressors and generators, to be screened from public view.

b. Main Block Interior:

- i. Preserve and refurbish all fireplaces and surrounds;
- ii. Preserve and refurbish the main staircase, complete, including rails, balusters, treads, risers, and trim;
- iii. Preserve and restore in kind as necessary all exposed posts, beams, and other framing members (including attic framing), including any casing associated with them.

c. Raymond Wing Exterior:

- i. In general, the intent is to preserve the appearance of the existing construction exactly. Therefore, the Applicant shall preserve, refurbish or replace in kind all existing exterior elements and features, except: (A) modifications necessary due to site conditions at new location; and (B) replacement of existing gutters and downspouts and/or installation of new copper trough gutters and compatible downspouts matching those on the Main Block;
- ii. The current connector shall be replaced with new construction of appearance which fits the historical context.

d. Raymond Wing Interior:

- i. In general, the intent is to preserve the appearance of the existing construction exactly. Therefore, the Applicant shall preserve, refurbish or replace in kind all existing interior elements and features, except modifications necessary to meet the intended use as a guest accommodation.

149. The Applicant shall preserve and take the following actions with respect to the existing structure at 761 Boston Post Road:

a. Exterior:

- i. In general, the intent is to preserve the appearance of the existing exterior construction exactly. Therefore, preserve, refurbish or replace in kind existing exterior elements and features, except as noted below;
- ii. Replace the existing gutters with fascia trim matching the rake fascia profile and material, no new gutters are to be installed;
- iii. Modifications associated with handicapped accessibility, such as ramps and associated railings, are limited to the area defined by the North wall of the main block and the West wall of the North wing;
- iv. Original windows are to be refurbished where necessary and preserved. New windows are to be painted wood, single-glazed divided light, with storm sash. Sash and muntin depth and dimensions to match existing;

- v. New exterior doors and hardware to be compatible in style with comparable existing examples;
- vi. Repair the South facade porch where necessary with matching materials and detailing;
- vii. New ground-mounted exterior mechanical equipment, such as HVAC compressors and generators, to be screened from public view; and
- viii. Preservation and restoration of the existing sunroom is optional at the Applicant's discretion.

b. Interior:

i. In general, the intent is to preserve the appearance of the existing interior construction exactly, specifically including the following requirements:

(A) Preserve and refurbish all fireplaces and surrounds; and

(B) Preserve and refurbish the main staircase, complete, including rails, balusters, treads, risers and trim;

ii. In addition, but subject to modifications as necessary and practicable to meet intended use as office space or to meet applicable legal requirements, the Applicant shall:

(A) Preserve and refurbish the North wing staircase, complete, including rails, balusters, treads, risers, and trim;

(B) Preserve and refurbish the ground floor main block West parlor chair rail and wainscoting;

(C) Preserve and refurbish the original windows and casings;

(D) Preserve the original main block 6 panel interior doors, casings and hardware to the extent feasible; and

(E) Preserve the original baseboards to the extent feasible.

150. In the event that existing stone walls along Boston Post Road (Route 20) or the lane leading to the Sibley Barn are disturbed (due to curb cuts and driveways, structure moving, elevation changes or any other reason), such walls shall be reset and replaced, reusing existing stones to the greatest extent possible.

151. The Applicant shall disassemble (including labeling in accordance with industry standards), donate and deliver the Sibley Barn to Land's Sake Farm.

152. Prior to construction, the Applicant will provide the Weston Historical Commission with access to the Site and all structures for the purpose of documenting the existing context, which may include photographs, ground level and aerial, and video.

153. Prior to and during construction, the Applicant will provide the Weston Historical Commission with access to the Site to conduct periodic field reviews in order to document any noteworthy concealed element uncovered during demolition and construction. In the event that the Applicant discovers any noteworthy concealed historic element, Applicant shall promptly notify the Weston Historical Commission and provide an opportunity to document.

154. The Applicant shall place and provide preservation deed restrictions, to be held by the Town, upon the historic structures (as relocated and preserved as set forth above).

*(7) Remediation and Soil Management Conditions*

155. The Applicant has represented, and the Board has considered as a part of the Application, all soil management changes as set forth in the updated and revised Plan of Record referenced above and including, but not limited to, the Licensed Site Professional changes set forth in the Summary of Changes submitted to the Board on July 10, 2020.

156. As a result of arsenic and lead which has been identified at the Site, and in particular in the orchard area and around historic barns, additional Conditions are necessary to reasonably mitigate the health and safety risks that hazardous soil, and dust during earthwork and construction, causes for Town residents and for future occupants of the housing.

157. The Applicant shall provide funding for the services of a Licensed Site Professional on behalf of the Town ("Town's LSP") throughout the period of construction. The Applicant shall deposit with the Town an amount equal to 10% of the estimated total fees and estimated reimbursable costs of the Town's LSP and Town's monitoring representative, as established by the Town's peer reviewer as set forth herein, and shall thereafter make payment for such services as invoiced. The Town's LSP shall review and approve the plans, surveys and certifications as set forth in this Comprehensive Permit.

158. The Applicant shall submit a detailed Remediation and Soil Management Plan to James A. Luker of Arcadis US, the Town's Peer Reviewer. Mr. Luker, or such other expert as

may be chosen by the Town in the event that Mr. Luker is unavailable, shall provide to the Town an estimate of the cost of licensed site professional and monitoring services on behalf of the Town and as contemplated in this Comprehensive Permit.

159. Following the Town's selection and appointment of the Town's LSP, the Applicant shall submit the Remediation and Soil Management Plan to the Town's LSP, and the Town's LSP shall review for compliance with this Comprehensive Permit.

160. At a minimum, the Remediation and Soil Management Plan shall include:

- a. A dust control plan requiring engineering controls to control dust along with real time monitoring during all soil disturbance both in the impacted soil area and outside the impacted area. Full time monitoring using PM10 standards with daily logs will be required. There shall be a monitoring representative representing the Town. The role of the Town's monitoring representative will be detailed in the plan, which shall be approved by the Town's LSP. These details will include procedures of who to notify when work is out of compliance with the permit requirements; how to implement corrections, and how to stop work when out-of-compliance permit violations are not immediately corrected;
- b. A Health and Safety plan prepared by a Certified Industrial Hygienist. The plan will include dust monitoring requirements and standards for soil removal;
- c. An excavation plan for the movement and placement or removal of all impacted soil. Volume of all soil to be removed including clean and impacted soil will be included;
- d. For all excavated areas of impacted soil, the proposed plan detailing the frequency and number of soil samples collected for confirmatory sample analysis;
- e. Tracking procedures of all soil;
- f. Surveyed plan stamped by a Massachusetts Professional Engineer or Surveyor of the impacted soil showing areal extent and elevation;
- g. Engineering controls to prevent off tracking of impacted soil;
- h. Detail of dust mitigation measures to be conducted when dust monitoring levels are exceeded;
- i. Details of the wheel wash design and other measures to prevent tracking of soil;

- j. A survey plan of areas where impacted soil exceeds the acceptable risk under the MCP. This plan will include details of the proposed cap over impacted soil which exceeds the criteria above. The cap will include a minimum of 2 feet of clean fill with a demarcation barrier or 1 foot of clean fill under buildings or pavement;
- k. Details of the procedures to track and document the location of impacted soil reused on site;
- l. A designated person whose responsibility is dust control and soil tracking will be on site during all active earthwork. The qualifications of the following Applicant personnel will be provided: Site foreman, health and safety officer, dust and soil tracking monitor, and licensed site professional;
- m. Details of all stockpiling locations, volumes to be stockpiled, covering requirements;
- n. Daily field reports with as appropriate, dust monitoring logs, photographs and soil volumes provided during all days when active soil movement is occurring; and
- o. An estimate of the cost to perform all soil remediation work.

161. The Applicant shall conduct hazardous material surveys of all buildings to be demolished, including details of any remedial actions (soil removal, etc.) needed as a result of the surveys. Hazardous waste surveys and soil removal plans will be submitted to the Building Inspector for review and approval, consistent with this Comprehensive Permit and all applicable laws, regulations, codes and rules, prior to any demolition or renovations of buildings.

162. The Applicant shall permit the Town to have a representative onsite to monitor the active earthwork and adherence to the permit conditions. Earthwork will not take place without authorization of the representative. 48 hour notice will be given prior to starting any earthwork. The Town's representative will be provided with a weekly milestone schedule for all earthwork activities. The schedule will be updated as appropriate to reflect changes in proposed site activities or planned deviations from the prior schedule.

163. For every 500 cubic yards of fill and loam material imported from a separate borrow or nonborrow site, the Applicant shall collect a representative soil sample of the material and submit it for the analyses listed below. Laboratory data will be less than 90 days old. The analyses will be compared to the Massachusetts Contingency Plan 310 CMR reportable concentrations RCS-1 and background concentrations established for natural soils established by MassDEP.



- a. Extractable Petroleum Hydrocarbons carbon ranges only by MassDEP methodologies
- b. Volatile Organic Compounds EPA Method 8260B
- c. Polychlorinated biphenyls (PCBs) by EPA Method 8082, pesticides by EPA Method 8081, and herbicides by EPA Method 8151
- d. MCP 14 metal (EPA Method 6000-7000 series) TCLP for any RCRA 8 metal with a total compound in excess of the 20 x the RCRA Hazardous Waste TCLP
- e. Semi-volatile Organic Compounds (EPA Method 8270)

164. Following each analysis (as described in the foregoing paragraph), the Applicant shall forthwith provide the Building Inspector and the LSP with an opinion letter which includes: (i) a certification that the material is free of contaminants; (ii) the location of the borrow site and material; (iii) the volume of soil originating from each source area; and (iv) a certification that the material will not be from a listed disposal site with MassDEP and will have no evidence of asbestos.

165. The Applicant shall deliver to the Town a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, in an amount equal to two times the estimated cost (as reflected in the approved Remediation and Soil Management Plan) to perform soil remediation work in the event that the Applicant fails to fully perform the obligations under the Remediation and Soil Management Plan, or otherwise disturbs impacted soils and fails to remediate. The surety instrument shall be fully released upon the satisfactory completion of the work in question as confirmed in writing by the Town's LSP.

*(8) Landscaping Conditions*

166. The Applicant has represented, and the Board has considered as a part of the Application, all landscaping changes as set forth in the updated and revised Plan of Record referenced above and including, but not limited to, the Landscaping changes set forth in the Summary of Changes submitted to the Board on July 10, 2020, as well as the Invasive Management Plan.

167. The Board expressly conditions the Comprehensive Permit upon compliance with the changes referenced in the foregoing paragraph. Moreover, any plant (new, or existing and

remaining) provided for in said Plan of Record that fails to thrive three years after the final certificate of occupancy is issued shall be replaced by the Applicant with a healthy specimen of the same size and type as specified in said Plan of Record, with as little disturbance as reasonably possible to the remaining vegetation; and any invasive plant species which is to be removed per said Plan of Record and which reappears within three years after the final certificate of occupancy is issued shall be removed by the Applicant, with as little disturbance as reasonably possible to the remaining vegetation.

168. Permanent irrigation water is to be provided by well or cisterns. No Town water is to be used as irrigation.

169. The Applicant shall be responsible for maintaining landscaping and shall be responsible for trash removal, snow removal, biannual inspection and maintenance of catch basins, dry wells, annual maintenance of the wastewater treatment plant, and other infrastructure maintenance.

*(9) Land Restriction or Donation to Weston Forest & Trails Condition*

170. The Applicant shall place a permanent conservation restriction upon approximately 48 acres of the northern, uplands portion of the Subject Property (the "Northern 48 Acres"), the purpose of which shall be to ensure that the Northern 48 Acres shall be maintained in perpetuity in a natural, undeveloped condition and to maximize the preservation of existing natural spaces abutting Town-owned forest land, prevent the disturbance of wetlands areas, and increase recreational trail areas for the benefit of both occupants of the proposed housing and residents of the Town. In the alternative, and in satisfaction of this Condition, the Applicant may elect to donate the Northern 48 Acres to Weston Forest and Trails Association (or another division of the Town) ("WFTA") on such terms as are acceptable to the WFTA (or such other division of the Town). The terms upon which the WFTA will accept such a donation are at the sole discretion of the WFTA (or such other division of the Town). The transfer, or deed restriction, shall be duly recorded prior to the issuance of the final certificate of occupancy for the Project.

171. At or before the time the final certificate of occupancy is issued, to the extent that the current trail marked by WFTA on the Subject Property is on land retained by the Applicant, the Applicant shall grant permission and take all measures necessary to ensure the continued

unfettered public access to the trail (as such access currently exists). Such measures may include a permanent trail easement for the benefit of the Town approximately in the location of said current trail for its entire length on the portion of the Subject Property that is retained by the Applicant. The objective of this Condition is to retain for public recreational use a trail that connects the current Weston trail system at the point where it currently enters the eastern portion of the Subject Property with the current Weston trail system at the point where it currently enters the western portion of the Subject Property. Accordingly, the Applicant shall be relieved of this access requirement with respect to that portion of the current trail which is located on any portion of the Subject Property which the Applicant has given to WFTA or another Town division, as provided in the preceding Paragraph.

*(10) Traffic Safety Conditions*

172. The Applicant has represented, and the Board has considered as a part of the Application, all traffic safety changes as set forth in the updated and revised Plan of Record referenced above and including, but not limited to, the Traffic/RSA changes set forth in the Summary of Changes submitted to the Board on July 10, 2020.

173. As a result of the crash rates and safety issues identified in the RSAs, direct testimony regarding traffic safety issues, and lack of public transportation options, additional Conditions are necessary to reasonably mitigate the health and safety risks that this Project will create and/or increase for Town residents and future occupants of the housing.

174. In light of the traffic safety risks and issues in the immediate vicinity of the Site, and the Highland Street, Boston Post Road and Route 20 intersections serving as the “gateway” intersections principally impacted by the Project, the Applicant shall, within 180 days of the date that this Comprehensive Permit becomes final and all appeals have been exhausted, and subject to state approval, if necessary:

- a. Commence or provide funding for an engineering, design, and associated supporting design report and a construction cost estimate (the “Highland Intersection Design Work”); all of which shall be of sufficient detail, scope and quality to permit the Town to subsequently pursue state funding for final design and construction of these needed safety improvements.

In addition, the Applicant shall, prior to the issuance of the building permit, and subject to state approval, if necessary:

- b. Complete the Highland Intersection Design Work, and submit same to the Board;
- c. Refresh/improve pavement striping at the intersections to encourage lower travel speeds and improve lane visibility and driver compliance/sight lines at STOP locations from side streets;
- d. Install speed feedback signs along Boston Post Road (Route 20) to deter speeding;
- e. Trim vegetation at the intersections to improve driver sight lines;
- f. Relocate/update/install applicable traffic control and regulatory signs for compliance with MassDOT regulations and MUTCD guidance; and
- g. Replace existing street lights with LED light bulbs to improve visibility.

175. In light of the traffic safety risks and issues in the immediate vicinity of the Site, the negative impact of the Project upon the Love Lane intersection and Love Lane's: (i) proximity to the Site, (ii) narrow and curved dimensions, (iii) lack of sidewalks, (iv) residential nature, and (v) "cut-through" potential, the Applicant shall, within 180 days of the date that this Comprehensive Permit becomes final and all appeals have been exhausted, and subject to state approval :

- a. Commence an origin-destination (O-D) volume study, which shall identify and assess potential strategies to mitigate traffic and safety issues at the Love Lane Intersection. Upon receipt of the O-D volume study, the Town (through appropriate local approval and regulatory means as supported by the Board of Selectmen) shall review and select a traffic mitigation strategy, and shall notify the Applicant of the selected strategy and estimated cost to implement ("Love Lane Implementation Costs"). The Applicant shall be responsible for contributing 10% of the Love Lane Implementation Costs which would be incurred by the Town (and would not be borne by the state) up to a maximum of \$20,000, and shall remit such amount to the Town within 45 days of the notice.

In addition, the Applicant shall, prior to the issuance of the building permit, and subject to state approval, if necessary:

- b. Complete the O-D volume study, and submit same to the Board;
- c. Remit the Applicant's contribution to the Love Lane Implementation Costs, as calculated above;

- d. Relocate/update/install applicable traffic control and regulatory signs for compliance with MassDOT regulations and MUTCD guidance; and
- e. Replace existing street lights with LED light bulbs to improve visibility.

176. Upon the lease of units comprising 85% of the maximum number of Project bedrooms, the Applicant shall provide a weekday (morning and evening) commuter shuttle service, which shall be available to all residents of the Project. For the purposes of this paragraph, "shuttle service" may include any form of multi-passenger transportation which is reasonably tailored to the transportation needs of the Project residents, such as the provision of a van for shared use by residents at designated times. In the event that no meaningful rider demand exists for the Project's shuttle service, the Applicant may seek a modification of this Condition. A request for modification shall include, at a minimum, the following information: (i) ridership data, including a breakdown of morning and evening usage; (ii) a description of all marketing and promotion of the shuttle service; (iii) a detailed description of all service adjustments attempted prior to the request for modification; and (iv) a detailed breakdown of the costs associated with the shuttle service.

*c. Waivers<sup>4</sup>*

177. The following waivers of the Zoning By-Laws requested by the Applicant are acted upon as follows:

a. §V.B: Uses

*Multifamily dwellings not permitted in the Single Family Residence District A or B.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the construction of the multifamily apartment buildings and accessory building structures as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

b. §V.G.1: Wetlands and Flood Plain Protection Districts A & B

*No construction requiring any utility is permitted in the Wetlands and Flood Plain Protection Districts A and B, unless the Planning Board, pursuant to a Special Permit or Site Plan Approval, as applicable, determines that all utilities are located, protected and constructed as to*

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<sup>4</sup> The waivers granted, or otherwise acted upon, herein of are the by-laws, rules and regulations as referenced. Italicized language is reproduced as set forth by the Applicant in the Application.

*minimize or eliminate flood damage and that methods of disposal for sewage, refuse, and other wastes and methods of providing drainage are adequate to reduce flood hazards and prevent pollution.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the construction of the multifamily apartment buildings and accessory building structures as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

c. §V.G.2.b(i): Wetlands and Flood Plain Protection District A

*No Dumping or filling or relocation of earth materials is permitted in the Wetlands and Flood Plain Protection District A.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit excavation and grading as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

d. §V.I.3.a: Earth Removal

*Unless permitted by the Planning Board, pursuant to a Special Permit or Site Plan Approval, as applicable, the removal of earth shall only be permitted where the removal of material from a property does not exceed the import of material associated with:*

- *construction or alteration of a way (including, a driveway);*
- *construction or installation of a residential septic or drainage system, underground fuel storage tank or utility on the same premises that the system would be serving; and/or*
- *the removal of unsuitable material.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the removal of earth as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

e. §V.I.5: Construction Trailer

*The Inspector of Buildings may permit, upon written application, the location of a construction trailer or trailers on a lot or parcel of land, which construction trailer may be used for a period not exceeding six months as the offices and headquarters for the contractor or contractors engaged in construction on such lot or parcel of land. A permit issued by the Inspector of Buildings can be renewed for additional 6 month periods.*

Voted 3-0: Waiver GRANTED IN PART to permit the Building Inspector to issue additional permit renewals as may be necessary to allow construction trailers on the Site for the duration of construction of the Project.

f. §VI.E(2): Height of Pitched Roofs

*37 feet or 2.5 stories, whichever is less.*

Voted 3-0: Waiver GRANTED to allow an approximately 54.49 ft. building and an approximately 52.75 ft. building as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

g. §VI.B(2): Minimum Setback from Lot Line

*Single Family District A: 45 ft.*

*Single Family District B: 35 ft.*

*Multiple Dwelling District A: 65 ft.*

*Multiple Dwelling District B: 100 ft.*

Voted 3-0: Waiver GRANTED to allow a 33.5 ft. setback from the side lot line along 775 Boston Post Road as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

h. §VI.F.3: Maximum FAR

*0.10*

Voted 3-0: Waiver GRANTED to allow a FAR of 0.14 as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

i. §VII.B: Sign Regulations

*The following signs are permitted in residence districts without a permit: (i) one temporary nonilluminated sign advertising sale or rent of premises, and (ii) nonilluminated sign or name plate not more than 2 square feet indicating persons occupying the premises. The Planning Board, through a Special Permit or Site Plan Approval, as applicable, may permit larger signs, but not larger than 20 square feet in area and 10 feet in dimension.*

Voted 3-0: Waiver GRANTED IN PART to permit nonilluminated signage, or signage illuminated by downlit shielded light, as shown in the Plan of Record. No internal lighting or upward illuminated lighting is permitted. The size and location of the permitted signage shall be as shown on the Plan of Record.

178. The following waivers of the General Town By-Laws requested by the Applicant are acted upon as follows:

a. Article XI: Material Removal By-Law

*Removal of soil, loam, sand or gravel from any Land not in public use is prohibited, unless expressly allowed by Section VI.I(3) of the Zoning Bylaw or authorized by a Special Permit.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable in light of the waiver of the zoning by-law set forth above, to permit the removal of soil as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

b. Article XXIII: Scenic Roads By-Law

*Any repair maintenance, reconstruction or paving work to be done within the Scenic Road Boundary that involves (i) cutting down or removing significant trees, or (ii) tearing down, burial, relocation or destruction of stone walls or portions thereof requires prior written approval of the Planning Board after a public hearing.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the work to be done within the Scenic Road Boundary as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

c. Article XXVII: Stormwater and Erosion Control By-Laws

*A Major Permit from the Stormwater Permitting Authority is required for certain land disturbance activities, including, without limitation, any land disturbance (i) exceeding an area of 5,000 SF, or more than 20% of a parcel or lot, whichever is less and (ii) creation of new impervious surface area greater than 2,500 SF. A public hearing is also required for Major Permits where the design standards cannot be met.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit land disturbance activities as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

d. Article XXVI: Demolition Delay

*The demolition of any building constructed before 1945, and located within an area listed on the National Register of Historic Places is subject to review by the Weston Historical Commission.*



Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit demolition as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

179. The following waivers of additional Town Rules and Regulations requested by the Applicant are acted upon as follows:

a. Site Plan Approval Rules and Regulations

*Requirement for Site Plan Approval, to the extent applicable.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the construction of the multifamily apartment buildings and accessory building structures as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

b. Board of Health Regulations

*The requirements to comply with the local Board of Health Regulations for Sewage Disposal Systems.*

Voted 3-0: Waiver GRANTED with respect to Board of Health Regulations for Sewage Disposal Systems, but only to the extent necessary and reasonable to permit construction as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

c. Tree Removal Policy for Landowners

*Landowners must obtain prior permission from the Conservation Commission prior to any tree or brush removal or trimming, vegetation removal or cutting, lawn expansion, soil grading and construction) in the following areas:*

- *Wetland Resource Area (defined as 100 year flood zone, wetlands, streams, ponds and marshes); Riverfront Areas (land within 200 feet of a perennial stream);*
- *Buffer zones; and*
- *25-Foot No Disturb Zone*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the removals as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

d. Weston Conservation Commission 25-ft No Disturb Zone

*No work of any kind (e.g., tree or brush removal or trimming, vegetation removal or cutting, lawn expansion, soil grading, and construction) is permitted within the 25-Foot No Disturb Zone and permission is required from the Conservation Commission prior to any removal of trees within such Zone.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the work as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

e. Model BOH Regulation for Private Wells

*A permit from the Board of Health is required prior to the commencement of construction of a private well.*

Voted 3-0: Waiver GRANTED, but only to the extent necessary and reasonable to permit the construction as shown on the Plan of Record, as conditioned above and as amended to comply with this Comprehensive Permit.

f. General

*Local requirements, codes, bylaws, and regulations, to the extent applicable.*

Voted 3-0: Waiver DENIED without prejudice to specific waivers being requested in the future.

I hereby certify that the foregoing is a True Record of the Board's votes taken on November 23, 2020, to grant the Comprehensive Permit, with conditions.

Attest:

  
Natalie B. Sawyer, Acting Secretary

Date of Comprehensive Permit: November 23, 2020

Filed with Town Clerk on: 11/24, 2020

Posted on: 11/25, 2020

Notice sent to Applicant, via certified mail, on: 11/25, 2020

Notice sent to interested parties, via first-class mail, on: 11/25, 2020

**EXHIBIT A**



July 10, 2020

Winifred I. Li, Chair  
Weston Zoning Board of Appeals  
11 Town House Road  
Weston, MA 02493

RE: List of Changes, Final Plans and Documents for 751-761 Boston Post Road, Weston, MA

Dear Ms. Li and Members of the Board,

During the June 16, 2020 hearing on the above-referenced project, the Board requested a list of changes we've made to project and project plans during the entitlement process. Attached as *Attachment A* to this letter is a list of those changes. Please note that the list does not contain exhaustive detail (for instance, where an elevation was changed for a pipe outlet as a result of the civil peer review, we haven't put that on the separately, but would consider it included in the overall "lowered site grade," etc.).

*Attachment B* contains a complete list of all updated plans and design materials. Attachment B also includes a link to access these materials. There are no new changes reflected in the updated Plan Set other than what was previously delivered to the Board; this is only a compilation of all of those revisions for each drawing.

Finally, in an effort to have these materials all together for your reference, we've also attached a list of the final reports/recommendations from the Board's peer reviewers and Mill Creek's responses confirming our agreement to comply with the peer review recommendations. That list is attached as *Attachment C* to this letter and copies of the applicable letters are linked there as well.

Please let us know if you'd like us to deliver hard copies of any of the above referenced materials to Town Hall or directly to Board members. We look forward to our continued hearing on July 21.

Please feel free to contact me if I can be helpful in any manner.

Respectfully submitted,

Anand K. Boscha  
Weston BPR LLC  
c/o Mill Creek Residential  
84 State Street, Suite 920  
Boston, MA 02109

CC: Lars Unhjem  
Mark Romanowicz, Salt Marsh Design  
Debbie Horwitz, Goulston Storrs  
David Leone, GZA  
Jeff Dirk, Vanasse & Associates  
Richard Latini, Howard-Stein-Hudson  
Richard Kirby, LEC Environmental  
Edward Bradford, The Architectural Team  
Thomas Miner, Hawk Design



84 STATE STREET, SUITE 920, BOSTON, MA 02109 - [MILLCREEKPLACES.COM](http://MILLCREEKPLACES.COM)

PEOPLE • PLACES • RELATIONSHIPS

Attachment A  
Summary of Changes from May 2019 Filing

Architectural

**General**

- Adjusted the design of gable dormers to minimize visual impacts.
- Changed proposed colors for the buildings from light colors to muted earth tone colors.
- Adjusted building designs to fit new lowered site grades, reducing visual impacts.
- Shifted location of proposed resident amenity building to rear of site.
- Revised floor plan designs to reduce the number of proposed bedrooms.

**Buildings A & B (Elevator Buildings)**

- Removed 3<sup>rd</sup> floor units on south side of Buildings A & B and replace with units at the garage level on the north side of Buildings A & B, screening the garage from view from the north side of the buildings.
- Removed connector between Buildings A & B at the garage level, reducing quantity of soil removal required.
- Lowered roof pitch of main roof of Buildings A & B, reducing visual impact.

**Townhomes**

- Revised townhome building designs to include a collection of 4-unit and 6-unit buildings, introducing more architectural variety.

Civil

- Lowered site grade by approximately 8-13' across the site, and by 20' at TH-9 and TH-10, to reduce visual impacts
- Added berms (10-18 ft) adjacent to 741 and 745 Boston Post Road, 3 Elliston Road, and 6 Elliston Road to reduce visual impacts.
- Designed electrical, gas, water supply, and sanitary sewer infrastructure.
- Performed numerous additional site surveys to establish existing conditions.
- Re-graded Emergency Access Road, landscaped areas, and berms to mitigate drainage impacts to neighbors.
- Significant redesign of drainage system to reduce peak stormwater runoff rates and volumes.
- Relocated all structures to outside 25-foot wetlands buffer zone.
- Adjusted and redesigned subsurface infiltration system based on hydrological study.
- Finalized compensatory flood storage grading and hydraulic connection, and associated wetland mitigation.
- Added trail connection.
- Eliminated alteration of Bordering Vegetated Wetlands, added mitigation planting plans and details.
- Optimized infiltration system sizes, finalized details for all outlet control systems, added isolation chambers and sump manholes as applicable.
- Reduced footprint of fill within 100-year floodplain.
- Developed snow management plan during and after construction.
- Minor revisions to street layout to accommodate fire truck turning analysis

Historical

- Preservation of the Mark Sibley/Mary Rice House (761 Boston Post Road) in-situ
- Relocation and preservation of the Farnsworth House (751 Boston Post Road) to stand elevated along Boston Post Road



- Relocation and preservation of the Eleanor Raymond West Wing (751 Boston Post Road) along with the Farnsworth House
- Disassembly, delivery, and donation of the Mark Sibley Barn to Land's Sake Farm as a donation
- Revised preliminary floor plan for Farnsworth House (751 Boston Post Road) and Mark C. Sibley House per recommendations of Weston Historical Commission, new building program, and updated existing conditions survey.

#### Landscaping

- Total plantings (trees and shrubs) increased from 278 to 311.
- Created planting plans for each building on site.
- Revised berm design along south property line to provide better screening for neighbors.
- Added shrub planting to provide more screening and revitalize understory.
- Added trees to exterior to improve screening from neighboring view sheds.
- Achieved Dark Sky compliance with lighting plan.
- Created Invasive Management Plan.

#### Licensed Site Professional

- Additional sampling to further delineate extent of impacts including:
  - 19 additional soil samples (70 total)
  - Delineation of arsenic and lead in orchard area and around historic barns
- Commitment to conduct additional sampling and analysis:
  - Hazardous building materials surveys for those structures being demolished or repurposed
  - Collection and analysis of soil in proximity to structures found to have exterior lead-based paint
- Development of a conceptual soil management plan and remediation plan including:
  - Health and Safety Plan
  - Real-time dust monitoring and control
  - Excavation management plan for impacted soils
  - Tracking procedures for all soils
  - Procedures and requirements for the reuse of impacted material to mitigate future risks.
- Monitoring of earthwork activities by a representative of the Town of Weston
- Certification and chemical analysis of incoming fill material
- Final Report on Site Conditions with Post-Construction Risk Assessment

#### Construction, Operations & Maintenance

- Developed preliminary construction schedule, phasing plan, and logistics plan.
- Construction truck traffic will avoid peak hours and utilize only major thoroughfares for access.
- Environmental/erosion & sediment controls in accordance with Weston Conservation Commission requirements.
- Restrictions on use of herbicide, pesticide, fertilizer, and anti-icing/de-icing chemicals; restrictions on pool and other discharges in accordance with Cambridge Water District (CWD) requests.
- Operational requirements related to street sweeping, cleaning, curbing, gutters, stormwater maintenance, and litter.
- Ongoing operational requirement for Massachusetts Professional Engineer to annually review and inspect stormwater maintenance records.
- Ongoing provision for records to be provided to Cambridge Water District or Town of Weston Conservation Commission upon request.



### Traffic/RSA

Commitment to Low Cost/Short Term improvements as listed in Weston RSA:

- Love Lane at Boston Post Road
  - Origin-destination study to determine potential turn restriction strategies
  - Relocate/update/install pavement markings, traffic control, and regulatory signs
  - Replace street lights to improve visibility
- Highland St at Route 20 and Boston Post Road
  - Prepare or provide funding for preliminary design plans to allow Town to apply for state funding for long-term safety improvements at this intersection
  - Refresh/update/install pavement striping
  - Install speed feedback signs
  - Trim vegetation
  - Relocate/update/install traffic control and regulatory signs
  - Replace existing street lights to improve visibility



Attachment B

The Architectural Team, Inc.  
Modera Weston  
751-761 Boston Post Road, Weston, MA  
Application for Comprehensive Permit  
revision date May 4, 2020

<https://www.dropbox.com/sh/89186ynhmqkbo8i/AABDbDUcGwMe4w49WeFF-FEa?dl=0>



DRAWING PLAN INDEX:			
DWG #	DRAWING TITLE	DRAWING DATES	
		ISSUE DATE	LATEST REVISION DATE
<b>TITLE SHEETS</b>			
T001	PROJECT COVER	March 06, 2019	May 04, 2020
T002	DRAWING INDEX, PROJECT INFORMATION & ARCHITECTURAL SITE PLAN	March 06, 2019	May 04, 2020
<b>SURVEY DRAWINGS</b>			
S001	EXISTING CONDITIONS PLAN	March 18, 2019	None
<b>CIVIL DRAWINGS</b>			
C000	COVER SHEET	September 23, 2019	May 04, 2020
C1.00	EROSION & SEDIMENT CONTROL PLAN	September 23, 2019	May 04, 2020
C1.01	EROSION & SEDIMENT CONTROL PLAN	September 23, 2019	May 04, 2020
C2.00	OVERALL SITE PLAN	September 23, 2019	May 04, 2020
C2.01	LAYOUT & MATERIALS PLAN	September 23, 2019	May 04, 2020
C2.02	LAYOUT & MATERIALS PLAN	September 23, 2019	May 04, 2020
C3.00	GRADING AND DRAINAGE PLAN	September 23, 2019	May 04, 2020
C3.01	GRADING AND DRAINAGE PLAN	September 23, 2019	May 04, 2020
C3.02	DIV TREE PROTECTION PLAN	September 23, 2019	May 04, 2020
C3.03	COMPENSATORY FLOOD STORAGE PLAN	May 04, 2020	None
C4.00	UTILITIES PLAN	September 23, 2019	May 04, 2020
C4.01	UTILITIES PLAN	September 23, 2019	May 04, 2020
C5.00	SITE DETAILS	September 23, 2019	May 04, 2020
C5.01	SITE DETAILS	September 23, 2019	May 04, 2020
C5.02	SITE DETAILS	September 23, 2019	May 04, 2020
C5.03	SITE DETAILS	September 23, 2019	May 04, 2020
C5.04	SITE DETAILS	September 23, 2019	May 04, 2020
C5.05	SITE DETAILS	September 23, 2019	May 04, 2020
C5.06	SITE DETAILS	September 23, 2019	May 04, 2020
C5.07	SITE DETAILS	September 23, 2019	May 04, 2020
C5.08	SITE DETAILS	September 23, 2019	May 04, 2020
L1.00	MITIGATION PLANTING PLAN	December 15, 2019	May 04, 2020
L1.01	MITIGATION PLANTING NOTES & DETAILS	December 18, 2019	May 04, 2020
<b>LANDSCAPE DRAWINGS</b>			
L1.0	SITE LANDSCAPE PLAN	November 15, 2019	March 08, 2020
L1.1	SITE LIGHTING PLAN	November 15, 2019	January 16, 2020
L1.2	INVASIVE MANAGEMENT PLAN	February 02, 2020	None
L2.0	TYPICAL STACKED FLATS PLANTING PLAN	November 15, 2019	None
L2.1	BUILDING B STACKED FLATS PLANTING PLAN	November 11, 2019	None
L3.0	TYPICAL TOWNHOUSE PLANTING PLAN	November 15, 2019	None
L3.1	TYPICAL TOWNHOUSE PLANTING PLAN	November 15, 2019	None
L3.2	TYPICAL TOWNHOUSE PLANTING PLAN	November 15, 2019	None
L3.3	TYPICAL TOWNHOUSE PLANTING PLAN	November 15, 2019	None
L3.4	TYPICAL TOWNHOUSE PLANTING PLAN	November 15, 2019	None
L4.0	ASSEMBLY AREA LAYOUT & MATERIALS PLAN	November 15, 2019	None
L4.1	ASSEMBLY AREA PLANTING PLAN	November 15, 2019	None
D1.0	PLANTING DETAILS	November 15, 2019	None
D2.0	PLANTING DETAILS	November 15, 2019	None
<b>ARCHITECTURAL DRAWINGS</b>			
A1.00	BUILDINGS A & B - GARAGE / GARDEN LEVEL & 1ST FLOOR PLANS	March 06, 2019	January 15, 2020
A1.01	BUILDINGS A & B - 2ND & 3RD FLOOR PLANS	March 06, 2019	January 15, 2020
A1.02	BUILDING A - GARAGE / GARDEN LEVEL PLAN	March 06, 2019	January 15, 2020
A1.03	BUILDING A - 1ST FLOOR PLAN	March 06, 2019	December 03, 2019
A1.04	BUILDING A - 2ND FLOOR PLAN	December 03, 2019	None
A1.05	BUILDING A - 3RD FLOOR PLAN	December 03, 2019	None
A1.06	BUILDING B - GARAGE / GARDEN LEVEL PLAN	December 03, 2019	January 15, 2020
A1.07	BUILDING B - 1ST FLOOR PLAN	December 03, 2019	None
A1.08	BUILDING B - 2ND FLOOR PLAN	December 03, 2019	None
A1.09	BUILDING B - 3RD FLOOR PLAN	December 03, 2019	None
A1.10	BUILDINGS 11, 12, 13, 14 & 15 - 1ST & 2ND FLOOR PLANS	December 03, 2019	None
A1.11	BUILDINGS 13 & 14 - GARMENT, 1ST & 2ND FLOOR PLANS	December 03, 2019	None
A1.12	BUILDINGS 15, 16 & 17 - BASEMENT, 1ST & 2ND FLOOR PLANS	December 03, 2019	None
A1.13	CLUBHOUSE & MAINTENANCE BUILDING FLOOR PLANS	December 03, 2019	None
A1.14	781 BOSTON POST ROAD BUILDING FLOOR PLANS	December 03, 2019	None
A1.15	781 BOSTON POST ROAD BUILDING FLOOR PLANS	December 03, 2019	None
A1.16	781 BOSTON POST ROAD BUILDING FLOOR PLANS	December 03, 2019	None
A2.01	BUILDINGS A & B - ENLARGED UNIT PLANS	March 06, 2019	December 03, 2019
A2.02	BUILDINGS A & B - ENLARGED UNIT PLANS	March 06, 2019	December 03, 2019
A2.03	BUILDINGS A & B - ENLARGED UNIT PLANS	December 03, 2019	None
A2.04	TOWNHOMES - ENLARGED UNIT PLANS	December 03, 2019	None
A2.05	TOWNHOMES - ENLARGED UNIT PLANS	December 03, 2019	None
A2.06	TOWNHOMES - ENLARGED UNIT PLANS	December 03, 2019	None
A2.07	TOWNHOMES - ENLARGED UNIT PLANS	December 03, 2019	None
A2.08	TOWNHOMES - ENLARGED UNIT PLANS	December 03, 2019	None
A3.00	EXTERIOR ELEVATIONS - TOWNHOMES 11, 12, 13, 14 & 15	March 06, 2019	January 15, 2020
A3.01	EXTERIOR ELEVATIONS - TOWNHOMES 12, 14 & 17	March 06, 2019	January 15, 2020
A3.02	EXTENSION ELEVATIONS - TOWNHOMES 18 & 19 & CLUBHOUSE	March 06, 2019	December 03, 2019
A3.03	EXTENSION ELEVATIONS - BUILDING A	December 03, 2019	January 15, 2020
A3.04	EXTERIOR ELEVATIONS - EXISTING HOUSES & MAINTENANCE BUILDING	December 03, 2019	January 15, 2020
A4.05	EXTERIOR PERSPECTIVE RENDERINGS	December 03, 2019	None
A5.00	BUILDING SECTIONS	March 06, 2019	December 03, 2019

**Attachment C**  
**Final Reports/Recommendations and Peer Review Letters**

<https://www.dropbox.com/sh/89186ynhmqkbo8i/AABDbDUcGwMe4yy49WeFF-FEa?dl=0>

**Civil**

1. MCRT Northeast Construction, Modera Weston Construction Management Plan (CMP), January 23, 2020.
2. Howard-Stein-Hudson, Stormwater Management System – Operation & Maintenance Plan (O&M) and Long Term Pollution Prevention Plan (LTPPP), January 23, 2020.

**Conservation Commission / Massachusetts Department of Environmental Protection**

1. Weston Conservation Commission, Cover Letter – Order of Conditions #337-1369, February 7, 2020.
2. Weston Conservation Commission, WPA Form 5 – Order of Conditions (OOC) #337-1369, February 7, 2020.
3. LEC Environmental, Revised Compensatory Flood Storage Design, Superseding Order of Conditions, DEP File No. 337-1369, April 21, 2020.

**Licensed Site Professional**

1. Arcadis, Proposed Conditions for Permitting for the Development of 751 to 761 Boston Post Road, Weston, MA. March 16, 2020 revised.
2. Mill Creek Residential Trust, Response to Arcadis Letter. March 19, 2020.

**Traffic / Road Safety Audit**

1. Toole Design, Road Safety Audit, Route 20 at Highland Street and Boston Post Road and Route 20 at Love Lane, Town of Weston. April 29, 2020.
2. Toole Design, Road Safety Audit, Route 20 at Old Connecticut Path, Route 20 at Plain Road, Town of Wayland. April 29, 2020.
3. MDM Transportation Consultants, Transportation Peer Review Comments – Road Safety Audits (RSAs). May 28, 2020.
4. Mill Creek Residential Trust, Response to Transportation Peer Review Comments Letter from MDM. May 29, 2020.